**(c) Contributions to Suspension Accounts**

**(1) In general**

Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d) of this section), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 1776d(b)(1) of this title, by the date specified under section 1776d(b)(3) of this title.

**(2) Subsequent deposits**

At such time as the amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d) of this section), in accordance with section 1776d(b)(1) of this title, the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 1776d(b)(1) of this title in the Crow Tribal Trust Fund established under section 1776d(a) of this title.

**(d) Limitation**

The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to $200,000 to each of the Suspension Accounts from the amounts determined under section 1776d(b)(1) of this title.

**(e) Investment**

All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

**(f) Withdrawals and termination**

**(1) In general**

(A) Beginning on the date that is 5 years after November 2, 1994, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b) of this section.

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

**(2) Other means of termination**

With respect to a Suspension Account established under subsection (b) of this section that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued interest of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a) of this section, the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

(Pub. L. 103–444, § 10, Nov. 2, 1994, 108 Stat. 4641; Pub. L. 104–109, § 9(c), Feb. 12, 1996, 110 Stat. 765.)

REFERENCES IN TEXT

Act of June 24, 1938, referred to in subsec. (e), is act June 24, 1938, ch. 648, 52 Stat. 1037, which enacted section 162a of this title, repealed section 162 of this title, and enacted provisions set out as a note under section 162a of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–109 substituted ''referred to in this section'' for ''referred to in this subsection''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1776d of this title.

### § 1776i. Fort Laramie Treaty of 1868

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, nothing in this subchapter or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the ''Fort Laramie Treaty of 1868''; 15 Stat. 649).

(Pub. L. 103–444, § 11, Nov. 2, 1994, 108 Stat. 4642.)

### § 1776j. Satisfaction of claims

The benefits available to the Crow Tribe under the terms and conditions of this subchapter and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 1776(a)(3) of this title.

(Pub. L. 103–444, § 12, Nov. 2, 1994, 108 Stat. 4642.)

### § 1776k. Authorization of appropriations

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

(Pub. L. 103–444, § 13, Nov. 2, 1994, 108 Stat. 4643.)

## CHAPTER 20—TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE

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This chapter is referred to in sections 13d–2, 458cc, 2024 of this title; title 20 sections 1131a, 1131c, 1401, 2394a, 2471, 3489, 7601, 7834; title 29 section 2202.

## § 1801. Definitions

(a) For purposes of this chapter, the term—

(1) ''Indian'' means a person who is a member of an Indian tribe;

(2) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) ''Secretary'', unless otherwise designated, means the Secretary of the Interior;

(4) ''tribally controlled community college'' means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) ''institution of higher education'' means an institution of higher education as defined by section 1141(a) of title 20, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior;

(6) ''national Indian organization'' means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education;

(7) ''Indian student count'' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and

(8) ''satisfactory progress toward a degree or certificate'' has the meaning given to such term by the institution at which the student is enrolled.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a) of this section:

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours.

(5) Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.

(6) No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate shall be taken into account.

(Pub. L. 95–471, § 2, formerly § 1, Oct. 17, 1978, 92 Stat. 1325; renumbered § 2 and amended Pub. L. 98–192, § 1, Dec. 1, 1983, 97 Stat. 1335; Pub. L. 99–428, § 3, Sept. 30, 1986, 100 Stat. 982.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, known as the Tribally Controlled Community College Assistance Act of 1978, which enacted this chapter and section 640c–1 of this title, amended section 640c of this title, and enacted provisions set out as notes under sections 640a, 640c–1, and 1801 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Alaskan Native Claims Settlement Act, referred to in subsec. (a)(2), probably means the Alaska Native Claims Settlement Act, Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1986—Subsec. (a)(8). Pub. L. 99–428, § 3(a), added par. (8).

Subsec. (b)(3) to (6). Pub. L. 99–428, § 3(b), added par. (3), redesignated former pars. (3) to (5) as (4) to (6), respectively, and in par. (6) struck out '', in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance,'' after ''certificate''.

1983—Subsec. (a). Pub. L. 98–192, § 1(1), designated existing provisions as subsec. (a) and inserted introductory provision preceding par. (1).

Subsec. (a)(1). Pub. L. 98–192, § 1(2), struck out ''and is eligible to receive services from the Secretary of the Interior'' after ''Indian tribe''.

Subsec. (a)(5). Pub. L. 98–192, § 1(3), inserted ''and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior''.

Subsec. (a)(7). Pub. L. 98–192, § 1(4), substituted provision defining ''Indian student count'' to mean a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined as consistent with subsec. (b) of this section on the basis of the quotient of the sum of the credit hours of all Indians so enrolled, divided by twelve for provision defining ''full-time equivalent Indian student'' to mean the number of Indians enrolled full-time and the full-time equivalent of the number of Indians enrolled part-time, determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

Subsec. (b). Pub. L. 98–192, § 1(4), added subsec. (b).

SHORT TITLE OF 1990 AMENDMENT

Section 401 of title IV of Pub. L. 95–471, as added by Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 804, provided that: ''This title [enacting subchapter III of this chapter] may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99–428 provided that: ''This Act [amending this section and sections 640c–1, 1808 to 1810, 1812, 1813, and 1836 of this title] may be cited as the 'Tribally Controlled Community College Assistance Amendments of 1986'.''

