

1298, related to establishment of challenge grant program, was classified to section 1064 of this title prior to repeal by Pub. L. 102-325, §304(a)(2).

A prior section 1065, Pub. L. 89-329, title III, §332, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1396, related to applications for challenge grants, prior to the general revision of this subchapter by Pub. L. 99-498.

Another prior section 1065, Pub. L. 89-329, title IV, §405, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90-575, title I, §101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allotment and reallocation of funds among the States, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1065a, Pub. L. 89-329, title III, §333, as added Pub. L. 98-95, §2, Sept. 26, 1983, 97 Stat. 708, established program of matching grants to increase endowments at eligible institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(2)(B)(i). Pub. L. 110-315, §313(a)(1), substituted “\$1,000,000” for “\$500,000”.

Subsec. (b)(5). Pub. L. 110-315, §313(a)(2), substituted “\$100,000” for “\$50,000”.

Subsec. (i). Pub. L. 110-315, §313(b), added subsec. (i). 1998—Subsec. (b)(1). Pub. L. 105-244, §305(1), substituted “section 1068h” for “section 1069f”.

Subsec. (b)(2)(B), (C). Pub. L. 105-244, §305(2), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which authorized Secretary to make grants under this part to eligible institutions in amounts which varied depending on amount appropriated in each fiscal year to carry out this part and limited rights of institutions to reapply for grants when amount appropriated was below specified amounts.

1993—Subsecs. (a)(2)(D), (b)(2)(B), (C), (5). Pub. L. 103-208 realigned margins and in subsec. (b)(5) substituted “An endowment” for “an endowment”.

1992—Subsec. (a)(1). Pub. L. 102-325, §304(b)(1)(A), struck out “of higher education” after “eligible institutions”.

Subsec. (a)(2)(D). Pub. L. 102-325, §304(b)(1)(B), added subpar. (D).

Subsec. (b)(1). Pub. L. 102-325, §304(b)(2), inserted “endowment” before “challenge grants” and struck out “of higher education” after “eligible institutions”.

Subsec. (b)(2)(B), (C). Pub. L. 102-325, §304(b)(3), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) In any fiscal year in which the appropriations for this part exceeds \$10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

“(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

“(ii) applies for a grant in an amount exceeding \$1,000,000.

“(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.”

Subsec. (b)(4)(A). Pub. L. 102-325, §304(b)(4), substituted “subsection (a)(2)(D) of this section” for “section 1064(a)(1) of this title”.

Subsec. (b)(4)(B). Pub. L. 102-325, §304(b)(5), substituted “an endowment challenge grant” for “a challenge grant”.

Subsec. (b)(5). Pub. L. 102-325, §304(b)(6), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

“(A) not be less than \$50,000 for any fiscal year; and

“(B) not be more than (i) \$250,000 for fiscal year 1987; or (ii) \$500,000 for fiscal year 1988 or any succeeding fiscal year.”

Subsec. (f)(1). Pub. L. 102-325, §304(b)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “give priority to an applicant which is a recipient of a grant made under part A or B of this subchapter (or section 1069a of this title) during the academic year in which the applicant is applying for a grant under this section;”.

Subsec. (g). Pub. L. 102-325, §304(b)(8), inserted “, including a description of the long- and short-term plans for raising and using the funds under this part” before period at end of first sentence.

1987—Subsec. (f)(1). Pub. L. 100-50 inserted “(or section 1069a of this title)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

CODIFICATION

Pub. L. 105-244, title III, §301(a)(3), Oct. 7, 1998, 112 Stat. 1636, redesignated part B of subchapter VII of this chapter as part D of subchapter III of this chapter.

PRIOR PROVISIONS

A prior part D, consisting of sections 1066 to 1069, 1069b to 1069d, and 1069f, was redesignated part F (§1068 et seq.) of this subchapter by Pub. L. 105-244, title III, §301(a)(1), Oct. 7, 1998, 112 Stat. 1636.

§ 1066. Findings

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation’s historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors nor-

mally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

(Pub. L. 89-329, title III, §341, formerly title VII, §721, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 741; renumbered title III, §341, Pub. L. 105-244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1132c of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 1066, Pub. L. 89-329, title III, §351, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1302, and amended, which related to applications for assistance under this subchapter, was renumbered section 391 of Pub. L. 89-329 by Pub. L. 105-244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068 of this title.

