surance fund established by section 13 of the National Vocational Student Loan Insurance Act of 1965 [section 992 of this title], matured or contingent, shall be transferred to, and become assets and liabilities of, the student loan insurance fund established by section 431 of the Higher Education Act of 1965 [section 1081 of this title]. Payments in connection with defaults of loans made on or after the sixtieth day after the date of enactment of this Act [Oct. 16, 1968] and insured by the Commissioner (under the authority of subsection (e)(3) or (e)(4) of this section [set out as a note under section 1083 of this title]) under the National Vocational Student Loan Insurance Act of 1965 [sections 981 to 996 of this title] shall be paid out of the fund established by such section 431.''

CHAPTER 28—HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1232g, 1234i, 2327, 3441, 6143, 9515 of this title; title 11 sections 362, 541; title 25 sections 13, 13d–2, 309b, 640c–2, 1809; title 26 sections 144, 150; title 42 sections 292a, 12651d, 14117.

SUBCHAPTER I—GENERAL PROVISIONS

CODIFICATION

Title I of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title I, Nov. 8, 1965, 79 Stat. 1219, and amended by Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–29, May 3, 1973, 87 Stat. 30; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–96, Oct. 31, 1979, 93 Stat. 729; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107; Pub. L. 101–305, May 30, 1990, 104 Stat. 253; Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127; Pub. L. 102–54, June 13, 1991, 105 Stat. 267; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Such title is shown herein, however, as having been added by Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1585, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 105–244.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1093 of this title; title 42 sections 3013, 4763.

PART A—DEFINITIONS

§ 1001. General definition of institution of higher education

(a) Institution of higher education

For purposes of this chapter, other than subchapter IV, the term ''institution of higher education'' means an educational institution in any State that—

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included

For purposes of this chapter, other than subchapter IV, the term ''institution of higher education'' also includes—

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies

For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

(Pub. L. 89–329, title I, §101, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1585.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note below and Tables.

Subchapter IV, referred to in subsecs. (a) and (b), was in the original ''title IV'', meaning title IV of Pub. L. 89–329, as amended, which is classified generally to subchapter IV of this chapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(a) of this title prior to repeal by Pub. L. 105–244.

A prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, related to purposes of school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, related to Congressional findings, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1373, stated Congressional findings with respect to continuing postsecondary education program and planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1001, Pub. L. 89–329, title I, §101, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 90–575, title II, §201, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §101(a), June 23, 1972, 86 Stat. 236; Pub. L. 94–482, title I, §101(a), Oct. 12, 1976, 90 Stat. 2083; Pub. L. 96–49, §2, Aug. 13, 1979, 93 Stat. 351, authorized appropriations for the community service, continuing education, and lifelong learning program grant programs through fiscal year 1980, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, §3, Oct. 7, 1998, 112 Stat. 1585, provided that: ''Except as otherwise provided in this Act [see Tables for classification] or the amendments made by this Act, the amendments made by this Act shall take effect on October 1, 1998.''

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, §2, July 23, 1992, 106 Stat. 458, provided that: ''Except as otherwise provided in this Act (20 U.S.C. 1001 et seq.) [see Tables for classification], the amendments made by this Act shall take effect on October 1, 1992.''

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–50, §27, June 3, 1987, 101 Stat. 363, provided that: ''The amendments made by this Act [see Short Title of 1987 Amendment note below] shall take effect as if enacted as part of the Higher Education Amendments of 1986 [Pub. L. 99–498, see Short Title of 1986 Amendments note below].''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–498, §2, Oct. 17, 1986, 100 Stat. 1277, provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 17, 1986].''

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–374, title XIII, §1393, Oct. 3, 1980, 94 Stat. 1504, provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on October 1, 1980.

''(b)(1) The amendment made by section 301 of this Act to title III of the Act [enacting subchapter III of this chapter] shall take effect October 1, 1981.

''(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act [amending section 1070c–2 of this title] shall be effective October 1, 1979.

''(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act [amending subpart 4 of part A of subchapter IV of this chapter generally] shall take effect October 1, 1981.

''(4) The amendments made by part B of title IV of this Act [enacting sections 1077a, 1078–2, 1083a, and 1087–1a of this title and amending sections 1074, 1075, 1077, 1078, 1078–1, 1080, 1082, 1085, 1087–1, and 1087–2 of this title] shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by sec-

tion 415(b) [amending sections 1077(a)(2)(B) and 1078(b)(1)(E) of this title] shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [part B of subchapter IV of this chapter] on the date on which the borrower enters into the note or other written evidence of the loan.

''(5) The amendments made by part D of title IV of this Act [enacting sections 1087cc–1, 1087hh, and 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall apply to loans made under part E of the Act [part D of subchapter IV of this chapter] on or after October 1, 1980.

''(6) The amendment made by section 701 of this Act adding section 731 of the Act [former section 1132d of this title] shall apply to loans made under section 731 on or after October 1, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–482, title V, § 532, Oct. 12, 1976, 90 Stat. 2241, provided that: ''The provisions of this Act [see Tables for classification] and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act [Oct. 12, 1976] except—

''(1) as specifically otherwise provided; and

''(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–420, § 1, Nov. 1, 2000, 114 Stat. 1867, provided that: ''This Act [enacting section 1092d of this title, amending section 522 of Title 11, Bankruptcy, and enacting provisions set out as notes under section 1092d of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'College Scholarship Fraud Prevention Act of 2000'.''

Pub. L. 106–386, div. B, title VI, § 1601(a), Oct. 28, 2000, 114 Stat. 1537, provided that: ''This section [amending sections 1092 and 1232g of this title and section 14071 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 1092 of this title and section 14071 of Title 42] may be cited as the 'Campus Sex Crimes Prevention Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–244, § 1(a), Oct. 7, 1998, 112 Stat. 1581, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–78, title VI, § 609(a), Nov. 13, 1997, 111 Stat. 1522, provided in part that: ''This section [amending sections 1078–3, 1087h, 1087*oo* to 1087qq, and 1087vv of this title and enacting provisions set out as notes under sections 1078–3 and 1087h of this title] may be cited as the 'Emergency Student Loan Consolidation Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 601], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275, provided that: ''This title [enacting sections 1087–3, 1087–4, and 1132f–10 of this title, amending sections 1078–3, 1085, and 1087–2 of this title, repealing sections 1087–2, 1087–3, and 1132f to 1132f–9 of this title, and enacting provisions set out as notes under sections 1078–3 and 1087–2 of this title] may be cited as the 'Student Loan Marketing Association Reorganization Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, title III, § 360B(a), Oct. 20, 1994, 108 Stat. 3969, provided that: ''This section [amending section 1092 of this title and enacting provisions set out as a note under section 1092 of this title] may be cited as the 'Equity in Athletics Disclosure Act'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–208, § 1(a), Dec. 20, 1993, 107 Stat. 2457, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Technical Amendments of 1993'.''

Pub. L. 103–66, title IV, § 4011(a), Aug. 10, 1993, 107 Stat. 341, provided that: ''This subtitle [subtitle A (§§ 4011–4047) of title IV of Pub. L. 103–66, amending sections 1072, 1078, 1078–3, 1078–8, 1085, 1087–2, and 1087a to 1087h of this title, repealing section 1078–1 of this title, omitting sections 1087i and 1087j of this title, and enacting provisions set out as notes under sections 1078, 1078–3, and 1078–8 of this title] may be cited as the 'Student Loan Reform Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–325, § 1(a), July 23, 1992, 106 Stat. 448, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–26, § 1(a), Apr. 9, 1991, 105 Stat. 123, provided that: ''This Act [enacting section 1211b of this title, amending sections 1078, 1078–1, 1085, 1087ss, 1088, 1091, 1091a, 1092, 1094, and 1141 of this title, enacting provisions set out as notes under sections 1070, 1078–1, 1088, and 1091a of this title, amending provisions set out as a note under section 1092 of this title, and repealing provisions set out as a note under section 1088 of this title] may be cited as the 'Higher Education Technical Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–542, § 1, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This Act [amending sections 1085, 1092, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1092 of this title] may be cited as the 'Student Right-To-Know and Campus Security Act'.''

Pub. L. 101–542, title I, § 101, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This title [amending section 1092 of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Student Right-To-Know Act'.''

Pub. L. 101–542, title II, § 201, Nov. 8, 1990, 104 Stat. 2384, provided that: ''This title [amending sections 1092, 1094, and 1232g of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Crime Awareness and Campus Security Act of 1990'.''

Pub. L. 101–508, title III, § 3001, Nov. 5, 1990, 104 Stat. 1388–25, provided that: ''This subtitle [subtitle A (§§ 3001–3008) of title III of Pub. L. 101–508, amending sections 1078, 1078–1, 1078–7, 1085, 1088, and 1091 of this title and sections 362, 541, and 1328 of Title 11, Bankruptcy, enacting provisions set out as notes under sections 1078–7, 1085, and 1088 of this title and sections 362 and 1328 of Title 11, and amending provisions set out as a note under section 1078–1 of this title] may be cited as the 'Student Loan Default Prevention Initiative Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–239, title II, § 2001, Dec. 19, 1989, 103 Stat. 2111, provided that: ''This subtitle [subtitle A (§§ 2001–2009) of title II of Pub. L. 101–239, enacting section 1078–7 of this title, amending sections 1077, 1078, 1078–1, 1078–6, 1082, 1085, 1087dd, 1087tt, 1088, 1092b, and 1094 of this title, and enacting provisions set out as notes under sections 1077, 1078, 1078–1, and 1078–6 of this title] may be cited as the 'Student Loan Reconciliation Amendments of 1989'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–50, § 1(a), June 3, 1987, 101 Stat. 335, provided that: ''This Act [enacting sections 1059a, 1087tt,

1087uu, 1087uu–1, and 1145d–1 of this title, amending sections 1057, 1058, 1062, 1063a to 1063c, 1065, 1066, 1067, 1069a, 1070a to 1070a–4, 1070a–6, 1070b–3, 1070c–4, 1070d–1b, 1070d–2, 1070e–1, 1070f, 1075, 1077, 1077a, 1078 to 1078–3, 1078–5, 1078–6, 1080a, 1081 to 1083, 1085, 1087–1, 1087–2, 1087d, 1087bb, 1087cc, 1087cc–1, 1087dd, 1087ee, 1087*oo* to 1087ss, 1087vv, 1088, 1089 to 1091, 1092 to 1092b, 1095, 1096, 1098, 1109 to 1109d, 1111, 1111b, 1111f, 1111g, 1122, 1132a, 1132a–1, 1132d, 1132d–2, 1132g–3, 1132i–1, 1134h to 1134j, 1141, 1145e, 1221e, and 1221e–1 of this title, section 4604 of Title 22, Foreign Relations and Intercourse, and sections 2752, 2753, and 2756 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 2752 of Title 42, and amending provisions set out as notes under sections 1011, 1071, 1087dd, 1087kk, 1091, 1121, 1145d, 1221–1, and 1221e–1 of this title and section 2753 of Title 42] may be cited as the 'Higher Education Technical Amendments Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–498, §1, Oct. 17, 1986, 100 Stat. 1268, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1986'.''

Pub. L. 99–320, §1, May 23, 1986, 100 Stat. 491, provided: ''That this Act [amending sections 1078 and 1080a of this title and a provision set out as a note under section 1072 of this title] may be cited as the 'Student Financial Assistance Technical Corrections Act of 1986'.''