SHORT TITLE

Section 1 of Pub. L. 95–471 provided: ''That this Act [enacting this chapter and section 640c–1 of this title, amending section 640c of this title, and enacting provisions set out as notes under sections 640a and 640c–1 of this title] may be cited as the 'Tribally Controlled Community College Assistance Act of 1978'.''

EX. ORD. NO. 13021. TRIBAL COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13021, Oct. 19, 1996, 61 F.R. 54929, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, in reaffirmation of the special relationship of the Federal Government to American Indians and Alaska Natives, and, for the purposes of helping to: (a) ensure that tribal colleges and universities are more fully recognized as accredited institutions, have access to the opportunities afforded other institutions, and have Federal resources committed to them on a continuing basis; (b) establish a mechanism that will increase accessibility of Federal resources for tribal colleges and universities in tribal communities; (c) promote access to high-quality educational opportunity for economically disadvantaged students; (d) promote the preservation and the revitalization of American Indian and Alaska Native languages and cultural traditions; (e) explore innovative approaches to better link tribal colleges with early childhood, elementary, and secondary education programs; and (f) support the National Education Goals (20 U.S.C. 5812), it is hereby ordered as follows:

SECTION 1. *Definition of Tribal Colleges and Universities.* Tribal colleges and universities (''tribal colleges'') are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978, (25 U.S.C. 1801 *et seq.*), and Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95-471, title II (25 U.S.C. 640a note).

SEC. 2. *Board of Advisors.* (a) *Establishment.* There shall be established in the Department of Education a Presi-

dential advisory committee entitled the President's Board of Advisors on Tribal Colleges and Universities (''Board''). Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), with respect to the Board, shall be performed by the Secretary of Education (''Secretary''), in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) *Composition*. The Board shall consist of not more than 15 Members who shall be appointed by the President. The Board shall include representatives of tribal colleges. The Board may also include representatives of the higher, early childhood, elementary, and secondary education communities; tribal officials; health, business, and financial institutions; private foundations; and such other persons as the President deems appropriate. Members of the Board will serve terms of 2 years and may be reappointed to additional terms. A Member may continue to serve until his or her successor is appointed. In the event a Member fails to serve a full term, an individual appointed to replace that Member will serve the remainder of that term. All terms will expire upon the termination of the Board.

(c) *Role of Board*. The Board shall provide advice regarding the progress made by Federal agencies toward fulfilling the purposes and objectives of this order. The Board shall also provide recommendations to the President and the Secretary at least annually on ways tribal colleges can:

(1) utilize long-term development, endowment building, and master planning to strengthen institutional viability;

(2) utilize the Federal and private sector to improve financial management and security, obtain private sector funding support, and expand and complement Federal education initiatives;

(3) develop institutional capacity through the use of new and emerging technologies offered by both the Federal and private sectors;

(4) enhance physical infrastructure to facilitate more efficient operation and effective recruitment and retention of students and faculty; and

(5) help achieve National Education Goals and meet other high standards of education accomplishment.

(d) *Scheduled Meetings*. The Board shall meet at least annually to provide advice and consultation on tribal colleges and relevant Federal and private sector activities, and to transmit reports and present recommendations.

SEC. 3. *Office of White House Initiative*. There shall be established in the Department of Education the White House Initiative on Tribal Colleges and Universities (''Initiative''). The Initiative shall be authorized to: (a) provide the staff support for the Board;

(b) assist the Secretary in the role of liaison between the executive branch and tribal colleges;

(c) serve the Secretary in carrying out the Secretary's responsibilities under this order; and

(d) utilize the services, personnel, information, and facilities of other Federal, State, tribal, and local agencies with their consent, and with or without reimbursement, consistent with applicable law. To the extent permitted by law and regulations, each Federal agency shall cooperate in providing resources, including personnel detailed to the Initiative, to meet the objectives of the order.

SEC. 4. *Department and Agency Participation*. Each participating executive department and agency (hereinafter collectively referred to as ''agency''), as determined by the Secretary, shall appoint a senior official, who is a full-time officer of the Federal Government and who is responsible for management or program administration, to serve as liaison to the White House Initiative. The official shall report directly to the agency head, or agency representative, on agency activity under this order and serve as liaison to the White House Initiative. To the extent permitted by law and regulation, each agency shall provide appropriate information in readily available formats requested by the White House Initiative staff pursuant to this order.

SEC. 5. *Five-Year Federal Plan*. (a) *Content*. Each agency shall, in collaboration with tribal colleges, develop and document a Five-Year Plan of the agency's efforts to fulfill the purpose of this order. These Five-Year Plans shall include annual performance indicators and appropriate measurable objectives for the agency. The plans shall address among other relevant issues:

(1) barriers impeding the access of tribal colleges to funding opportunities and to participation in Federal programs, and ways to eliminate the barriers;

(2) technical assistance and information that will be made available to tribal colleges regarding the program activities of the agency and the preparation of applications or proposals for grants, cooperative agreements, or contracts; and

(3) an annual goal for agency funds to be awarded to tribally controlled colleges and universities in:

(A) grants, cooperative agreements, contracts, and procurement;

(B) related excess property-type acquisitions under various authorities such as section 923 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a) and the Federal Property and Administrative Services Act of 1949, chapter 288, 63 Stat. 377 (codified as described at 40 U.S.C. 471 note); and

(C) the transfer of excess and surplus Federal computer equipment under Executive Order 12999 [40 U.S.C. 484 note].