Another prior section 1066, Pub. L. 89-329, title III, §341, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1396, related to applications for assistance, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1066, Pub. L. 89-329, title IV, §406, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90-575, title I, §101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allocation of allotted funds to institutions, filing dates for application, criteria for making allocations, additional allocations and payments, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1066a. Definitions

For the purposes of this part:

(1) The term “eligible institution” means a “part B institution” as that term is defined in section 1061(2) of this title.

(2) The term “loan” means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term “qualified bond” means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 1066b(b) of this title.

(4) The term “funding” means any payment under this part from the Secretary to the eli-

gible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 1066b of this title.

(5) The term “capital project” means, subject to section 1066c(b) of this title, the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;

(C) instructional equipment, technology, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

(E) a facility designed to provide primarily outpatient health care for students or faculty;

(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;

(G) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV; and

(H) any real property or interest therein underlying facilities described in subparagraph (A) or (G).

(6) The term “interest” includes accredited value or any other payment constituting interest on an obligation.

(7) The term “outstanding”, when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term “designated bonding authority” means the private, for-profit corporation selected by the Secretary pursuant to section 1066d(1) of this title for the purpose of issuing taxable capital project construction bonds in furtherance of the purposes of this part.

(9) The term “Advisory Board” means the Advisory Board established by section 1066f of this title.

(Pub. L. 89-329, title III, §342, formerly title VII, §722, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 742; renumbered title III, §342, and amended Pub. L. 105-244, title III, §§301(a)(3), (4), (c)(4), 306(a), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110-315, title III, §§314(a), 320(1), Aug. 14, 2008, 122 Stat. 3180, 3187.)

CODIFICATION

Section was formerly classified to section 1132c-1 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 342 of Pub. L. 89-329 was classified to section 1067 of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Par. (5). Pub. L. 110-315, §320(1)(A), inserted a comma after “1066c(b) of this title” in introductory provisions.

Par. (5)(C). Pub. L. 110-315, §320(1)(B), substituted “equipment, technology,” for “equipment technology,.”

Par. (5)(G). Pub. L. 110-315, §314(a)(1), substituted “by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV” for “by a nationally recognized accrediting agency or association”.

Par. (8). Pub. L. 110-315, §314(a)(2), inserted “capital project” after “issuing taxable”.

1998—Par. (3). Pub. L. 105-244, §301(c)(4)(A), substituted “section 1066b(b)” for “section 1132c-2(b)”.

Par. (4). Pub. L. 105-244, §301(c)(4)(B), substituted “section 1066b” for “section 1132c-2”.

Par. (5). Pub. L. 105-244, §301(c)(4)(C), substituted “section 1066c(b)” for “section 1132c-3(b)” in introductory provisions.

Par. (5)(B). Pub. L. 105-244, §306(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Par. (5)(C). Pub. L. 105-244, §306(a)(1), (3), redesignated subpar. (B) as (C) and inserted “technology,” after “instructional equipment”. Former subpar. (C) redesignated (G).

Par. (5)(D) to (F). Pub. L. 105-244, §306(a)(4), added subpars. (D) to (F). Former subpar. (D) redesignated (H).

Par. (5)(G). Pub. L. 105-244, §306(a)(1), redesignated subpar. (C) as (G).

Par. (5)(H). Pub. L. 105-244, §306(a)(1), (5), redesignated subpar. (D) as (H) and substituted “(G)” for “(C)”.

Par. (8). Pub. L. 105-244, §301(c)(4)(D), substituted “section 1066d(1)” for “section 1132c-4(1)”.

Par. (9). Pub. L. 105-244, §301(c)(4)(E), substituted “section 1066f” for “section 1132c-6”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1066b. Federal insurance for bonds

(a) General rule

Subject to the limitations in section 1066c of this title, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d) of this section.

(b) Responsibilities of designated bonding authority

The Secretary may not enter into an insurance agreement described in subsection (a) of

this section unless the Secretary designates a qualified bonding authority in accordance with sections 1066d(1) and 1066e¹ of this title and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 5 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 5 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

¹ See References in Text note below.