Pub. L. 99–272, title XVI, §16001(a), Apr. 7, 1986, 100 Stat. 339, provided that: ''This title [enacting sections 1078–3, 1080a, and 1091a of this title, amending sections 1072, 1074, 1075, 1077, 1078, 1080, 1082, 1083a, 1085, 1087–1, 1087–2, 1087cc, 1087cc–1, 1087dd, 1087gg, 1089, 1091, and 1094 of this title, enacting provisions set out as notes under sections 1072, 1078, and 1078–3 of this title, and amending provisions set out as a note under section 1078 of this title] may be cited as the 'Student Financial Assistance Amendments of 1985'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–95, §1, Sept. 26, 1983, 97 Stat. 708, provided: ''That this Act [enacting section 1065a of this title, amending section 1069c of this title, enacting provisions set out as a note under section 1132a–1 of this title, and amending provisions set out as notes under sections 123 and 1069c of this title] may be cited as the 'Challenge Grant Amendments of 1983'.''

Pub. L. 98–79, §1, Aug. 15, 1983, 97 Stat. 476, provided: ''That this Act [amending sections 1071, 1077, 1077a, 1078, 1078–2, 1083a, 1087–1, 1087–2, 1087cc–1, and 1098 of this title, repealing section 1087–1a of this title, enacting provisions set out as notes under sections 1077, 1077a, 1078, and 1087–1 of this title, and amending provisions set out as notes under sections 1070a, 1078, and 1089 of this title] may be cited as the 'Student Loan Consolidation and Technical Amendments Act of 1983'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–301, §1, Oct. 13, 1982, 96 Stat. 1400, which provided: ''That this Act [amending sections 1070a, 1083a, 1087–2, and 1087cc–1 of this title and enacting provisions set out as notes under sections 1070a, 1070b–3, 1078, 1087bb, 1089, and 1221e–1 of this title and section 2752 of Title 42, The Public Health and Welfare] may be cited as the 'Student Financial Assistance Technical Amendments Act of 1982'.'', was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title V, subtitle B, §531, Aug. 13, 1981, 95 Stat. 450, provided that: ''This subtitle [amending sections 1075, 1077, 1077a, 1078, 1078–1, 1078–2, 1087–1, 1087–2, 1087dd, 1089, 1096, and 1232 of this title, repealing section 1087–3a of this title, and enacting provisions set out as notes under section 1078 of this title] may be cited as the 'Postsecondary Student Assistance Amendments of 1981'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–374, §1, Oct. 3, 1980, 94 Stat. 1367, provided: ''That this Act [enacting sections 239a, 1001 to 1005, 1011 to 1015, 1016 to 1019, 1021, 1022, 1029, 1031 to 1034, 1041, 1042, 1047 to 1047j, 1051, 1057 to 1069c, 1070d–1a to 1070d–2, 1077a, 1078–2, 1083a, 1087–1a, 1087cc–1, 1087hh, 1087ii, 1088 to 1098, 1119b to 1119b–5, 1119c to 1119c–2, 1121 to 1127, 1130 to 1132, 1132a to 1132a–1, 1132b to 1132c, 1132d to 1132d–4, 1132e, 1132e–1, 1134d to 1134p, 1135 to 1135a–3, 1136 to 1136d, 1143, 1144a, 1145, 1146, 1221e–1b, 1221e–4, and 3063 to 3065 of this title, section 640c–2 of Title 25, Indians, and sections 2753 and 2756b of Title 42, The Public Health and Welfare, amending sections 1070 to 1070c–3, 1070d, 1070d–1, 1070e to 1077, 1078, 1078–1, 1079, 1080 to 1083, 1085 to 1087–1, 1087–2, 1087aa to 1087cc, 1087dd to 1087gg, 1101 to 1104, 1119 to 1119a–1, 1133 to 1134c, 1135c–1, 1141, 1142, 1221e, 1226a, 1226c, and 1232 of this title, section 326a of Title 7, Agriculture, section 640c–1 of Title 25, sections 714 and 792 of Title 29, Labor, and sections 2751, 2752, and 2756 of Title 42, repealing sections 511 to 513, 1070c–4, 1070d–3, 1087–4, 1134q to 1134s, 1142a, 1142b, 1145, 1145a, 1145c, 1172 to 1174, 1176, 1177, and 1221d of this title and section 2754 of Title 42, enacting provisions set out as notes under sections 236, 1001, 1119b, and 1221–1 of this title and section 301 of Title 7, and amending provisions set out as notes under section 236 of this title and section 301 of Title 7] may be cited as the 'Education Amendments of 1980'.''

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–49, §1, Aug. 13, 1979, 93 Stat. 351, provided: ''That this Act [enacting section 1087gg of this title, amending this section and sections 513, 1021, 1042, 1051, 1070a, 1070b, 1070c, 1070d, 1070d–2, 1070e–1, 1078, 1087–1, 1087aa, 1088, 1101, 1119, 1121, 1132a, 1132b, 1132c, 1132c–4, 1134, 1134e, 1134i, 1134n, 1134r–1, 1135, 1135a, 1136b, 1142b, 1221d, and 1221e of this title, enacting provisions set out as notes under sections 1070a, 1087–1, 1087gg, and 1088 of this title, and amending provisions set out as a note under section 1070a of this title] may be cited as the 'Higher Education Technical Amendments of 1979'.''

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–566, §1, Nov. 1, 1978, 92 Stat. 2402, provided: ''That this Act [enacting section 1087–3a of this title, amending sections 1070a, 1070c–2, 1070d–1, 1075, 1077, 1078, 1088 and 1088f of this title, and enacting provisions set out as a note under this section] may be cited as the 'Middle Income Student Assistance Act'.''

Pub. L. 95–336, §1, Aug. 4, 1978, 92 Stat. 451, provided: ''That this Act [amending section 1070e–1 of this title, sections 1001, 1002, and 1007 of Title 21, Food and Drugs, and former section 246 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1070e–1 of this title] may be cited as the 'Alcohol and Drug Abuse Education Amendments of 1978'.''

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94–482, §1, Oct. 12, 1976, 90 Stat. 2081, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1976'.''

Pub. L. 94–328, §1, June 30, 1976, 90 Stat. 727, provided: ''That this joint resolution [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as notes under section 1226a of this title and section 2756 of Title 42, The Public Health and Welfare] may be cited as the 'Emergency Technical Provisions Act of 1976'.''

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–318, §1, June 23, 1972, 86 Stat. 235, provided: ''That this Act [enacting chapter 36 (§1601 et seq.), chapter 37 (§1651 et seq.), chapter 38 (§1681 et seq.), and sections 241aa to 241ff, 887c, 887d, 900 to 900a–5, 1005a, 1021, 1031, 1042, 1070 to 1070e, 1070e–1, 1087–1, 1087–2, 1087aa to 1087ff, 1088d to 1088g, 1119a, 1132a to 1132e–1, 1134 to 1134s, 1135, 1135a, 1135b to 1135c, 1135c–1, 1142a, 1142b, 1144a, 1145a, 1211a, 1221a to 1221h, 1227 of this title,

and section 326a of Title 7, Agriculture, and 2756a of Title 42, The Public Health and Welfare, amending this section and sections 240, 241c, 241e, 331a, 332, 421, 441, 511, 513, 822, 823, 842, 843, 863, 880b–3a, 1003, 1011, 1021, 1022 to 1024, 1027, 1031, 1033, 1041, 1051 to 1056, 1061, 1068, 1070, 1074, 1075, 1077, 1078, 1078a, 1080, 1083, 1084, 1087, 1087a, 1087c, 1088, 1088c, 1091, 1091a to 1091c, 1101, 1102, 1108 to 1111, 1115, 1116, 1118, 1119, 1119a, 1119b–2, 1121, 1129, 1133, 1133a, 1134j, 1136, 1136a, 1136b, 1141, 1176, 1231, 1231a, 1232a, 1232c, 1242, 1244, 1248, 1302, 1321 to 1323, 1341, 1352, 1371, 1391, and 1412 of this title, and sections 329, 331, 343, 349, 361, and 1626 of Title 7, sections 24, 84, 1464, and 1757 of Title 12, Banks and Banking, sections 203 and 213 of Title 29, Labor, and sections 2751, 2752, and 2754 of Title 42, repealing sections 1, 2, 426, 711 to 721, 731, 732, 746, 1021, 1031, 1032, 1060, 1118, 1119a, 1119b–2, and 1119c–4 of this title, and enacting provisions set out as notes under this section and sections 241a, 241e, 241aa, 331a, 425, 821, 887d, 1005a, 1009, 1070, 1070e, 1074, 1075, 1087–2, 1087aa, 1091a, 1132a, 1132c–3, 1135c, 1231, and 1232 of this title, sections 301 and 326a of Title 7, and section 3501 of Title 42] may be cited as the 'Education Amendments of 1972'.''

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–575, § 1, Oct. 16, 1968, 82 Stat. 1014, provided: ''That this Act [enacting sections 451 to 455, 746, 1056, 1060, 1087, 1087a to 1087c, 1088 to 1088c, 1089, 1119a–1, 1129a, 1133 to 1133b, 1134 to 1134*l*, 1135, 1135a, 1135b, 1135c, 1136 to 1136b, 1145, 1146 to 1150 of this title, amending this section and sections 403, 421 to 425, 425 note, 426, 441 to 445, 462 to 464, 481 to 484, 511, 513, 562, 581, 584, 588, 591, 711, 713 to 718, 731, 732, 743, 751, 758, 961, 1005, 1006, 1021 to 1024, 1031, 1033, 1041, 1051, 1061, 1062, 1065 to 1068, 1071 to 1075, 1077, 1078, 1080, 1083 to 1086, 1091c, 1101, 1104, 1108 to 1111, 1113, 1114, 1115, 1118, 1119a, 1119b–2, 1121, 1124, 1125, 1141, 1142, 1143, 1144 and 1176 of this title, section 1464 of Title 12, Banks and Banking, and sections 2741, 2751 to 2756, and 2809 of Title 42, The Public Health and Welfare, repealing sections 733, 981 to 996 of this title, and section 2757 of Title 42, and enacting provisions set out as notes under this section and sections 423 to 425, 445, 462 to 464, 588, 713, 716 to 718, 743, 751, 981, 1006, 1022, 1024, 1051, 1056, 1060, 1067, 1071, 1077, 1078, 1083, 1088b, and 1109 of this title, and sections 2751, 2753, 2754, and 2809 of Title 42] may be cited as the 'Higher Education Amendments of 1968'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–752, § 1, Nov. 3, 1966, 80 Stat. 1240, provided: ''That this Act [enacting section 1086 of this title, amending sections 403, 421, 425, 441, 443, 711–715, 731, 743, 744, 751, 1022, 1051, 1072, 1121, and 1124 of this title, and enacting provisions set out as notes under sections 403, 443, 1022, 1071, and 1124 of this title] may be cited as the 'Higher Education Amendments of 1966'.''

SHORT TITLE

Pub. L. 89–329, § 1, Nov. 8, 1965, 79 Stat. 1219, provided: ''That this Act [enacting this chapter and section 2757 of Title 42, The Public Health and Welfare, and amending sections 403, 424, 425, 441, 443, 591, 711, 713 to 717, 731, and 751 of this title, and sections 2751 to 2756, and 2761 of Title 42] may be cited as the 'Higher Education Act of 1965'.''

Pub. L. 89–329, title V, § 509, as added by Pub. L. 90–35, § 8, provided that title V of Pub. L. 89–329 could be cited as the ''Education Professions Development Act'', prior to the general amendment of title V of Pub. L. 89–329 by Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1495.

For short title of section 1092(f) of this title as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, see section 1092(f)(15) of this title.

STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS

Pub. L. 105–244, title VIII, § 805, Oct. 7, 1998, 112 Stat. 1807, provided that:

''(a) STUDY.—The Comptroller General shall conduct a study of the opportunities for participation in intercollegiate athletics. The study shall address issues including—

''(1) the extent to which the number of—

''(A) secondary school athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms); and

''(B) intercollegiate athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms) at 2-year and 4-year institutions of higher education;

''(2) the extent to which participation by student-athletes in secondary school and intercollegiate athletics has increased or decreased in the 20 years preceding 1998 (in aggregate terms);

''(3) over the 20-year period preceding 1998, a list of the men's and women's secondary school and intercollegiate sports, ranked in order of the sports most affected by increases or decreases in levels of participation and numbers of teams (in the aggregate);

''(4) all factors that have influenced campus officials to add or discontinue sports teams at secondary schools and institutions of higher education, including—

''(A) institutional mission and priorities;

''(B) budgetary pressures;

''(C) institutional reforms and restructuring;

''(D) escalating liability insurance premiums;

''(E) changing student and community interest in a sport;

''(F) advancement of diversity among students;

''(G) lack of necessary level of competitiveness of the sports program;

''(H) club level sport achieving a level of competitiveness to make the sport a viable varsity level sport;

''(I) injuries or deaths; and

''(J) conference realignment;

''(5) the actions that institutions of higher education have taken when decreasing the level of participation in intercollegiate sports, or the number of teams, in terms of providing information, advice, scholarship maintenance, counseling, advance warning, and an opportunity for student-athletes to be involved in the decisionmaking process;

''(6) the administrative processes and procedures used by institutions of higher education when determining whether to increase or decrease intercollegiate athletic teams or participation by student-athletes;

''(7) the budgetary or fiscal impact, if any, of a decision by an institution of higher education—

''(A) to increase or decrease the number of intercollegiate athletic teams or the participation of student-athletes; or

''(B) to be involved in a conference realignment; and

''(8) the alternatives, if any, institutions of higher education have pursued in lieu of eliminating, or severely reducing the funding for, an intercollegiate sport, and the success of such alternatives.

''(b) REPORT.—The Comptroller General shall submit a report regarding the results of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.''

STYLISTIC CONSISTENCY

Pub. L. 103–208, § 2(m), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The Act [Pub. L. 89–329, see Short Title note above] is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section [107 Stat. 2457].''

TERMS DEFINED FOR PURPOSES OF TITLES XIII, XIV, AND XV OF PUB. L. 102–325

Pub. L. 102–325, § 1(c), July 23, 1992, 106 Stat. 448, as amended by Pub. L. 105–244, title I, § 102(a)(6)(A), Oct. 7,

1998, 112 Stat. 1618, provided that: ''Unless otherwise provided therein, terms used in titles XIII, XIV, and XV [enacting sections 1145h and 4426 of this title, sections 3301 to 3371 of Title 25, Indians, and sections 2401 to 2405 of Title 29, Labor, amending sections 1221e–1, 1232g, 3412, 4412, 4414, 4416, 4417, 4418, 4421, 4422, 4423, 4424, 4425, 5381, and 5411 of this title, section 5315 of Title 5, Government Organization and Employees, sections 4604 and 4609 of Title 22, Foreign Relations and Intercourse, sections 640c–1, 1810, 1836, and 1852 of Title 25, and sections 295g–8 and 12576 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1070, 1070a–11, 1070a–21, 1071, 1080, 1088, 1101, 1132a, 1134, 1221–1, 1221e, 1232g, 1452, and 9003 of this title, amending provisions set out as a note under section 1091a of this title, and repealing provisions set out as a note under section 362 of Title 11, Bankruptcy] shall have the same meaning given to such terms in section 101 of the Higher Education Act of 1965 [this section].''

GENERAL PROVISIONS OF 1972 AMENDMENT

Pub. L. 92–318, § 2, June 23, 1972, 86 Stat. 236, provided that:

''(a) As used in this Act [See Short Title of 1972 Amendment note above]—

''(1) the term 'Secretary' means the Secretary of Health, Education, and Welfare [now Secretary of Education]; and

''(2) the term 'Commissioner' means the Commissioner of Education [now Secretary of Education];

unless the context requires another meaning.

''(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

''(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

''(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

''(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.''

RULEMAKING REQUIREMENTS; PUBLICATION IN FEDERAL REGISTER

Pub. L. 90–575, title V, § 505, Oct. 16, 1968, 82 Stat. 1063, provided for publication of rules and regulations in Federal Register, prior to repeal by Pub. L. 91–230, title IV, § 401(e)(2), Apr. 13, 1970, 84 Stat. 173.

PRESIDENTIAL RECOMMENDATIONS BY DECEMBER 31, 1969, WITH RESPECT TO POST-SECONDARY EDUCATION FOR ALL

Pub. L. 90–575, title V, § 508, Oct. 16, 1968, 82 Stat. 1063, authorized the President, on or before Dec. 31, 1969, to submit to the Congress proposals relative to the feasibility of making available a post-secondary education to all young Americans who qualify and seek it.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1002, 1059c, 1078–11, 1099c, 1132, 1228c, 2002, 2302, 2324, 2371, 3902, 4514, 4702, 5602, 7011, 7801, 9202, 9501 of this title; title 7 sections 2279, 2279c, 3152, 3361, 7657, 8103, 8104, 8105; title 8 sections 1182, 1184; title 10 sections 510, 2193, 2199, 2200e, 16401; title 11 section 522; title 14 section 709a; title 15 sections 278h, 6604, 7402; title 16 section 698u–5; title 18 section 207; title 22 sections 2460, 2462, 4502, 4703; title 25 sections 13, 1801, 1813; title 29 sections 623, 705; title 30 section 1291; title 33 section 1262; title 37 section 430; title 39 section 3626; title 40 section 502; title 42 sections 1862i, 1869c, 3002, 3791, 6322, 7274e, 9844, 9877, 11851, 12511, 12626, 12899f, 13791, 14092, 14111; title 47 section 223; title 50 section 1908.

§ 1002. Definition of institution of higher education for purposes of student assistance programs

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions

Subject to paragraphs (2) through (4) of this subsection, the term ''institution of higher education'' for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general

For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title. In the case of a graduate medical or veterinary school outside the United States, such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B[1] unless—

(i)(I) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

[1] So in original. Probably should be ''part B of subchapter IV of this chapter''.

(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general

For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule

If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information

The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule

If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B[1] while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471(4)(C) of this title;[2]

(B) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification

The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility

An institution of higher education shall not be considered to meet the definition of an in-

[2] See References in Text note below.

stitution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria

For the purpose of this section, the term ''proprietary institution of higher education'' means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1) and (2) of section 1001(a) of this title;

(C) does not meet the requirement of paragraph (4) of section 1001(a) of this title;

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) has been in existence for at least 2 years; and

(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions

The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution

(1) Principal criteria

For the purpose of this section, the term ''postsecondary vocational institution'' means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001(a) of this title; and

(C) has been in existence for at least 2 years.

(2) Additional institutions

The term ''postsecondary vocational institution'' also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(Pub. L. 89–329, title I, § 102, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1586.)

REFERENCES IN TEXT

Section 2471(4)(C) of this title, referred to in subsec. (a)(3)(A), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1088(a) to (c) of this title prior to repeal by Pub. L. 105–244.

A prior section 1002, Pub. L. 89–329, title I, § 102, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 459, related to partnership agreements required for grant eligibility, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1002, Pub. L. 89–329, title I, § 102, as added Pub. L. 99–498, title I, § 101, Oct. 17, 1986, 100 Stat. 1278, defined terms ''continuing education'', ''adult learner'', ''eligible institution'', and ''qualified entity'', prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1002, Pub. L. 89–329, title I, § 102, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1374, provided for establishment of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1002, Pub. L. 89–329, title I, § 102, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 94–482, title I, § 101(b)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2083, 2086, defined the terms ''community service program'', ''continuing education program'', and ''resource materials sharing programs'', prior to the general amendment of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1001, 1011c, 1078–11, 1085, 1093, 1094, 1099b, 1099c, 1099c–2, 2373, 6103 of this title; title 29 section 2801; title 37 section 430; title 42 sections 292d, 677, 12604.

§ 1003. Additional definitions

In this chapter:

(1) Combination of institutions of higher education

The term ''combination of institutions of higher education'' means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group's behalf.

(2) Department

The term ''Department'' means the Department of Education.

(3) Disability

The term ''disability'' has the same meaning given that term under section 12102(2) of title 42.

(4) Elementary school

The term ''elementary school'' has the same meaning given that term under section 7801 of this title.

(5) Gifted and talented

The term ''gifted and talented'' has the same meaning given that term under section 7801 of this title.

(6) Local educational agency

The term ''local educational agency'' has the same meaning given that term under section 7801 of this title.

(7) New borrower

The term ''new borrower'' when used with respect to any date means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(8) Nonprofit

The term ''nonprofit'' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) School or department of divinity

The term ''school or department of divinity'' means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

(B) to prepare the students to teach theological subjects.

(10) Secondary school

The term ''secondary school'' has the same meaning given that term under section 7801 of this title.

(11) Secretary

The term ''Secretary'' means the Secretary of Education.

(12) Service-learning

The term ''service-learning'' has the same meaning given that term under section 12511(23) of title 42.

(13) Special education teacher

The term ''special education teacher'' means teachers who teach children with disabilities as defined in section 1401 of this title.

(14) State educational agency

The term ''State educational agency'' has the same meaning given that term under section 7801 of this title.

(15) State higher education agency

The term ''State higher education agency'' means the officer or agency primarily responsible for the State supervision of higher education.

(16) State; Freely Associated States

(A) State

The term ''State'' includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(B) Freely Associated States

The term ''Freely Associated States'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 89–329, title I, §103, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1589; amended Pub. L. 107–110, title X, §1076(g), Jan. 8, 2002, 115 Stat. 2091.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(b) of this title prior to repeal by Pub. L. 105–244.

A prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459; amended Pub. L. 103–208, §2(a)(1), Dec. 20, 1993, 107 Stat. 2457, related to authority to make grants under the school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to limitation on contract authority, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1375, related to duties of the Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1003, Pub. L. 89–329, title I, §103, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 92–318, title I, §102(a)(2), June 23, 1972, 86 Stat. 237; Pub. L. 94–482, title I, §101(b)(2), (g)(2), Oct. 12, 1976, 90 Stat. 2084, 2086; Pub. L. 95–43, §1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96–96, §1, Oct. 31, 1979, 93 Stat. 729, provided for the allotment of funds to States, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 460; amended Pub. L. 103–208, §2(a)(2), Dec. 20, 1993, 107 Stat. 2457, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1376, related to administrative provisions and powers of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1004, Pub. L. 89–329, title I, §104, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 94–482, title I, §101(b)(3), Oct. 12, 1976, 90 Stat. 2084; Pub. L. 95–43, §1(a)(2), June 15, 1977, 91 Stat. 213, described the allowable uses of States' allotments of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, related to peer review of applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1005, Pub. L. 89–329, title I, §105, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 90–575, title II, §202, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 94–482, title I, §101(b)(4)–(10), (g)(2), Oct. 12, 1976, 90 Stat. 2084–2086; Pub. L. 95–43, §1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218, set out the requisite features of State plans,

prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005a, Pub. L. 89–329, title I, §106, as added Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 237; amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for special programs and projects relating to national and regional problems, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1006, Pub. L. 89–329, title I, §106, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1006, Pub. L. 89–329, title I, §107, formerly §106, Nov. 8, 1965, 79 Stat. 1221; Pub. L. 90–575, title II, §203(a), Oct. 16, 1968, 82 Stat. 1036, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(c), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, related to payment and method of payment of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1007 to 1010 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1007, Pub. L. 89–329, title I, §108, formerly §107, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, related to disapproval of State plans, notice and hearing, findings of Commissioner of Education, and notification to State of noneligibility.