In developing the Five-Year Plans required by this order, agencies shall strive to include tribal colleges in all aspects and activities related to the attainment of the participation goals described in Executive Order 12928, ''Promoting Procurement with Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions'' [15 U.S.C. 631 note]. The Plans may also emphasize access to high-quality educational opportunity for economically disadvantaged Indian students; the preservation and revitalization of American Indian and Alaska Native languages and cultural traditions; innovative approaches to better link tribal colleges with early childhood, elementary, and secondary education programs; and the National Education Goals.

(b) *Submission*. Each agency shall submit its Five-Year Plan to the White House Initiative Office. In consultation with the Board, the White House Initiative Office shall then review these Five-Year Plans and develop an integrated Five-Year Plan for Assistance to Tribal Colleges, which the Secretary shall review and submit to the President. The Five-Year Plan for Assistance to Tribal Colleges may be revised within the 5-year period.

(c) *Annual Performance Reports*. Each agency shall submit to the White House Initiative Office an Annual Performance Report that shall measure each agency's performance against the objectives set forth in its Five-Year Plan. In consultation with the Board, the White House Initiative Office shall review and combine Annual Performance Reports into one annual report, which shall be submitted to the Secretary for review, in consultation with the Office of Management and Budget.

SEC. 6. *Private Sector*. In cooperation with the Board, the White House Initiative Office shall encourage the private sector to assist tribal colleges through increased use of such strategies as: (a) matching funds to support increased endowments;

(b) developing expertise and more effective ways to manage finance, improve information systems, build facilities, and improve course offerings; and

(c) increasing resources for and training of faculty.

SEC. 7. *Termination*. The Board shall terminate 2 years after the date of this Executive order unless the Board is renewed by the President prior to the end of that 2-year period.

SEC. 8. *Administration*. (a) *Compensation*. Members of the Board shall serve without compensation, but shall

be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

(b) *Funding*. The Board and the Initiative shall be funded by the Department of Education.

(c) *Administrative Support*. The Department of Education shall provide appropriate administrative services and staff support for the Board and the Initiative. With the consent of the Department of Education, other agencies participating in the Initiative shall provide administrative support to the White House Initiative Office consistent with statutory authority and shall make use of section 112 of title 3, United States Code, to detail agency employees to the extent permitted by law. The Board and the White House Initiative Office shall have a core staff and shall be supported at appropriate levels.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1616f, 1616h, 1665j, 1808, 3210, 3371 of this title; title 20 sections 80q–8, 1085, 2397h.

## SUBCHAPTER I—TRIBALLY CONTROLLED COMMUNITY COLLEGES GRANT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1851 of this title.

### § 1802. Purpose

It is the purpose of this subchapter to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(Pub. L. 95–471, title I, § 101, Oct. 17, 1978, 92 Stat. 1325; Pub. L. 98–192, § 2, Dec. 1, 1983, 97 Stat. 1336.)

AMENDMENTS

1983—Pub. L. 98–192 inserted ‘‘, and to allow for the improvement and expansion of the physical resources of such institutions’’.

### § 1803. Grants authorized

**(a) Purposes**

The Secretary shall, subject to appropriations, make grants pursuant to this subchapter to tribally controlled community colleges to aid in the post-secondary education of Indian students.

**(b) Deposit of funds; limitations on uses**

Grants made pursuant to this subchapter shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college. Funds provided pursuant to this subchapter shall not be used in connection with religious worship or sectarian instruction.

(Pub. L. 95–471, title I, § 102, Oct. 17, 1978, 92 Stat. 1326; Pub. L. 98–192, § 3(a), Dec. 1, 1983, 97 Stat. 1336.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–192, § 3(a)(1), substituted ‘‘shall, subject to appropriations,’’ for ‘‘is authorized to’’.

Subsec. (b). Pub. L. 98–192, § 3(a)(2), substituted ‘‘to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college’’ for ‘‘to defray the expense of activities related to education programs for Indian students’’.

### § 1804. Eligible grant recipients

To be eligible for assistance under this subchapter, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

(Pub. L. 95–471, title I, § 103, Oct. 17, 1978, 92 Stat. 1326.)

### § 1804a. Planning grants

**(a) Establishment of program**

The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or (2) to determine the need and potential for the establishment of such colleges.

**(b) Procedures for submission and review of applications**

The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

**(c) Reservation of funds; number of grants**

From the amount appropriated to carry out this subchapter for any fiscal year (exclusive of sums appropriated for section 1805 of this title), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

(Pub. L. 95–471, title I, § 104, as added Pub. L. 98–192, § 4(a)(2), Dec. 1, 1983, 97 Stat. 1336.)