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 5 percent deposit of loan proceeds within 120 days following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 1066c of this title;

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions; and

(12) limit loan collateralization, with respect to any loan made under this part, to 100 percent of the loan amount, except as otherwise required by the Secretary.

(c) Additional agreement provisions

Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8) of this section.

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding

authority within 2 business days following receipt of the certification described in paragraph (4).

(d) Full faith and credit provisions

Subject to subsection (c)(1) of this section the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(e) Sale of qualified bonds

Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.

(Pub. L. 89-329, title III, §343, formerly title VII, §723, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 743; amended Pub. L. 103-382, title III, §360C, Oct. 20, 1994, 108 Stat. 3972; renumbered title III, §343, and amended Pub. L. 105-244, title III, §§301(a)(3), (4), (c)(5), 306(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110-315, title III, §§314(b), 320(2), Aug. 14, 2008, 122 Stat. 3181, 3187.)

REFERENCES IN TEXT

Section 1066e of this title, referred to in subsec. (b), was repealed by Pub. L. 105-244, title III, §306(d), Oct. 7, 1998, 112 Stat. 1647.

CODIFICATION

Section was formerly classified to section 1132c-2 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 343 of Pub. L. 89-329 was classified to section 1068 of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(8)(B)(ii). Pub. L. 110-315, §314(b)(1)(B), inserted “within 120 days” after “loan proceeds”.

Pub. L. 110-315, §314(b)(1)(A), which directed the substitution of “5” for “10”, could not be executed because “10” did not appear subsequent to amendment by Pub. L. 105-244, §306(b)(1). See 1998 Amendment note below.

Subsec. (b)(12). Pub. L. 110-315, §314(b)(2)-(4), added par. (12).

Subsec. (e). Pub. L. 110-315, §320(2), inserted heading. 1998—Subsec. (a). Pub. L. 105-244, §301(c)(5)(A), substituted “section 1066c” for “section 1132c-3”.

Subsec. (b). Pub. L. 105-244, §301(c)(5)(B)(i), substituted “sections 1066d(1) and 1066e” for “sections 1132c-4(1) and 1132c-5” in introductory provisions.

Subsec. (b)(8). Pub. L. 105-244, §306(b)(1), substituted “5 percent” for “10 percent” wherever appearing.

Subsec. (b)(10). Pub. L. 105-244, §301(c)(5)(B)(ii), substituted “section 1066c” for “section 1132c-3”.

Subsec. (d). Pub. L. 105-244, §301(c)(5)(B)(iii), made technical amendment to reference in original act which appears in text as reference to subsection (c)(1) of this section.

Subsec. (e). Pub. L. 105-244, §306(b)(2), added subsec. (e).

1994—Subsec. (b)(8)(A). Pub. L. 103-382, §360C(1)(A), inserted before semicolon “, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part”.

Subsec. (b)(8)(B)(ii). Pub. L. 103-382, §360C(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “when all bonds under this part are retired or canceled, shall be divided among the eligible

institutions making deposits into such account on the basis of the amount of each such institution's deposit;".

Subsec. (b)(11). Pub. L. 103-382, §360C(2), substituted "conditions" for "regulations".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

§ 1066c. Limitations on Federal insurance for bonds issued by designated bonding authority

(a) Limit on amount

At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed \$1,100,000,000, of which—

(1) not more than \$733,333,333 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than \$366,666,667 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 123 of this title shall be eligible to receive assistance under this part.

(b) Limitation on credit authority

The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) Religious activity prohibition

No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) Discrimination prohibition

No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(Pub. L. 89-329, title III, §344, formerly title VII, §724, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 745; renumbered title III, §344, Pub. L. 105-244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636; Pub. L. 110-315, title III, §314(c), Aug. 14, 2008, 122 Stat. 3181.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235,

as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1132c-3 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 344 of Pub. L. 89-329 was classified to section 1069 of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315, §314(c)(1), substituted "\$1,100,000,000" for "\$375,000,000" in introductory provisions.

Subsec. (a)(1). Pub. L. 110-315, §314(c)(2), substituted "\$733,333,333" for "\$250,000,000".

Subsec. (a)(2). Pub. L. 110-315, §314(c)(3), substituted "\$366,666,667" for "\$125,000,000".