Section 1008, Pub. L. 89–329, title I, §109, formerly §108, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(d), Oct. 12, 1976, 90 Stat. 2085, provided for judicial review of actions of Commissioner of Education and scope of that review.

Section 1008a, Pub. L. 89–329, title I, §110, as added Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94–135, title II, §201, Nov. 28, 1975, 89 Stat. 726; Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for programs and projects relating to problems of the elderly.

Section 1008b, Pub. L. 89–329, title I, §111, as added Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, related to technical assistance and administration.

Section 1009, Pub. L. 89–329, title I, §112, formerly §109, Nov. 8, 1965, 79 Stat. 1223; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, renumbered §110, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §111, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VIII, §831, Aug. 21, 1974, 88 Stat. 603; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310, renumbered §112 and amended Pub. L. 94–482, title I, §101(e), (f)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086; 1977 Reorg. Plan No. 2, §7(a)(13), 42 F.R. 62461, 91 Stat. 1637, provided for creation of a National Advisory Council on Extension and Continuing Education.

Section 1010, Pub. L. 89–329, title I, §113, formerly §110, Nov. 8, 1965, 79 Stat. 1224, renumbered §111, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §112, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §113 and amended Pub. L. 94–482, title I, §101(e), (f)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, directed that nothing in the section be held to modify any authority under the Smith-Lever Act, section 341 et seq. of Title 7, Agriculture.

AMENDMENTS

2002—Pars. (4) to (6), (10), (14). Pub. L. 107–110 substituted ''7801'' for ''8801''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7255f of this title.

PART B—ADDITIONAL GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 section 1862i.

§1011. Antidiscrimination

(a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

(b) Limitations on statutory construction

Nothing in this chapter shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89–329, title I, §111, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1590.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1142 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011, Pub. L. 89–329, title I, §121, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, stated congressional findings and purposes of articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to institutional development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, stated Congressional findings with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1011, Pub. L. 89–329, title I, § 114, formerly § 111, Nov. 8, 1965, 79 Stat. 1224, renumbered § 112 and amended Pub. L. 92–318, title I, §§ 102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260, renumbered § 113, Pub. L. 93–29, title VIII, § 803, May 3, 1973, 87 Stat. 59, renumbered § 114, Pub. L. 94–482, title I, § 101(e), Oct. 12, 1976, 90 Stat. 2085, prohibited the giving of grants for programs relating to sectarian instruction or worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1011a. Protection of student speech and association rights

(a) Protection of rights

It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this chapter, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) Construction

Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

(c) Definitions

For the purposes of this section:

(1) Official sanction

The term ''official sanction''—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) Protected association

The term ''protected association'' means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) Protected speech

The term ''protected speech'' means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(Pub. L. 89–329, title I, § 112, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1011a, Pub. L. 89–329, title I, § 122, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, authorized grants to States, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011b. Treatment of territories and territorial student assistance

(a) Waiver authority

The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(b) Eligibility

Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under division 1 of subpart 2 of part A of subchapter IV of this chapter. This subsection shall cease to be effective on September 30, 2004.

(Pub. L. 89–329, title I, § 113, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1144a of this title prior to repeal by Pub. L. 105–244.

A prior section 1011b, Pub. L. 89–329, title I, § 123, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, related to State applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011c. National Advisory Committee on Institutional Quality and Integrity

(a) Establishment

There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (hereafter in this section referred to as the ''Committee''), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 1002 of this title), to assess the

process of eligibility and certification of such institutions under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and the provision of financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Terms of members

Terms of office of each member of the Committee shall be 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(c) Public notice

The Secretary shall—

(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.

(d) Functions

The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of subchapter IV of this chapter;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, together with recommendations for improvements in such process;

(6) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(7) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

(e) Meeting procedures

The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(f) Report

Not later than November 30 of each year, the Committee shall make an annual report through the Secretary to Congress. The annual report shall contain—

(1) a list of the members of the Committee and their addresses;

(2) a list of the functions of the Committee;

(3) a list of dates and places of each meeting during the preceding fiscal year; and

(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

(g) Termination

The Committee shall cease to exist on September 30, 2004.

(Pub. L. 89–329, title I, § 114, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1592.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011c, Pub. L. 89–329, title I, § 124, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 463, related to local applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011d. Student representation

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this chapter, include individuals who are, at the time of appointment, attending an institution of higher education.

(Pub. L. 89–329, title I, § 115, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1593.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145b of this title prior to repeal by Pub. L. 105–244.

A prior section 1011d, Pub. L. 89–329, title I, § 125, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 463, related to articulation agreements, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011e. Financial responsibility of foreign students

Nothing in this chapter or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

(1) making advance payment of such tuition and fees;

(2) making deposits in an escrow account administered by such institution for such payments; or

(3) obtaining a bond or other insurance that such payments will be made.

(Pub. L. 89–329, title I, § 116, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1593.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145c of this title prior to repeal by Pub. L. 105–244.

A prior section 1011e, Pub. L. 89–329, title I, § 126, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 464, related to State administrative costs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011f. Disclosures of foreign gifts

(a) Disclosure report

Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) Contents of report

Each report to the Secretary required by this section shall contain the following:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) Additional disclosures for restricted and conditional gifts

Notwithstanding the provisions of subsection (b) of this section, whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) Relation to other reporting requirements

(1) State requirements

If an institution described under subsection (a) of this section is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a) of this section. The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) Use of other Federal reports

If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a) of this section.

(e) Public inspection

All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

(f) Enforcement

(1) Court orders

Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this section.

(2) Costs

For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) Regulations

The Secretary may promulgate regulations to carry out this section.

(h) Definitions

For the purpose of this section—

(1) the term ''contract'' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term ''foreign source'' means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term ''gift'' means any gift of money or property;

(4) the term ''institution'' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which the institution awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution's subunits; and

(5) the term ''restricted or conditional gift or contract'' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

(A) the employment, assignment, or termination of faculty;

(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

(C) the selection or admission of students; or

(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(Pub. L. 89–329, title I, § 117, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d of this title prior to repeal by Pub. L. 105–244.

A prior section 1011f, Pub. L. 89–329, title I, § 127, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 464, related to priority grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011g. Application of peer review process

All applications submitted under the provisions of this chapter which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(Pub. L. 89–329, title I, § 118, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1595.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d–1 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011g, Pub. L. 89–329, title I, § 128, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 464, related to reports and evaluation of programs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011h. Binge drinking on college campuses

(a) Short title

This section may be cited as the ''Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption''.

(b) Sense of Congress

It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a ''zero tolerance'' policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a ''Town/Gown'' alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

(Pub. L. 89–329, title I, § 119, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1596.)

PRIOR PROVISIONS

A prior section 1011h, Pub. L. 89–329, title I, § 129, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 465, authorized appropriations to carry out the articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011i. Drug and alcohol abuse prevention

(a) Restriction on eligibility

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to—

(A) determine the program's effectiveness and implement changes to the program if the changes are needed; and

(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Information availability

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations

(1) In general

The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a) of this section; and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) Rehabilitation program

The sanctions required by subsection (a)(1)(E) of this section may include the completion of an appropriate rehabilitation program.

(d) Appeals

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) Alcohol and drug abuse prevention grants

(1) Program authority

The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse

prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) Awards

Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

(3) Applications

An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(4) Additional requirements

(A) Participation

In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) Consideration

In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

(5) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(f) National Recognition Awards

(1) Purpose

It is the purpose of this subsection to provide models of innovative and effective alcohol and drug abuse prevention programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts.

(2) Awards

(A) In general

The Secretary shall make 5 National Recognition Awards for outstanding alcohol prevention programs and 5 National Recognition Awards for outstanding drug abuse prevention programs, on an annual basis, to institutions of higher education that—

(i) have developed and implemented innovative and effective alcohol prevention programs or drug abuse prevention programs; and

(ii) with respect to an application for an alcohol prevention program award, demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the review criteria described in paragraph (3)(C)(iii).

(B) Ceremony

The awards shall be made at a ceremony in Washington, D.C.

(C) Document

The Secretary shall publish a document describing the alcohol and drug abuse prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

(D) Amount and use

Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of $50,000. Such award shall be used for the maintenance and improvement of the institution's outstanding prevention program for the academic year following the academic year for which the award is made.

(3) Application

(A) In general

Each institution of higher education desiring an award under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

(i) a clear description of the goals and objectives of the prevention program of the institution;

(ii) a description of program activities that focus on alcohol or drug policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the programs' efforts;

(v) a description of special initiatives used to reduce high-risk behavior or increase low-risk behavior; and

(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

(B) Application review

The Secretary shall appoint a committee to review applications submitted under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts and drug abuse prevention and education efforts,

directors or heads (or their representatives) of professional associations that focus on alcohol and drug abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

(C) Review criteria

The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications submitted under this paragraph. The review criteria shall include—

(i) measures of the effectiveness of the program of the institution, that includes changes in the campus alcohol or other drug environment or the climate and changes in alcohol or other drug use before and after the initiation of the program;

(ii) measures of program institutionalization, including—

(I) an assessment of needs of the institution;

(II) the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement; and

(III) whether the program will be continued after the cessation of Federal funding; and

(iii) with respect to an application for an alcohol prevention program award, criteria for determining whether the institution has policies in effect that—

(I) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

(II) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

(III) establish or expand upon alcohol-free living arrangements for all college students;

(IV) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

(V) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

(4) Eligibility

In order to be eligible to receive a National Recognition Award an institution of higher education shall—

(A) offer an associate or baccalaureate degree;

(B) have established an alcohol abuse prevention and education program or a drug abuse prevention and education program;

(C) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

(D) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

(5) Authorization of appropriations

(A) In general

There is authorized to be appropriated to carry out this subsection $750,000 for fiscal year 1999.

(B) Availability

Funds appropriated under subparagraph (A) shall remain available until expended.

(Pub. L. 89–329, title I, § 120, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1596.)

PRIOR PROVISIONS

Provisions similar to subsecs. (a) to (d) of this section were contained in section 1145g of this title prior to repeal by Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1092 of this title.

§ 1011j. Prior rights and obligations

(a) Authorization of appropriations

(1) Pre-1987 parts C and D of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to October 7, 1998, under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998.

(b) Legal responsibilities

(1) Pre-1987 subchapter VII

All entities with continuing obligations incurred under parts A, B, C, and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

All entities with continuing obligations incurred under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

(Pub. L. 89–329, title I, §121, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Parts A, B, C, and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, referred to in subsecs. (a)(1) and (b)(1), means parts A (§1132b et seq.), B (§1132c et seq.), C (§1132d et seq.), and D (§1132e et seq.) of subchapter VII of this chapter, as in effect before the effective date of Pub. L. 102–325. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, amended subchapter VII of this chapter effective Oct. 1, 1992, by amending parts A to C generally, repealing part D, and redesignating former part E as D.