### § 1805. Technical assistance contracts

The Secretary shall provide, upon request from a tribally controlled community college which is receiving funds under section 1808 of this title, technical assistance either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

(Pub. L. 95–471, title I, § 105, formerly § 104, Oct. 17, 1978, 92 Stat. 1326; renumbered § 105 and amended Pub. L. 98–192, §§ 4(a)(1), 5, Dec. 1, 1983, 97 Stat. 1336.)

AMENDMENTS

1983—Pub. L. 98–192, § 5, inserted ''from a tribally controlled community college which is receiving funds under section 1808 of this title'' and struck out ''to tribally controlled community colleges'' before ''either directly''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1804a, 1810, 1813 of this title.

## § 1806. Eligibility studies

### (a) Development of plans, procedures, and criteria

The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

### (b) Initiation by Secretary; grant applications and budgets

The Secretary, within thirty days after a request by any Indian tribe, shall initiate a[1] eligibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

### (c) Source of appropriations

Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after October 17, 1978 for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 1807 of this title for such fiscal year.

(Pub. L. 95–471, title I, § 106, formerly § 105, Oct. 17, 1978, 92 Stat. 1326; renumbered § 106 and amended Pub. L. 98–192, §§ 4(a)(1), (b)(1), 6(a), Dec. 1, 1983, 97 Stat. 1336, 1337.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–192, § 6(a)(2), (3), substituted ''eligibility'' for ''feasibility'' and ''Secretary of Education'' for ''Assistant Secretary of Education of the Department of Health, Education, and Welfare''.

Subsec. (b). Pub. L. 98–192, § 6(a)(2), (4), inserted provision that such positive determination be effective for fiscal year succeeding fiscal year in which such determination is made, and substituted ''eligibility'' for ''feasibility''.

Subsec. (c)(2). Pub. L. 98–192, §§ 4(b)(1), 6(a)(5), substituted ''5 per centum'' for ''10 per centum'' and made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1807, 1811 of this title.

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

## § 1807. Grants to tribally controlled community colleges

### (a) Submission of applications; necessity of eligibility study

Grants shall be made under this subchapter only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this chapter which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a[1] eligibility study has been conducted under section 1806 of this title and it has been found that the applying community college will service a reasonable student population.

### (b) Determination of support; factors considered

The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

### (c) Priority and number of grants

Priority in grants shall be given to institutions which are operating on October 17, 1978, and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

### (d) Consultation with national Indian organizations and tribal governments

In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(Pub. L. 95–471, title I, § 107, formerly § 106, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97–375, title I, § 108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered § 107 and amended Pub. L. 98–192, §§ 3(b), 4(a)(1), (b)(2), 6(b), Dec. 1, 1983, 97 Stat. 1336, 1337.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–192, § 6(b)(1), substituted ''eligibility'' for ''feasibility''.

Pub. L. 98–192, § 4(b)(2), made a technical amendment to reference to section 1806 of this title to reflect renumbering of that section.

Pub. L. 98–192, § 3(b), inserted provision that such application include a description of the recordkeeping procedures for expenditure of funds as will allow Secretary to audit and monitor programs conducted with such funds.

Subsec. (b). Pub. L. 98–192, § 6(b)(2), substituted ''Secretary of Education'' for ''Assistant Secretary of Education of the Department of Health, Education, and Welfare''.

1982—Subsec. (e). Pub. L. 97–375 struck out subsec. (e) which directed the Secretary to report to Congress on

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

Jan. 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1806, 1810, 1811, 1813, 1832 of this title.

## § 1808. Amount of grants

### (a) Formula

Except as provided in section 1811 of this title, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and

(2) $5,820,

except that no grant shall exceed the total cost of the education program provided by such college.

### (b) Advance installment payments; adjustments; methods of payment; interest or investment income; types of investments

(1) The Secretary shall make payments, pursuant to grants under this chapter, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this subchapter, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this subchapter.

(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this subchapter after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this subchapter shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(4) Funds provided under this subchapter may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

### (c) Accounting by recipient institutions; data collection system

(1) Each institution receiving payments under this subchapter shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges.

### (d) Construction of section

Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98–192.

(Pub. L. 95–471, title I, § 108, formerly § 107, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97–375, title I, § 108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered § 108 and amended Pub. L. 98–192, §§ 4(a)(1), 7, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 4, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100–297, title V, § 5402(a), Apr. 28, 1988, 102 Stat. 415; Pub. L. 100–427, § 24, Sept. 9, 1988, 102 Stat. 1613; Pub. L. 101–477, § 1(a), Oct. 30, 1990, 104 Stat. 1152.)

REFERENCES IN TEXT

Public Law 98–192, referred to in subsec. (d), is Pub. L. 98–192, Dec. 1, 1983, 97 Stat. 1335, which enacted sections 1804a and 1831 to 1836 of this title, amended sections 640c–1, 1801 to 1803, and 1805 to 1813 of this title, and enacted provisions set out as a note under section 1815 of this title. For complete classification of Pub. L. 98–192 to the Code, see Tables.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–477, § 1(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and''.

Subsec. (b)(1). Pub. L. 101–477, § 1(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall make payments, pursuant to grants under this subchapter, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.''