§ 1066d. Authority of Secretary

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of August 14, 2008, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall ensure that—

(A) the selection process for the designated bonding authority is conducted on a competitive basis; and

(B) the evaluation and selection process is transparent;

(3) shall—

(A) review the performance of the designated bonding authority after the third year of the insurance agreement; and

(B) following the review described in subparagraph (A), implement a revised competitive selection process, if determined necessary by the Secretary in consultation with the Advisory Board established pursuant to section 1066f of this title;

(4) shall require that the first loans for capital projects authorized under section 1066b of this title be made no later than March 31, 1994;

(5) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any

action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(6)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(7) may sell, exchange, or lease real or personal property and securities or obligations;

(8) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved;

(9) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part; and

(10) not later than 120 days after August 14, 2008, shall submit to the authorizing committees a report on the progress of the Department in implementing the recommendations made by the Government Accountability Office in October 2006 for improving the Historically Black College and Universities Capital Financing Program.

(Pub. L. 89-329, title III, §345, formerly title VII, §725, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 745; amended Pub. L. 103-208, §2(j)(16), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, §345, and amended Pub. L. 105-244, title III, §§301(a)(3), (4), (c)(6), 306(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1647; Pub. L. 110-315, title III, §314(d), Aug. 14, 2008, 122 Stat. 3181.)

CODIFICATION

Section was formerly classified to section 1132c-4 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 345 of Pub. L. 89-329 was classified to section 1069a of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Par. (1). Pub. L. 110-315, §314(d)(1), substituted “August 14, 2008,” for “July 23, 1992,” in introductory provisions.

Pars. (2) to (9). Pub. L. 110-315, §314(d)(2), (3), added pars. (2) and (3) and redesignated former pars. (2) to (7) as (4) to (9), respectively.

Par. (10). Pub. L. 110-315, §314(d)(4)–(6), added par. (10). 1998—Par. (2). Pub. L. 105-244, §301(c)(6), substituted “section 1066b” for “section 1132c-2”.

Par. (7). Pub. L. 105-244, §306(c), added par. (7). 1993—Pars. (2) to (6). Pub. L. 103-208 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992. Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1066e. Repealed. Pub. L. 105-244, title III, § 306(d), Oct. 7, 1998, 112 Stat. 1647

Section, Pub. L. 89-329, title III, §346, formerly title VII, §726, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 746; amended Pub. L. 103-208, §2(j)(17), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, §346, Pub. L. 105-244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, prohibited institution receiving a loan under this part from receiving grant under former part A of subchapter VII of this chapter.

CODIFICATION

Section was formerly classified to section 1132c-5 of this title prior to renumbering by Pub. L. 105-244.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1066f. HBCU Capital Financing Advisory Board

(a) Establishment and purpose

There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the “Advisory Board”) which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) Board membership

(1) Composition

The Advisory Board shall be appointed by the Secretary and shall be composed of 11 members as follows:

(A) The Secretary or the Secretary’s designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Three members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc., or the president's designee.

(E) The president of the National Association for Equal Opportunity in Higher Education, or the designee of the Association.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(G) The president of the Thurgood Marshall College Fund, or the designee of the president.

(2) Terms

The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) Additional recommendations from Advisory Board

(1) In general

In addition to the responsibilities of the Advisory Board described in subsection (a), the Advisory Board shall advise the Secretary and the authorizing committees regarding—

(A) the fiscal status and strategic financial condition of not less than ten historically Black colleges and universities that have—

(i) obtained construction financing through the program under this part and seek additional financing or refinancing under such program; or

(ii) applied for construction financing through the program under this part but have not received financing under such program; and

(B) the feasibility of reducing borrowing costs associated with the program under this part, including reducing interest rates.

(2) Report

Not later than six months after August 14, 2008, the Advisory Board shall prepare and submit a report to the authorizing committees regarding the historically Black colleges and universities described in paragraph (1)(A) that includes administrative and legislative recommendations for addressing the issues related to construction financing facing such historically Black colleges and universities.

(Pub. L. 89-329, title III, §347, formerly title VII, §727, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 746; renumbered title III, §347, and amended Pub. L. 105-244, title III, §§301(a)(3), (4), 306(e), Oct. 7, 1998, 112 Stat. 1636, 1647; Pub. L. 110-315, title III, §314(e), Aug. 14, 2008, 122 Stat. 3182.)