Part C of subchapter VII of this chapter, as such part was in effect during the period after the effective date of the Higher Education Amendments of 1992 and prior to October 7, 1998, referred to in subsecs. (a)(2) and (b)(2), probably means part C (§1132d et seq.) of subchapter VII of this chapter, as in effect during the period after the effective date of Pub. L. 102–325 and before it was amended by Pub. L. 105–244. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, amended subchapter VII of this chapter generally, effective Oct. 1, 1998, omitting part C which related to loans for construction, reconstruction, and renovation of academic housing, and other educational facilities and adding a new part C (§1139 et seq.) relating to urban community service.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132a–1 of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 121 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research and was classified to section 1016 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

§1011k. Recovery of payments

(a) Public benefit

Congress declares that, if a facility constructed with the aid of a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of such subchapter as part B was in effect prior to July 23, 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such subchapter as so in effect.

(b) Recovery upon cessation of public benefit

If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of subchapter VII of this chapter as such part B was in effect prior to July 23, 1992—

(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution; or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term ''academic facility'' (as such term was defined under subchapter VII of this chapter, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The 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 situated.

(c) Prohibition on use for religion

Notwithstanding the provisions of subsections (a) and (b) of this section, no project assisted with funds under subchapter VII of this chapter (as in effect prior to October 7, 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(Pub. L. 89–329, title I, §122, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, was amended, effective Oct. 1, 1992, by Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, by amending parts A to C generally, repealing part D, and redesignating former part E as D, and was further amended generally, effective Oct. 1, 1998, by Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, by substituting provisions relating to graduate and postsecondary improvement programs for former provisions relating to construction, reconstruction, and renovation of academic facilities.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132i of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 122 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated and was classified to section 1016a of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1282, related to establishment of off-campus program grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, provided for State allotments including percentage breakdown and cases of States not conducting comprehensive statewide planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat.

1284, related to adult and continuing education staff development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1013, Pub. L. 89–329, title I, § 113, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1378; amended Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, § 4(c)(1), Oct. 19, 1984, 98 Stat. 2488, related to comprehensive statewide planning with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1014, Pub. L. 89–329, title I, § 114, as added Pub. L. 99–498, title I, § 101, Oct. 17, 1986, 100 Stat. 1285, related to administration of programs by Secretary, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1014, Pub. L. 89–329, title I, § 114, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1379; amended Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, § 4(c)(2), Oct. 19, 1984, 98 Stat. 2488, related to information services, prior to the general amendment of this subchapter by Pub. L. 99–498.

PART C—COST OF HIGHER EDUCATION

§ 1015. Improvements in market information and public accountability in higher education

(a) Improved data collection

(1) Development of uniform methodology

The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) Redesign of data systems

On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(3) Information to institutions

The Commissioner of Education Statistics shall—

(A) develop a standard definition for the following data elements:

(i) tuition and fees for a full-time undergraduate student;

(ii) cost of attendance for a full-time undergraduate student, consistent with the provisions of section 1087*ll* of this title;

(iii) average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

(I) each type of assistance or benefit described in section 1078(a)(2)(C)(i)[1] of this title;

(II) fellowships; and

(III) institutional and other assistance; and

(iv) number of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

(B) not later than 90 days after October 7, 1998, report the definitions to each institution of higher education and within a reasonable period of time thereafter inform the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives of those definitions; and

(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, beginning with the information from academic year 2000–2001 and annually thereafter.

(b) Data dissemination

The Secretary shall make available the data collected pursuant to subsection (a) of this section. Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the costs for typical full-time undergraduate students.

(c) Study

(1) In general

The Commissioner of Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information with respect to—

(A) the change in tuition and fees compared with the consumer price index and other appropriate measures of inflation;

(B) faculty salaries and benefits;

(C) administrative salaries, benefits and expenses;

(D) academic support services;

(E) research;

(F) operations and maintenance; and

(G) institutional expenditures for construction and technology and the potential cost of replacing instructional buildings and equipment.

(2) Evaluation

The study shall include an evaluation of—

(A) changes over time in the expenditures identified in paragraph (1);

(B) the relationship of the expenditures identified in paragraph (1) to college costs; and

(C) the extent to which increases in institutional financial aid and tuition discounting practices affect tuition increases, including the demographics of students receiving such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

(3) Final report

The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

[1] See References in Text note below.

(4) Higher education market basket

The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

(5) Fines

In addition to actions authorized in section 1094(c) of this title, the Secretary may impose a fine in an amount not to exceed $25,000 on an institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 1094 of this title.

(d) Student aid recipient survey

(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

(Pub. L. 89–329, title I, §131, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1602.)

REFERENCES IN TEXT

Section 1078(a)(2)(C) of this title, referred to in subsec. (a)(3)(A)(iii)(I), was amended generally by Pub. L. 105–244, title IV, §417(a)(1)(C), Oct. 7, 1998, 112 Stat. 1682, and, as so amended, provisions formerly appearing in cl. (i) are now contained in cl. (ii).

PRIOR PROVISIONS

A prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, authorized grants to eligible partnerships for education telecommunications activities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, authorized appropriations for former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1380, related to continuing education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2086, set out the Congressional findings with regard to the lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 131 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, related to National Advisory Council on Continuing Education and was classified to section 1017 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087, set out scope of lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, related to activities for which grants could be used, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087; amended Pub. L. 95–43, §1(a)(4), June 15, 1977, 91 Stat. 213, related to implementation of lifelong learning program by Assistant Secretary, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, defined ''public broadcasting entity'' for purposes of former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2089, related to annual reports by Assistant Secretary and content of these reports, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015d, Pub. L. 89–329, title I, §135, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, required grant recipients to submit reports, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1016, Pub. L. 89–329, title I, §121, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1016, Pub. L. 89–329, title I, §116, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1381, provided for Federal discretionary grants, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1016a, Pub. L. 89–329, title I, §122, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1017, Pub. L. 89–329, title I, §131, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286; Pub. L. 102–54, §13(g)(1)(A), June 13, 1991, 105 Stat. 275, related to National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1017, Pub. L. 89–329, title I, §117, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94

Stat. 1382; amended Pub. L. 99–386, title I, § 103(a), Aug. 22, 1986, 100 Stat. 821, related to establishment and administration of the National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

STUDENT RELATED DEBT STUDY REQUIRED

Pub. L. 105–244, title VIII, § 803, Oct. 7, 1998, 112 Stat. 1805, provided that:

''(a) IN GENERAL.—The Secretary of Education shall conduct a study that analyzes the distribution and increase in student-related debt in terms of—

''(1) demographic characteristics, such as race or ethnicity, and family income;

''(2) type of institution and whether the institution is a public or private institution;

''(3) loan source, such as Federal, State, institutional or other, and, if the loan source is Federal, whether the loan is or is not subsidized;

''(4) academic field of study;

''(5) parent loans, and whether the parent loans are federally guaranteed, private, or property-secured such as home equity loans; and

''(6) relation of student debt or anticipated debt to—

''(A) students' decisions about whether and where to enroll in college and whether or how much to borrow in order to attend college;

''(B) the length of time it takes students to earn baccalaureate degrees;

''(C) students' decisions about whether and where to attend graduate school;

''(D) graduates' employment decisions;

''(E) graduates' burden of repayment as reflected by the graduates' ability to save for retirement or invest in a home; and

''(F) students' future earnings.

''(b) REPORT.—After conclusion of the study required by subsection (a), the Secretary of Education shall submit a final report regarding the findings of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 18 months after the date of enactment of the Higher Education Amendments of 1998 [Oct. 7, 1998].

''(c) INFORMATION.—After the study and report under this section are concluded, the Secretary of Education shall determine which information described in subsection (a) would be useful for families to know and shall include such information as part of the comparative information provided to families about the costs of higher education under the provisions of part C of title I [probably means part C of title I of Pub. L. 89–329, which is classified generally to this part].''

PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

§ 1018. Performance-Based Organization for delivery of Federal student financial assistance

(a) Establishment and purpose

(1) Establishment

There is established in the Department a Performance-Based Organization (hereafter referred to as the ''PBO'') which shall be a discrete management unit responsible for managing the operational functions supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as specified in subsection (b) of this section.

(2) Purposes

The purposes of the PBO are—

(A) to improve service to students and other participants in the student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, including making those programs more understandable to students and their parents;

(B) to reduce the costs of administering those programs;

(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

(D) to provide greater flexibility in the management of the operational functions of the Federal student financial assistance programs;

(E) to integrate the information systems supporting the Federal student financial assistance programs;

(F) to implement an open, common, integrated system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

(b) General authority

(1) Authority of Secretary

Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the information systems administered by the PBO, and other functions performed by the PBO;

(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

(C) assist the Chief Operating Officer in identifying goals for the administration and modernization of the delivery system for student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(2) PBO functions

Subject to paragraph (1), the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this subchapter, excluding the development of policy relating to such programs but including the following:

(A) The administrative, accounting, and financial management functions of the delivery system for Federal student assistance, including—

(i) the collection, processing and transmission of applicant data to students, in-

stitutions and authorized third parties, as provided for in section 1090 of this title;

(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iii) all software and hardware acquisitions and all information technology contracts related to the delivery and management of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iv) all aspects of contracting for the information and financial systems supporting student financial assistance programs under this subchapter; and

(v) providing all customer service, training, and user support related to systems that support those programs.

(B) Annual development of a budget for the operations and services of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department's annual budget submission.

(3) Additional functions

The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

(4) Independence

Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

(5) Audits and review

The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

(6) Changes

(A) In general

The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c) of this section.

(B) Revisions to agreement

The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) of this section in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

(c) Performance plan and report

(1) Performance plan

(A) In general

Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

(B) Consultation

In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

(C) Areas

The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and identify action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

(i) Improving service

Improving service to students and other participants in student financial aid programs authorized under this subchapter, including making those programs more understandable to students and their parents.

(ii) Reducing costs

Reducing the costs of administering those programs.

(iii) Improvement and integration of support systems

Improving and integrating the information and delivery systems that support those programs.

(iv) Delivery and information system

Developing an open, common, and integrated delivery and information system for programs authorized under this subchapter.

(v) Other areas

Any other areas identified by the Secretary.

(2) Annual report

Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

(A) An independent financial audit of the expenditures of both the PBO and programs administered by the PBO.

(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officer Act of 1990 and the Government Performance and Results Act of 1993.

(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

(D) The evaluation rating of the performance of the Chief Operating Officer and sen-

ior managers under subsections (d)(4) and (e)(2) of this section, including the amounts of bonus compensation awarded to these individuals.

(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

(F) Other such information as the Director of the Office of Management and Budget shall prescribe for performance based organizations.

(3) Consultation with stakeholders

The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this subchapter—

(A) regarding the degree of satisfaction with the delivery system; and

(B) to seek suggestions on means to improve the delivery system.

(d) Chief Operating Officer

(1) Appointment

The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5. The Secretary shall appoint the Chief Operating Officer within 6 months after October 7, 1998. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

(2) Reappointment

The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

(3) Removal

The Chief Operating Officer may be removed by—

(A) the President; or

(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the appropriate committees of Congress.

(4) Performance agreement

(A) In general

Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

(B) Transmittal

The final agreement, and any revision to the final agreement, shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

(5) Compensation

(A) In general

The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).[1]

(C) Payment

Payment of a bonus under this[2] subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3.

(e) Senior management

(1) Appointment

(A) In general

The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5 governing appointments in the competitive service.

(B) Compensation

The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Performance agreement

Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

(3) Compensation

(A) In general

A senior manager appointed under this subsection may be paid at an annual rate of

[1] So in original. Probably should be paragraph ''(4).''

[2] So in original. The word ''this'' probably should not appear.

basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

(4) Removal

A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

(f) Student Loan Ombudsman

(1) Appointment

The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by performing the functions described in paragraph (3).