Subsecs. (c), (d). Pub. L. 101–477, § 1(a)(3), redesignated subsec. (c), relating to construction of section, as (d).

1988—Subsec. (b). Pub. L. 100–297 designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (c). Pub. L. 100–427 added subsec. (c) relating to construction of section.

1986—Subsec. (a)(2). Pub. L. 99–428 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) $4,000 for fiscal year 1984,

''(B) $5,025 for fiscal year 1985,

''(C) $5,415 for fiscal year 1986, and

''(D) $5,820 for fiscal year 1987,''.

1983—Subsec. (a). Pub. L. 98–192 amended subsec. (a) generally, substituting provision establishing a formula premised on Indian student count at each tribally

controlled community college on which funding is to be based for provision which directing the Secretary to grant an amount equal to $4,000 for each full-time equivalent Indian student in attendance during the academic year to each tribally controlled community college having an application approved by the Secretary.

1982—Subsec. (c)(2). Pub. L. 97–375 struck out provision directing Secretary to report annually to Congress on needs of tribally controlled community colleges.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1805, 1809, 1811 of this title.

### § 1809. Effect on other programs

#### (a) Eligibility for assistance

Except as specifically provided in this subchapter, eligibility for assistance under this subchapter shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

#### (b) Allocations from Bureau of Indian Affairs

(1) The amount of any grant for which tribally controlled community colleges are eligible under section 1808 of this title shall not be altered because of funds allocated to any such colleges from funds appropriated under section 13 of this title.

(2) No tribally controlled community college shall be denied funds appropriated under section 13 of this title because of the funds it receives under this chapter.

(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of this title may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

#### (c) Assistance deemed to be basic educational opportunity grant

For the purposes of sections 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965 [20 U.S.C. 1058(2)(A)(i), 1061(a)(2)(A)(i)],[1] any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act [20 U.S.C. 1070a].

#### (d) Treatment of funds under certain Federal laws

Notwithstanding any other provision of law, funds provided under this subchapter to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.

(Pub. L. 95–471, title I, § 109, formerly § 108, Oct. 17, 1978, 92 Stat. 1328; renumbered § 109 and amended Pub. L. 98–192, §§ 4(a)(1), 8, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 5, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100–297, title V, § 5403(a), Apr. 28, 1988, 102 Stat. 416.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Sections 312 and 322 of the Higher Education Act of 1965, which were classified to sections 1058 and 1061, respectively, of Title 20, were omitted in the general revision of title III of the Higher Education Act of 1965 by Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1290, which enacted new sections 312 and 322 which are classified to sections 1058 and 1061, respectively, of Title 20. Subpart 1 of part A of title IV of the Higher Education Act of 1965 is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (b)(3), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–297 added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99–428 added par. (3).

1983—Pub. L. 98–192, § 8, designated existing provision as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as an Effective Date note under section 1201 of Title 20, Education.

### § 1810. Authorization of appropriations

(a)(1) There is authorized to be appropriated, for the purpose of carrying out section 1805 of this title, $3,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There is authorized to be appropriated for the purpose of carrying out section 1807 of this title, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) There is authorized to be appropriated for the purpose of carrying out sections 1812(b) and 1813 of this title, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 1993 and for each of the succeeding 4 fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the Tribally Controlled Community Colleges being designated as its own certifying agency.

[1] See References in Text note below.

(b)(1) For the purpose of affording adequate notice of funding available under this chapter, amounts appropriated in an appropriation Act for any fiscal year to carry out this chapter shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this chapter, the first of which shall not be subject to paragraph (1).

(Pub. L. 95–471, title I, § 110, formerly § 109, Oct. 17, 1978, 92 Stat. 1328; renumbered § 110 and amended Pub. L. 98–192, §§ 4(a)(1), 9, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99–428, § 2(a), Sept. 30, 1986, 100 Stat. 982; Pub. L. 101–477, § 1(b), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 102–325, title XIII, § 1301(a), July 23, 1992, 106 Stat. 797.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 amended subsec. (a) generally, in pars. (1) to (3) substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1990 to 1992 and adding par. (4).

1990—Subsec. (a)(1). Pub. L. 101–477, § 1(b)(1), substituted ''1990 and 1991, and for fiscal year 1992, such sums as may be necessary'' for ''1987, 1988, 1989, and 1990''.

Subsec. (a)(2). Pub. L. 101–477, § 1(b)(2), substituted ''1990 and 1991, and for fiscal year 1992, such sums as may be necessary'' for ''1987, 1988, 1989, and 1990''.

Subsec. (a)(3). Pub. L. 101–477, § 1(b)(3), substituted ''1990, 1991, and 1992'' for ''1987, 1988, 1989, and 1990''.

1986—Subsec. (a)(1). Pub. L. 99–428, § 2(a)(1), substituted ''1987, 1988, 1989, and 1990'' for ''1985, 1986, and 1987''.

Subsec. (a)(2), (3). Pub. L. 99–428, § 2(a)(2), substituted ''the fiscal years 1987, 1988, 1989, and 1990'' for ''such fiscal years''.