CODIFICATION

Section was formerly classified to section 1132c-6 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 347 of Pub. L. 89-329 was classified to section 1069c of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-315, §314(e)(1)(A), substituted “11 members” for “9 members” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 110-315, §314(e)(1)(B), substituted “Three members” for “Two members”.

Subsec. (b)(1)(G). Pub. L. 110-315, §314(e)(1)(C), added subpar. (G).

Subsec. (c). Pub. L. 110-315, §314(e)(2), added subsec. (c).

1998—Subsec. (b)(1)(D). Pub. L. 105-244, §306(e)(1)(A), inserted “, or the president's designee.” after “Fund, Inc.”

Subsec. (b)(1)(E). Pub. L. 105-244, §306(e)(1)(B), inserted “, or the designee of the Association” before the period.

Subsec. (c). Pub. L. 105-244, §306(e)(2), struck out heading and text of subsec. (c). Text read as follows: “There are authorized to be appropriated \$50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1066g. Minority business enterprise utilization

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 1066d(1) of this title and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

(Pub. L. 89-329, title III, §348, formerly title VII, §728, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 747; renumbered title III, §348, and amended Pub. L. 105-244, title III, §301(a)(3), (4), (c)(7), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1132c-7 of this title prior to renumbering by Pub. L. 105-244.

AMENDMENTS

1998—Pub. L. 105-244, §301(c)(7), substituted “section 1066d(1)” for “section 1132c-4(1)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see sec-

tion 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

**PART E—MINORITY SCIENCE AND ENGINEERING
IMPROVEMENT PROGRAM**

**SUBPART 1—MINORITY SCIENCE AND ENGINEERING
IMPROVEMENT PROGRAM**

CODIFICATION

Pub. L. 105-244, title III, §§301(a)(5), 307(d), Oct. 7, 1998, 112 Stat. 1636, 1648, redesignated subpart 1 (§1135b et seq.) of part B of subchapter X of this chapter as subpart 1 of part E of subchapter III of this chapter and inserted “AND ENGINEERING” before “IMPROVEMENT PROGRAM” in heading.

§ 1067. Findings

Congress makes the following findings:

(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

(2) As the Nation’s population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation’s competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.

(Pub. L. 89-329, title III, §350, as added Pub. L. 105-244, title III, §307(a), Oct. 7, 1998, 112 Stat. 1647.)

PRIOR PROVISIONS

A prior section 1067, Pub. L. 89-329, title III, §352, as added Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1304, and amended, which related to waiver authority and reporting requirement, was renumbered section 392 of Pub. L. 89-329 by Pub. L. 105-244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068a of this title.

Another prior section 1067, Pub. L. 89-329, title III, §342, as added Pub. L. 96-374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, set waiver authority and reporting requirements for this part, prior to the general amendment of this subchapter by Pub. L. 99-498.

Another prior section 1067, Pub. L. 89-329, title IV, §407, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90-575, title I, §§101(b)(2), 103, 104, Oct. 16, 1968, 82 Stat. 1017, 1018, related to agreements with institutions, required provisions and use of funds as additional Federal capital contribution for student loan fund, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92-318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1067a. Purpose; authority

(a) Congressional declaration of purpose

It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 1862(a)(1) of title 42 and transferred to the Department by section 3444(a)(1) of this title.

(b) Grant authority

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

(Pub. L. 89-329, title III, §351, formerly title X, §1021, as added Pub. L. 99-498, title X, §1002, Oct. 17, 1986, 100 Stat. 1561; amended Pub. L. 102-325, title X, §1002(a), July 23, 1992, 106 Stat. 780; renumbered title III, §351, Pub. L. 105-244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636; Pub. L. 111-39, title III, §301(5), July 1, 2009, 123 Stat. 1937.)

CODIFICATION

Section was formerly classified to section 1135b of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 351 of Pub. L. 89-329 was renumbered section 391 and is classified to section 1068 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-39 made technical amendment to reference in original act which appears in text as reference to section 3444(a)(1) of this title.

1992—Subsec. (b). Pub. L. 102-325 inserted “, particularly minority women,” after “ethnic minorities”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

§ 1067b. Grant recipient selection

(a) Establishment of criteria

Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) Priorities to be given in criteria

In establishing criteria under subsection (a) of this section, the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science