(2) Public information

The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in those student loan programs.

(3) Functions of Ombudsman

The Ombudsman shall—

(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1)(A);[3] and

(B) compile and analyze data on borrower complaints and make appropriate recommendations.

(4) Report

Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2) of this section, that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(g) Personnel flexibility

(1) Personnel ceilings

The PBO shall not be subject to any ceiling relating to the number or grade of employees.

(2) Administrative flexibility

The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5.

(3) Excepted service

The Chief Operating Officer may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(h) Establishment of fair and equitable system for measuring staff performance

The PBO shall establish an annual performance management system, subject to compliance with title 5, and consistent with applicable provisions of law and regulations, which strengthens the organizational effectiveness of the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

(i) Report

The Secretary and the Chief Operating Officer, not later than 180 days after October 7, 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

(j) Authorization of appropriations

The Secretary shall allocate from funds made available under section 1087h of this title such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part, including transition costs.

(Pub. L. 89–329, title I, §141, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1604.)

REFERENCES IN TEXT

The Chief Financial Officer Act of 1990, referred to in subsec. (c)(2)(B), probably means the Chief Financial Officers Act of 1990, Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

[3] So in original. Par. (1) does not contain a subpar. (A).

The Government Performance and Results Act of 1993, referred to in subsecs. (c)(2)(B) and (h), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in subsecs. (e)(1)(A) and (g)(3), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1018, Pub. L. 89–329, title I, § 141, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1514, set out purpose of former part D of this subchapter as being the development of student literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1018, Pub. L. 89–329, title I, § 118, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1382, defined terms used in former part D of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS

Pub. L. 105–244, title VIII, § 801, Oct. 7, 1998, 112 Stat. 1803, provided that:

''(a) STUDY REQUIRED.—The Comptroller General and the Secretary of Education shall convene a study group including the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of entities making loans under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.], representatives of other entities in the financial services community, representatives of other participants in the student loan programs, and such other individuals as the Comptroller General and the Secretary may designate. The Comptroller General and Secretary, in consultation with the study group, shall design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of loans made pursuant to such title IV [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.].

''(b) DESIGN OF STUDY.—The study required under this section shall identify not fewer than 3 different market mechanisms for use in determining lender return on student loans while continuing to meet the other objectives of the programs under parts B and D of such title IV [20 U.S.C. 1071 et seq., 1087aa et seq.], including the provision of loans to all eligible students. Consideration may be given to the use of auctions and to the feasibility of incorporating income-contingent repayment options into the student loan system and requiring borrowers to repay through income tax withholding.

''(c) EVALUATION OF MARKET MECHANISMS.—The mechanisms identified under subsection (b) shall be evaluated in terms of the following areas:

''(1) The cost or savings of loans to or for borrowers, including parent borrowers.

''(2) The cost or savings of the mechanism to the Federal Government.

''(3) The cost, effect, and distribution of Federal subsidies to or for participants in the program.

''(4) The ability of the mechanism to accommodate the potential distribution of subsidies to students through an income-contingent repayment option.

''(5) The effect on the simplicity of the program, including the effect of the plan on the regulatory burden on students, institutions, lenders, and other program participants.

''(6) The effect on investment in human capital and resources, loan servicing capability, and the quality of service to the borrower.

''(7) The effect on the diversity of lenders, including community-based lenders, originating and secondary market lenders.

''(8) The effect on program integrity.

''(9) The degree to which the mechanism will provide market incentives to encourage continuous improvement in the delivery and servicing of loans.

''(10) The availability of loans to students by region, income level, and by categories of institutions.

''(11) The proposed Federal and State role in the operation of the mechanism.

''(12) A description of how the mechanism will be administered and operated.

''(13) Transition procedures, including the effect on loan availability during a transition period.

''(14) Any other areas the study group may include.

''(d) PRELIMINARY FINDINGS AND PUBLICATION OF STUDY.—Not later than November 15, 2000, the study group shall make the group's preliminary findings, including any additional or dissenting views, available to the public with a 60-day request for public comment. The study group shall review these comments and the Comptroller General and the Secretary shall transmit a final report, including any additional or dissenting views, to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committees on the Budget of the House of Representatives and the Senate not later than May 15, 2001.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1018a of this title.

§ 1018a. Procurement flexibility

(a) Procurement authority

Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term ''PBO'' includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

(b) In general

Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

(1) enter into contracts for information systems supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 to carry out the functions set forth in section 1018(b)(2) of this title; and

(2) obtain the services of experts and consultants without regard to section 3109 of title 5 and set pay in accordance with such section.

(c) Service contracts

(1) Performance-based servicing contracts

The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

(2) Fee for service arrangements

The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the sub-

chapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets the requirements of the PBO, as determined by the Chief Operating Officer.

(d) Two-phase source-selection procedures

(1) In general

The PBO may use a two-phase process for selecting a source for a procurement of property or services.

(2) First phase

The procedures for the first phase of the process for a procurement are as follows:

(A) Publication of notice

The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 416 of title 41 and subsections (e), (f), and (g) of section 637 of title 15, except that the notice shall include only the following:

(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

(iii) A description of the information that is to be required under subparagraph (B).

(iv) Any additional information that the contracting officer determines appropriate.

(B) Information submitted by offerors

Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror on Federal Government contracts, together with any additional information that is requested by the contracting officer.

(C) Selection for second phase

The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

(3) Second phase

(A) In general

The contracting officer shall conduct the second phase of the source selection process in accordance with sections 253a and 253b of title 41.

(B) Eligible participants

Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

(C) Single or multiple procurements

The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

(4) Procedures considered competitive

The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

(e) Use of simplified procedures for commercial items

Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

(1) any dollar limitation otherwise applicable to the use of those procedures; and

(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

(f) Flexible wait periods and deadlines for submission of offers of noncommercial items

(1) Authority

In carrying out a procurement, the PBO may—

(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 416 of title 41 than is required under subsection (a)(3)(A) of such section; and

(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

(2) Inapplicability to commercial items

Paragraph (1) does not apply to a procurement of a commercial item.

(3) Consistency with applicable international agreements

If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

(g) Modular contracting

(1) In general

The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

(2) Utility requirement

A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

(3) Conditions for use of authority

The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

(B) the solicitation for the first module included—

(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

(4) Procedures

If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

(A) Sole source

Award of the contract on a sole-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

(B) Adequate competition

Award of the contract on the basis of offers made by—

(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

(C) Other

Award of the contract under any other procedure authorized by law.

(5) Notice requirement

(A) Publication

Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

(B) Exception

Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

(C) Content of notice

A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 416(b) of title 41, other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

(6) Documentation

The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 253(f) of title 41 or section 637(h) of title 15 is not required.

(7) Simplified source-selection procedures

The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a sole-source basis.

(h) Use of simplified procedures for small business set-asides for services other than commercial items

(1) Authority

The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

(A) the procurement is in an amount not greater than $1,000,000;

(B) the procurement is conducted as a small business set-aside pursuant to section 644(a) of title 15; and

(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

(2) Inapplicability to certain procurements

The authority set forth in paragraph (1) may not be used for—

(A) an award of a contract on a sole-source basis; or

(B) a contract for construction.

(i) Guidance for use of authority

(1) Issuance by PBO

The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

(2) Guidance from OFPP

As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the au-

thority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

(3) Compliance with OFPP guidance

The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

(j) Limitation on multiagency contracting

No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

(k) Laws not affected

Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

(*l*) Definitions

In this section:

(1) Commercial item

The term ''commercial item'' has the meaning given the term in section 403(12) of title 41.

(2) Competitive procedures

The term ''competitive procedures'' has the meaning given the term in section 259(b) of title 41.

(3) Sole-source basis

The term ''sole-source basis'', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source.

(4) Special rules for commercial items

The term ''special rules for commercial items'' means the regulations set forth in the Federal Acquisition Regulation pursuant to section 253(g)(1) of title 41 and section 427 of title 41.

(5) Special simplified procedures

The term ''special simplified procedures'' means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 253(g)(1)(B) of title 41 and section 427(a)(1) of title 41.

(Pub. L. 89–329, title I, § 142, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1611.)

REFERENCES IN TEXT

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (e)(2), is section 4202(e) of Pub. L. 104–106, which is set out as a note under section 2304 of Title 10, Armed Forces.

PRIOR PROVISIONS

A prior section 1018a, Pub. L. 89–329, title I, § 142, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515, related to grants for literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

§ 1018b. Administrative simplification of student aid delivery

(a) In general

In order to improve the efficiency and effectiveness of the student aid delivery system, the Secretary and the Chief Operating Officer shall encourage and participate in the establishment of voluntary consensus standards and requirements for the electronic transmission of information necessary for the administration of programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Participation in standard setting organizations

(1) The Chief Operating Officer shall participate in the activities of standard setting organizations in carrying out the provisions of this section.

(2) The Chief Operating Officer shall encourage higher education groups seeking to develop common forms, standards, and procedures in support of the delivery of Federal student financial assistance to conduct these activities within a standard setting organization.

(3) The Chief Operating Officer may pay necessary dues and fees associated with participating in standard setting organizations pursuant to this subsection.

(c) Adoption of voluntary consensus standards

Except with respect to the common financial reporting form under section 1090(a) of this title, the Secretary shall consider adopting voluntary consensus standards agreed to by the organization described in subsection (b) of this section for transactions required under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, and common data elements for such transactions, to enable information to be exchanged electronically between systems administered by the Department and among participants in the Federal student aid delivery system.

(d) Use of clearinghouses

Nothing in this section shall restrict the ability of participating institutions and lenders from using a clearinghouse or servicer to comply with the standards for the exchange of information established under this section.

(e) Data security

Any entity that maintains or transmits information under a transaction covered by this section shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information; and

(2) to protect against any reasonably anticipated security threats, or unauthorized uses or disclosures of the information.

(f) Definitions

(1) Clearinghouse

The term ''clearinghouse'' means a public or private entity that processes or facilitates the

processing of nonstandard data elements into data elements conforming to standards adopted under this section.

(2) Standard setting organization

The term ''standard setting organization'' means an organization that—

(A) is accredited by the American National Standards Institute;

(B) develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this section; and

(C) is open to the participation of the various entities engaged in the delivery of Federal student financial assistance.

(3) Voluntary consensus standard

The term ''voluntary consensus standard'' means a standard developed or used by a standard setting organization described in paragraph (2).

(Pub. L. 89–329, title I, § 143, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1615.)

PRIOR PROVISIONS

Prior sections 1018b to 1018f were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1018b, Pub. L. 89–329, title I, § 143, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515, related to use of funds.

Section 1018c, Pub. L. 89–329, title I, § 144, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1515; Pub. L. 101–610, title II, § 221(a), (b), Nov. 16, 1990, 104 Stat. 3180, related to applications.

Section 1018d, Pub. L. 89–329, title I, § 145, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516, related to technical assistance and coordination contracts.

Section 1018e, Pub. L. 89–329, title I, § 146, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516; Pub. L. 101–305, § 5, May 30, 1990, 104 Stat. 258; Pub. L. 101–610, title II, § 221(c), Nov. 16, 1990, 104 Stat. 3180, related to authorization of appropriations.

Section 1018f, Pub. L. 89–329, title I, § 147, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1516, defined ''public community agency'', ''institution of higher education'' and ''Secretary''.

A prior section 1019, Pub. L. 89–329, title I, § 119, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1383, authorized appropriations for education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

SUBCHAPTER II—TEACHER QUALITY ENHANCEMENT

CODIFICATION

Pub. L. 107–110, title X, § 1051(1), Jan. 8, 2002, 115 Stat. 2080, added heading and struck out former heading which read as follows: ''TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS''.