1983—Subsec. (a). Pub. L. 98–192, § 9, amended subsec. (a) generally, substituting provision authorizing appropriations for fiscal years 1985, 1986, and 1987 of $3,200,000 for carrying out section 1805 of this title, $30,000,000 for carrying out section 1807 of this title, and appropriations as necessary for carrying out sections 1812(b) and 1813 of this title for provision authorizing appropriations for carrying out section 1807 of this title of $25,000,000 for each of the fiscal years beginning Oct. 1, 1979 and Oct. 1, 1980, and $30,000,000 for the fiscal year beginning Oct. 1, 1981, and $3,200,000 for each of such fiscal years for the provision of technical assistance pursuant to section 1805 of this title.

Subsec. (b). Pub. L. 98–192, § 9, amended subsec. (b) generally, substituting provision relating to affording adequate notice of funding available under this chapter and directing two separate appropriations in order to effect a transition to the forward funding method of timing appropriation action for provision directing that, unless otherwise provided, funds appropriated under this section remain available until expended.

Subsec. (c). Pub. L. 98–192, § 9, struck out subsec. (c) which provided that nothing in this chapter be deemed to authorize appropriations for fiscal year beginning Oct. 1, 1978.

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 Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1811 of this title.

## § 1811. Grant adjustments

### (a) Formula for allocation

(1) If the sums appropriated for any fiscal year pursuant to section 1810(a)(2) of this title for grants under section 1807 of this title are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 1808 of this title;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's projected Indian student count for the academic year for which payment is being made;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term ''per capita payment'' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 1807 of this title for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this subchapter.

### (b) Ratable reduction or increase in funds available for existing schools; excess funds; definition

(1) If the sums appropriated for any fiscal year for grants under section 1807 of this title are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) of this section, the amount which applicants described in such subsection are eligible to receive under section 1807 of this title for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 1807 of this

title for any fiscal year to which subsection (a) of this section or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a) of this section. Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 1807 of this title shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) of this section to section 1807 of this title shall, with respect to fiscal year 1983, be deemed to refer to section 1806 of this title as in effect at the beginning of such fiscal year.

**(c) Reallocation of funds**

In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 1807(a) of this title.

(Pub. L. 95–471, title I, § 111, formerly § 110, Oct. 17, 1978, 92 Stat. 1328; renumbered § 111 and amended Pub. L. 98–192, §§ 4(a)(1), (b)(3), 10, Dec. 1, 1983, 97 Stat. 1336, 1338; Pub. L. 101–477, § 1(c), Oct. 30, 1990, 104 Stat. 1152.)

AMENDMENTS

1990—Subsec. (a)(1)(A). Pub. L. 101–477, § 1(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 per centum of the product of—

''(i) the per capita payment for the preceding fiscal year; and

''(ii) such applicant's Indian student count for the current fiscal year;''.

Subsec. (a)(1)(B)(ii). Pub. L. 101–477, § 1(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the applicant's Indian student count for the current fiscal year;''.

1983—Subsec. (a). Pub. L. 98–192, § 10, amended subsec. (a) generally, substituting provision establishing a formula to be used to determine funding between existing and newly eligible schools when funds appropriated are not sufficient to pay in full the total amount which approved applicants are eligible to receive under section 1807 of this title for provision that if funds were insufficient to pay in full the total amounts which approved grant applicants were eligible to receive, the available funds would be ratably decreased and if funds later became available or there were excess funds, such funds would be ratably increased.

Subsecs. (b), (c). Pub. L. 98–192, § 10, added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 98–192, § 4(b)(3), made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1808 of this title.

## § 1812. Report on facilities

**(a) Study on condition of currently existing facilities; submission of report; contents**

The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after September 30, 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled community colleges under section 483(a)(2) of title 40 and section 443a of this title.

**(b) Renovation program**

The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

**(c) Determination and prioritization of construction and renovation needs**

(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.].

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

**(d) "Reconstruction" defined**

For the purposes of this section, the term ''reconstruction'' has the meaning provided in the first sentence of subparagraph (B) of section 1132e–1(2)[1] of title 20.

(Pub. L. 95–471, title I, § 112, formerly § 111, Oct. 17, 1978, 92 Stat. 1328; renumbered § 112 and amended Pub. L. 98–192, §§ 4(a)(1), 11, Dec. 1, 1983,

[1] See References in Text note below.

97 Stat. 1336, 1339; Pub. L. 99–428, § 6(a), Sept. 30, 1986, 100 Stat. 983; Pub. L. 101–392, title III, § 313, Sept. 25, 1990, 104 Stat. 805.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (c)(1), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(A), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 1132e–1 of title 20, referred to in subsec. (d), was omitted in the general revision of subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520. See section 1132i–1 of Title 20.

AMENDMENTS

1990—Subsecs. (c), (d). Pub. L. 101–392 added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (a). Pub. L. 99–428, § 6(a), substituted ''Secretary'' for ''Administrator of General Services'' and ''September 30, 1986'' for ''December 1, 1983''.

Subsec. (b). Pub. L. 99–428, § 6(a)(1), substituted ''Secretary'' for ''Administrator of General Services''.