PRIOR PROVISIONS

A prior title II of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title II, Nov. 8, 1965, 79 Stat. 1224, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49; Aug. 13, 1979, 93 Stat. 351. Title II was extensively revised by Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1383, and was set out in this subchapter as having been added by Pub. L. 96–374, and amended, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2344, 6316, 6613, 6913 of this title.

PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

CODIFICATION

Pub. L. 107–110, title X, § 1051(1), Jan. 8, 2002, 115 Stat. 2080, added heading.

§ 1021. Purposes; definitions

(a) Purposes

The purposes of this part are to—

(1) improve student achievement;

(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, such as mathematics, science, English, foreign languages, history, economics, art, civics, Government, and geography, including training in the effective uses of technology in the classroom; and

(4) recruit highly qualified individuals, including individuals from other occupations, into the teaching force.

(b) Definitions

In this part:

(1) Arts and sciences

The term ''arts and sciences'' means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

(2) High need local educational agency

The term ''high need local educational agency'' means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

(A) a high percentage of individuals from families with incomes below the poverty line;

(B) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach; or

(C) a high teacher turnover rate.

(3) Poverty line

The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(Pub. L. 89–329, title II, § 201, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1623; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1021, Pub. L. 89–329, title II, § 201, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1383; amended Pub. L. 99–498, title II, § 201(b), (c), Oct. 17, 1986, 100 Stat. 1287; Pub. L. 100–418, title VI, § 6241, Aug. 23, 1988, 102 Stat. 1520; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 467, related to congressional statement of purpose and authorization of appropriations, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1021, Pub. L. 89–329, title II, § 201, as added Pub. L. 92–318, title I, § 111(b)(1), June 23, 1972, 86 Stat. 238; amended Pub. L. 94–482, title I, § 106, Oct. 12, 1976, 90 Stat. 2089; Pub. L. 96–49, § 3(a), Aug. 13, 1979, 93 Stat. 351, provided for college library programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1021, Pub. L. 89–329, title II, § 201, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 90–575, title II, § 211, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(a)(1), June 23, 1972, 86 Stat. 238, authorized appropriations of $50,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $25,000,000; $75,000,000; $90,000,000; and $18,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, for library resources grants, prior to repeal by Pub. L. 92–318, title I, § 111(b)(1), June 23, 1972, 86 Stat. 238.

AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Subchapter 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1042 of this title.

§ 1022. State grants

(a) In general

From amounts made available under section 1030(1) of this title for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsection (d) of this section.

(b) Eligible State

(1) Definition

In this part, the term ''eligible State'' means—

(A) the Governor of a State; or

(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification and preparation activity, such individual, entity, or agency.

(2) Consultation

The Governor and the individual, entity, or agency designated under paragraph (1) shall consult with the Governor, State board of education, State educational agency, or State agency for higher education, as appropriate, with respect to the activities assisted under this section.

(3) Construction

Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

(c) Application

To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

(1) meets the requirement of this section;

(2) includes a description of how the eligible State intends to use funds provided under this section; and

(3) contains such other information and assurances as the Secretary may require.

(d) Uses of funds

An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

(1) Reforms

Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and possess strong teaching skills, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

(2) Certification or licensure requirements

Reforming teacher certification or licensure requirements to ensure that teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

(3) Alternatives to traditional preparation for teaching

Providing prospective teachers with alternatives to traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

(4) Alternative routes to State certification

Carrying out programs that—

(A) include support during the initial teaching experience; and

(B) establish, expand, or improve alternative routes to State certification of teach-

ers for highly qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel and recent college graduates with records of academic distinction.

(5) Recruitment; pay; removal

Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

(6) Social promotion

Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

(7) Recruitment

Activities described in section 1024(d) of this title.

(Pub. L. 89–329, title II, § 202, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1624; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1022, Pub. L. 89–329, title II, § 202, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required each institution of higher education receiving grants under this subchapter to annually notify designated State agency of its activities under this subchapter, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1022, Pub. L. 89–329, title II, § 202, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 89–752, § 9, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, § 214(a), Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §§ 111(b)(2)(A), 112(a), (b)(1), June 23, 1972, 86 Stat. 238, 240, related to the basic grants for the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1024, 1025, 1026, 1030, 6613 of this title.

§ 1023. Partnership grants

(a) Grants

From amounts made available under section 1030(2) of this title for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e) of this section.

(b) Definitions

(1) Eligible partnerships

In this part, the term ''eligible partnerships'' means an entity that—

(A) shall include—

(i) a partner institution;

(ii) a school of arts and sciences; and

(iii) a high need local educational agency; and

(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A), a public charter school, a public or private elementary school or secondary school, a public or private nonprofit educational organization, a business, a teacher organization, or a prekindergarten program.

(2) Partner institution

In this section, the term ''partner institution'' means a private independent or State-supported public institution of higher education, the teacher training program of which demonstrates that—

(A) graduates from the teacher training program exhibit strong performance on State-determined qualifying assessments for new teachers through—

(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area or areas in which the teacher intends to teach; or

(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

(I) using criteria consistent with the requirements for the State report card under section 1027(b) of this title; and

(II) using the State report card on teacher preparation required under section 1027(b) of this title, after the first publication of such report card and for every year thereafter; or

(B) the teacher training program requires all the students of the program to participate in intensive clinical experience, to meet high academic standards, and—

(i) in the case of secondary school candidates, to successfully complete an academic major in the subject area in which the candidate intends to teach or to demonstrate competence through a high level of performance in relevant content areas; and

(ii) in the case of elementary school candidates, to successfully complete an academic major in the arts and sciences or to

demonstrate competence through a high level of performance in core academic subject areas.

(c) Application

Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) contain a needs assessment of all the partners with respect to teaching and learning and a description of how the partnership will coordinate with other teacher training or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement;

(2) contain a resource assessment that describes the resources available to the partnership, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f) of this section, and the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends; and

(3) contain a description of—

(A) how the partnership will meet the purposes of this part;

(B) how the partnership will carry out the activities required under subsection (d) of this section and any permissible activities under subsection (e) of this section; and

(C) the partnership's evaluation plan pursuant to section 1026(b) of this title.

(d) Required uses of funds

An eligible partnership that receives a grant under this section shall use the grant funds to carry out the following activities:

(1) Reforms

Implementing reforms within teacher preparation programs to hold the programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and for promoting strong teaching skills, including working with a school of arts and sciences and integrating reliable research-based teaching methods into the curriculum, which curriculum shall include programs designed to successfully integrate technology into teaching and learning.

(2) Clinical experience and interaction

Providing sustained and high quality preservice clinical experience including the mentoring of prospective teachers by veteran teachers, and substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

(3) Professional development

Creating opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach, and that promotes strong teaching skills.

(e) Allowable uses of funds

An eligible partnership that receives a grant under this section may use such funds to carry out the following activities:

(1) Teacher preparation and parent involvement

Preparing teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals, and involving parents in the teacher preparation program reform process.

(2) Dissemination and coordination

Broadly disseminating information on effective practices used by the partnership, and coordinating with the activities of the Governor, State board of education, State higher education agency, and State educational agency, as appropriate.

(3) Managerial and leadership skills

Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial and leadership skills that result in increased student achievement.

(4) Teacher recruitment

Activities described in section 1024(d) of this title.

(f) Special rule

No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

(g) Construction

Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than one Governor, State board of education, State educational agency, local educational agency, or State agency for higher education.

(Pub. L. 89–329, title II, § 203, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1625; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1023, Pub. L. 89–329, title II, § 203, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required Secretary to ensure that programs under this subchapter were administered by appropriate library experts, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1023, Pub. L. 89–329, title II, § 203, Nov. 8, 1965, 79 Stat. 1225; Pub. L. 90–575, title II, § 212(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §§ 111(b)(2)(B), 112(b)(2), 113(a), June 23, 1972, 86 Stat. 239, 240, provided for supplemental grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

Subsec. (c)(2), (3)(A). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1024, 1025, 1026, 1030, 6634, 6662 of this title.

§ 1024. Teacher recruitment grants

(a) Program authorized

From amounts made available under section 1030(3) of this title for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsection (d) of this section.

(b) "Eligible applicant" defined

In this part, the term ''eligible applicant'' means—

(1) an eligible State described in section 1022(b) of this title; or

(2) an eligible partnership described in section 1023(b) of this title.

(c) Application

Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical needs of the participating high-need local educational agencies;

(2) a description of the activities the eligible applicant will carry out with the grant; and

(3) a description of the eligible applicant's plan for continuing the activities carried out with the grant, once Federal funding ceases.

(d) Uses of funds

Each eligible applicant receiving a grant under this section shall use the grant funds—

(1)(A) to award scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

(B) to provide support services, if needed to enable scholarship recipients to complete postsecondary education programs; and

(C) for followup services provided to former scholarship recipients during the recipients first 3 years of teaching; or

(2) to develop and implement effective mechanisms to ensure that high need local educational agencies and schools are able to effectively recruit highly qualified teachers.

(e) Service requirements

The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher education programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.

(Pub. L. 89–329, title II, § 204, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1627; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1024, Pub. L. 89–329, title II, § 204, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 90–575, title II, § 212(b), (c), 213(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(b)(2)(C), June 23, 1972, 86 Stat. 239, provided for special purpose grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1023, 1025, 1030 of this title.

§ 1025. Administrative provisions

(a) Duration; one-time awards; payments

(1) Duration

(A) Eligible States and eligible applicants

Grants awarded to eligible States and eligible applicants under this part shall be awarded for a period not to exceed 3 years.

(B) Eligible partnerships

Grants awarded to eligible partnerships under this part shall be awarded for a period of 5 years.

(2) One-time award

An eligible State and an eligible partnership may receive a grant under each of sections 1022, 1023, and 1024 of this title only once.

(3) Payments

The Secretary shall make annual payments of grant funds awarded under this part.

(b) Peer review

(1) Panel

The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

(2) Priority

In recommending applications to the Secretary for funding under this part, the panel shall—

(A) with respect to grants under section 1022 of this title, give priority to eligible States serving States that—

(i) have initiatives to reform State teacher certification requirements that are designed to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are certified or licensed to teach;

(ii) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content area in which the teachers plan to teach and have strong teaching skills; or

(iii) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas;

(B) with respect to grants under section 1023 of this title—

(i) give priority to applications from eligible partnerships that involve businesses; and

(ii) take into consideration—

(I) providing an equitable geographic distribution of the grants throughout the United States; and

(II) the potential of the proposed activities for creating improvement and positive change.

(3) Secretarial selection

The Secretary shall determine, based on the peer review process, which application shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out.

(c) Matching requirements

(1) State grants

Each eligible State receiving a grant under section 1022 or 1024 of this title shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

(2) Partnership grants

Each eligible partnership receiving a grant under section 1023 or 1024 of this title shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the grant for the first year of the grant, 35 percent of the grant for the second year of the grant, and 50 percent of the grant for each succeeding year of the grant.

(d) Limitation on administrative expenses

An eligible State or eligible partnership that receives a grant under this part may not use more than 2 percent of the grant funds for purposes of administering the grant.

(e) Teacher qualifications provided to parents upon request

Any local educational agency or school that benefits from the activities assisted under this part shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualification of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

(Pub. L. 89–329, title II, § 205, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1628; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1025, Pub. L. 89–329, title II, § 205, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, created the Advisory Council on College Library Resources, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (a)(1), (b), (d), (e). Pub. L. 107–110 substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1026. Accountability and evaluation

(a) State grant accountability report

An eligible State that receives a grant under section 1022 of this title shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made substantial progress in meeting the following goals:

(1) Student achievement

Increasing student achievement for all students as defined by the eligible State.