1983—Pub. L. 98–192 amended section generally, substituting provision requiring a study on the condition of currently existing facilities, submission of a report on the study, contents of the report, establishment of a renovation program, and defining term ''reconstruction'' for provision which required the Secretary of the Interior, not later than ninety days after Oct. 17, 1978, to prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–392 effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as a note under section 2301 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1810, 1813 of this title.

## § 1813. Construction of new facilities

### (a) Grants

With respect to any tribally controlled community college for which the report of the Secretary under section 1812(a) of this title identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

### (b) Eligibility requirements

In order to be eligible for a grant under this section, a tribally controlled community college—

(1) must be a current recipient of grants under section 1805 or 1807 of this title, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1141(a) of title 20, except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

### (c) Maximum amount of grant; waiver of restriction

(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under section 13 of this title.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

### (d) Failure to use facility in approved manner; title to vest in United States; settlement

If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under section 13 of this title) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

### (e) Religious use

No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

**(f) "Construction" and "academic facilities" defined**

For the purposes of this section—

(1) the term ''construction'' includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 1132e–1(2)[1] of title 20); and

(2) the term ''academic facilities'' has the meaning provided such term under section 1132e–1(1)[1] of title 20.

(Pub. L. 95–471, title I, § 113, formerly § 112, Oct. 17, 1978, 92 Stat. 1329; renumbered § 113 and amended Pub. L. 98–192, §§ 4(a)(1), 12, Dec. 1, 1983, 97 Stat. 1336, 1340; Pub. L. 99–428, § 6(b), Sept. 30, 1986, 100 Stat. 983.)

REFERENCES IN TEXT

Section 1132e–1 of title 20, referred to in subsec. (f), was omitted in the general revision of subchapter VII (§ 1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520. See section 1132i–1 of Title 20.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–428 substituted ''Secretary under'' for ''Administrator of General Services under''.

1983—Pub. L. 98–192 amended section generally, substituting provision authorizing grants for construction of new facilities, establishing eligibility requirements for grants, maximum amounts of grants, waiver of amount restriction, results of failure to use facilities in an approved manner, and prohibition of religious use of such facilities, and defining ''construction'' and ''academic facilities'' for provision requiring Secretary of the Interior to conduct a detailed survey and study of academic facilities needs of tribally controlled community colleges and report to Congress not later than Nov. 1, 1979, the results of such survey and study.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1810 of this title.

### § 1814. Miscellaneous provisions

**(a) Eligibility of Navajo Tribe**

The Navajo Tribe shall not be eligible to participate under the provisions of this subchapter.

**(b) Discriminatory practices prohibited**

(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this subchapter held by an institution determined to be in violation of paragraph (1).

(Pub. L. 95–471, title I, § 114, formerly § 113, Oct. 17, 1978, 92 Stat. 1329; renumbered § 114, Pub. L. 98–192, § 4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

### § 1815. Rules and regulations

**(a) Consultation with national Indian organizations**

Within four months from October 17, 1978, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this subchapter.

**(b) Publication**

Within six months from October 17, 1978, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

**(c) Promulgation**

Within ten months from October 17, 1978, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this subchapter.

**(d) Source of appropriations**

Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after October 17, 1978.

(Pub. L. 95–471, title I, § 115, formerly § 114, Oct. 17, 1978, 92 Stat. 1329; renumbered § 115, Pub. L. 98–192, § 4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

PROMULGATION OF REGULATIONS; CONSULTATION

Section 15 of Pub. L. 98–192 provided that: ''In promulgating any regulations to implement the amendments made by this Act [enacting sections 1804a and 1831 to 1836 of this title and amending sections 640c–1, 1801 to 1803, and 1805 to 1813 of this title], the Secretary of the Interior shall consult with tribally controlled community colleges.''

## SUBCHAPTER II—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1851 of this title.

### § 1831. Purpose

It is the purpose of this subchapter to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

(Pub. L. 95–471, title III, § 301, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1341.)

### § 1832. Establishment of program; program agreements

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 1807 of this title or under section 640b of this title. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college shall be eligible for such a grant for a fiscal year if such college has been awarded a grant under section 1065 of title 20 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

(1) provides for the investment and maintenance of a trust fund, the corpus and earnings

[1] See References in Text note below.

of which shall be invested in the same manner as funds are invested under paragraph (2) of section 1065(c) of title 20, except that for purposes of this paragraph, the term ''trust fund'' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 1836 of this title;

(B) a capital contribution by such college in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college withdraws any capital contribution made by that college, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this subchapter and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(Pub. L. 95–471, title III, § 302, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1341; amended Pub. L. 101–477, § 1(d)(1)(A), (B), Oct. 30, 1990, 104 Stat. 1152, 1153; Pub. L. 103–382, title III, § 383, Oct. 20, 1994, 108 Stat. 4018.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 383(1), substituted ''section 1065 of title 20'' for ''section 1065a of title 20''.

Subsec. (b)(1). Pub. L. 103–382, § 383(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;''.

Subsec. (b)(3). Pub. L. 103–382, § 383(2)(B), struck out ''same'' before ''banking or savings institution''.

1990—Subsec. (b)(2)(B). Pub. L. 101–477, § 1(d)(1)(A), substituted ''(or of a value) equal to half of'' for ''equal to''.

Subsec. (b)(4). Pub. L. 101–477, § 1(d)(1)(B), substituted ''an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal'' for ''an equal amount of Federal capital contribution''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1(d)(2) of Pub. L. 101–477 provided that: ''The amendments made by paragraphs (A) through (E) of subsection (a) [probably means subpars. (A) to (E) of subsec. (d)(1), amending this section and sections 1834 and 1835 of this title] shall take effect October 1, 1991.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1833, 1834, 1835 of this title.

## § 1833. Use of funds

Interest deposited, pursuant to section 1832(b)(2)(C) of this title, in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(Pub. L. 95–471, title III, § 303, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342.)

## § 1834. Compliance with matching requirement

For the purpose of complying with the contribution requirement of section 1832(b)(2)(B) of this title, a tribally controlled community college may use funds which are available from any private or tribal source. Any real or personal property received by a tribally controlled community college as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.

(Pub. L. 95–471, title III, § 304, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342; amended Pub. L. 101–477, § 1(d)(1)(C), Oct. 30, 1990, 104 Stat. 1153.)

AMENDMENTS

1990—Pub. L. 101–477 inserted at end ''Any real or personal property received by a tribally controlled community college as a donation or gift on or after October 30, 1990, may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 1832(b)(2)(B) of this title, or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 1832(b)(2)(B) of this title but shall not again be considered for Federal capital contribution purposes.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101–477, set out as a note under section 1832 of this title.

## § 1835. Allocation of funds

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall allocate to each tribally controlled community

college which is eligible for an endowment grant under this subchapter an amount for a Federal capital contribution equal to twice the value of the property or the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 1832(b)(2)(B) of this title, except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $750,000.

(b) If for any fiscal year the amount appropriated pursuant to section 1836 of this title is not sufficient to allocate to each tribally controlled community college an amount equal to twice the value of the property or the amount demonstrated by such college pursuant to subsection (a) of this section, then the amount of the allocation to each such college shall be ratably reduced.

(Pub. L. 95–471, title III, § 305, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1342; amended Pub. L. 101–477, § 1(d)(1)(D), (E), Oct. 30, 1990, 104 Stat. 1153.)

AMENDMENTS

1990—Pub. L. 101–477 inserted ''twice the value of the property or'' after ''equal to'' in subsecs. (a) and (b) and substituted ''$750,000'' for ''$350,000'' in subsec. (a).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–477 effective Oct. 1, 1991, see section 1(d)(2) of Pub. L. 101–477, set out as a note under section 1832 of this title.

### § 1836. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this subchapter, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Any funds appropriated pursuant to subsection (a) of this section are authorized to remain available until expended.

(Pub. L. 95–471, title III, § 306, as added Pub. L. 98–192, § 13, Dec. 1, 1983, 97 Stat. 1343; amended Pub. L. 99–428, § 2(b), Sept. 30, 1986, 100 Stat. 982; Pub. L. 101–477, § 1(d)(1)(F), Oct. 30, 1990, 104 Stat. 1153; Pub. L. 102–325, title XIII, § 1301(b), July 23, 1992, 106 Stat. 797.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 amended subsec. (a) generally, substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1987 to 1992.

1990—Subsec. (a). Pub. L. 101–477 substituted ''1990 and 1991, and for fiscal year 1992, $10,000,000'' for ''and 1990''.

1986—Subsec. (a). Pub. L. 99–428 substituted ''1987, 1988, 1989, and 1990'' for ''1985, 1986, and 1987''.

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 Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1832, 1835 of this title.

## SUBCHAPTER III—TRIBAL ECONOMIC DEVELOPMENT

### § 1851. Grants authorized

#### (a) General authority

The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resources needs.

(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

(3) The conduct of vocational courses, including administrative expenses and student support services.

(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

#### (b) Amount and duration

The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

#### (c) Applications

Institutions which receive funds under other subchapters of this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.] may apply for grants under this subchapter either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this subchapter.[1]

(Pub. L. 95–471, title IV, § 402, as added Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 804.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsecs. (a) and (c), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

This subchapter, referred to at the end of subsec. (c), was in the original ''this part'' and was translated as

[1] See References in Text note below.

reading ''this title'' to reflect the probable intent of Congress because title IV of Pub. L. 95–471, which comprises this subchapter, does not contain parts.

EFFECTIVE DATE

Subchapter effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date of 1990 Amendment note under section 2301 of Title 20, Education.

SHORT TITLE

For short title of title IV of Pub. L. 95–471, which enacted this subchapter, as the ''Tribal Economic Development and Technology Related Education Assistance Act of 1990'', see section 401 of Pub. L. 95–471, set out as a Short Title of 1990 Amendment note under section 1801 of this title.

### § 1852. Authorization of appropriations

There are authorized to be appropriated for grants under this subchapter, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 95–471, title IV, § 403, as added Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 805; amended Pub. L. 102–325, title XIII, § 1301(c), July 23, 1992, 106 Stat. 797.)

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1991 to 1996.

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 Title 20, Education.

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