(2) Raising standards

Raising the State academic standards required to enter the teaching profession, including, where appropriate, through the use of incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

(3) Initial certification or licensure

Increasing success in the pass rate for initial State teacher certification or licensure, or increasing the numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

(4) Core academic subjects

(A) Secondary school classes

Increasing the percentage of secondary school classes taught in core academic subject areas by teachers—

(i) with academic majors in those areas or in a related field;

(ii) who can demonstrate a high level of competence through rigorous academic subject area tests; or

(iii) who can demonstrate competence through a high level of performance in relevant content areas.

(B) Elementary school classes

Increasing the percentage of elementary school classes taught by teachers—

(i) with academic majors in the arts and sciences; or

(ii) who can demonstrate competence through a high level of performance in core academic subjects.

(5) Decreasing teacher shortages

Decreasing shortages of qualified teachers in poor urban and rural areas.

(6) Increasing opportunities for professional development

Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified or licensed to teach or in which the teachers are working toward certification or licensure to teach, and that promotes strong teaching skills.

(7) Technology integration

Increasing the number of teachers prepared to integrate technology in the classroom.

(b) Eligible partnership evaluation

Each eligible partnership receiving a grant under section 1023 of this title shall establish and include in the application submitted under section 1023(c) of this title, an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for—

(1) increased student achievement for all students as measured by the partnership;

(2) increased teacher retention in the first 3 years of a teacher's career;

(3) increased success in the pass rate for initial State certification or licensure of teachers; and

(4) increased percentage of secondary school classes taught in core academic subject areas by teachers—

(A) with academic majors in the areas or in a related field; and

(B) who can demonstrate a high level of competence through rigorous academic subject area tests or who can demonstrate competence through a high level of performance in relevant content areas;

(5) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences or who demonstrate competence through a high level of performance in core academic subject areas; and

(6) increasing the number of teachers trained in technology.

(c) Revocation of grant

(1) Report

Each eligible State or eligible partnership receiving a grant under this part shall report annually on the progress of the eligible State or eligible partnership toward meeting the purposes of this part and the goals, objectives, and measures described in subsections (a) and (b) of this section.

(2) Revocation

(A) Eligible States and eligible applicants

If the Secretary determines that an eligible State or eligible applicant is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

(B) Eligible partnerships

If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

(d) Evaluation and dissemination

The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by eligible States and eligible partnerships under this part, and shall broadly disseminate information regarding such practices that were found to be ineffective.

(Pub. L. 89–329, title II, § 206, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1630; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1026, Pub. L. 89–329, title II, § 206, Nov. 8, 1965, 79 Stat. 1226, related to the accreditation of educational institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (c), (d). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1023 of this title.

§ 1027. Accountability for programs that prepare teachers

(a) Development of definitions and reporting methods

Within 9 months of October 7, 1998, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key

definitions for terms, and uniform reporting methods (including the key definitions for the consistent reporting of pass rates), related to the performance of elementary school and secondary school teacher preparation programs.

(b) State report card on quality of teacher preparation

Each State that receives funds under this chapter shall provide to the Secretary, within 2 years of October 7, 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in subsection (a) of this section, a State report card on the quality of teacher preparation in the State, which shall include at least the following:

(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular subjects or in particular grades within the State.

(3) A description of the extent to which the assessments and requirements described in paragraph (1) are aligned with the State's standards and assessments for students.

(4) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, and the passing score on each assessment that determines whether a candidate has passed that assessment.

(5) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, disaggregated and ranked, by the teacher preparation program in that State from which the teacher candidate received the candidate's most recent degree, which shall be made available widely and publicly.

(6) Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high- and low-poverty school districts and across subject areas.

(7) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass State teacher certification or licensure assessments.

(8) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State, including indicators of teacher candidate knowledge and skills.

(9) Information on the extent to which teachers or prospective teachers in each State are required to take examinations or other assessments of their subject matter knowledge in the area or areas in which the teachers provide instruction, the standards established for passing any such assessments, and the extent to which teachers or prospective teachers are required to receive a passing score on such assessments in order to teach in specific subject areas or grade levels.

(c) Initial report

(1) In general

Each State that receives funds under this chapter, not later than 6 months of[1] October 7, 1998, and in a uniform and comprehensible manner, shall submit to the Secretary the information described in paragraphs (1), (5), and (6) of subsection (b) of this section. Such information shall be compiled by the Secretary and submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 9 months after October 7, 1998.

(2) Construction

Nothing in this subsection shall be construed to require a State to gather information that is not in the possession of the State or the teacher preparation programs in the State, or readily available to the State or teacher preparation programs.

(d) Report of Secretary on quality of teacher preparation

(1) Report card

The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in paragraphs (1) through (9) of subsection (b) of this section. Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report shall be so provided, published and made available not later than 2 years 6 months after October 7, 1998, and annually thereafter.

(2) Report to Congress

The Secretary shall report to Congress—

(A) a comparison of States' efforts to improve teaching quality; and

(B) regarding the national mean and median scores on any standardized test that is used in more than 1 State for teacher certification or licensure.

(3) Special rule

In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

(e) Coordination

The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

[1] So in original. Probably should be "after".

(f) Institutional report cards on quality of teacher preparation

(1) Report card

Each institution of higher education that conducts a teacher preparation program that enrolls students receiving Federal assistance under this chapter, not later than 18 months after October 7, 1998, and annually thereafter, shall report to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established under subsection (a) of this section, the following information:

(A) Pass rate

(i) For the most recent year for which the information is available, the pass rate of the institution's graduates on the teacher certification or licensure assessments of the State in which the institution is located, but only for those students who took those assessments within 3 years of completing the program.

(ii) A comparison of the program's pass rate with the average pass rate for programs in the State.

(iii) In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

(B) Program information

The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

(C) Statement

In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

(D) Designation as low-performing

Whether the program has been designated as low-performing by the State under section 1028(a) of this title.

(2) Requirement

The information described in paragraph (1) shall be reported through publications such as school catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution's program graduates.

(3) Fines

In addition to the actions authorized in section 1094(c) of this title, the Secretary may impose a fine not to exceed $25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

(Pub. L. 89–329, title II, § 207, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1632; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c)(1), and (f)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1027, Pub. L. 89–329, title II, § 207, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 92–318, title I, § 131(d)(2)(B), June 23, 1972, 86 Stat. 260, prohibited grants for library resources to be used for sectarian instruction or religious worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (d)(1), (e). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1023, 1028, 1029, 6753 of this title.

§ 1028. State functions

(a) State assessment

In order to receive funds under this chapter, a State, not later than 2 years after October 7, 1998, shall have in place a procedure to identify, and assist, through the provision of technical assistance, low-performing programs of teacher preparation within institutions of higher education. Such State shall provide the Secretary an annual list of such low-performing institutions that includes an identification of those institutions at-risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based upon information collected pursuant to this part. Such assessment shall be described in the report under section 1027(b) of this title.

(b) Termination of eligibility

Any institution of higher education that offers a program of teacher preparation in which the State has withdrawn the State's approval or terminated the State's financial support due to the low performance of the institution's teacher preparation program based upon the State assessment described in subsection (a) of this section—

(1) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

(2) shall not be permitted to accept or enroll any student that receives aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the institution's teacher preparation program.

(c) Negotiated rulemaking

If the Secretary develops any regulations implementing subsection (b)(2) of this section, the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institu-

tions of higher education, and educational and student organizations.

(Pub. L. 89–329, title II, § 208, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1634; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1028, Pub. L. 89–329, title II, § 208, Nov. 8, 1965, 79 Stat. 1227, required that institutions inform State agencies of their activities under the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1027, 1029, 6753 of this title.

§ 1029. General provisions

(a) Methods

In complying with sections 1027 and 1028 of this title, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods protect the privacy of individuals.

(b) Special rule

For each State in which there are no State certification or licensure assessments, or for States that do not set minimum performance levels on those assessments—

(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

(2) notwithstanding any other provision of this part, the Secretary shall use such data to carry out requirements of this part related to assessments or pass rates.

(c) Limitations

(1) Federal control prohibited

Nothing in this part shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this part.

(2) No change in State control encouraged or required

Nothing in this part shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

(3) National system of teacher certification prohibited

Nothing in this part shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification.

(Pub. L. 89–329, title II, § 209, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1029, Pub. L. 89–329, title II, § 211, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 99–498, title II, § 202, Oct. 17, 1986, 100 Stat. 1287; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, related to college library technology and cooperation grants, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

AMENDMENTS

2002—Subsecs. (b), (c). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1030. Authorization of appropriations

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

(1) 45 percent shall be available for each fiscal year to award grants under section 1022 of this title;

(2) 45 percent shall be available for each fiscal year to award grants under section 1023 of this title; and

(3) 10 percent shall be available for each fiscal year to award grants under section 1024 of this title.

(Pub. L. 89–329, title II, § 210, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1030, Pub. L. 89–329, title II, § 213, as added Pub. L. 99–498, title II, § 203, Oct. 17, 1986, 100 Stat. 1289, which defined ''full-time equivalent students'', was omitted in the general amendment of this subchapter by Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 467.

A prior section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 204(b)(1), Oct. 17,

1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, authorized grants in accordance with former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239, contained the grant authority for training and research programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1031, Pub. L. 89–329, title II, § 221, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 215, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 111(a)(2), June 23, 1972, 86 Stat. 238, authorized appropriations of $15,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $11,800,000; $28,000,000; $38,000,000; and $12,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

A prior section 1032, Pub. L. 89–329, title II, § 222, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, related to library education and human resource development, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1032, Pub. L. 89–329, title II, § 222, Nov. 8, 1965, 79 Stat. 1227, defined the term ''librarianship'', prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

A prior section 1033, Pub. L. 89–329, title II, § 223, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 205, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized Secretary to make grants and enter into contracts for research and development projects, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1033, Pub. L. 89–329, title II, § 222, formerly § 223, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 216, Oct. 16, 1968, 82 Stat. 1037, renumbered and amended Pub. L. 92–318, title I, § 111(b)(3)(B)–(D), June 23, 1972, 86 Stat. 239, 240, related to grants for training in librarianship, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, required Secretary to consult with appropriate library and information science professional bodies in determining critical needs and priorities under former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385, authorized special purpose grants, prior to repeal by Pub. L. 99–498, title II, § 204(a), Oct. 17, 1986, 100 Stat. 1289.

Another prior section 1034, Pub. L. 89–329, title II, § 223, formerly § 224, Nov. 8, 1965, 79 Stat. 1228, Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, and renumbered Pub. L. 92–318, title I, § 111(b)(3)(D), June 23, 1972, 86 Stat. 240, related to grants for research and demonstration projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1022, 1023, 1024 of this title.

PART B—PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

§ 1041. Purpose and program authority

(a) Purpose

It is the purpose of this part to assist consortia of public and private entities—

(1) to carry out programs that prepare prospective teachers to use advanced technology to prepare all students to meet challenging State and local academic content and student academic achievement standards; and

(2) to improve the ability of institutions of higher education to carry out such programs.

(b) Program authority

(1) In general

The Secretary is authorized to award grants to eligible applicants, or enter into contracts or cooperative agreements with eligible applicants, on a competitive basis in order to pay for the Federal share of the cost of projects to develop or redesign teacher preparation programs to enable prospective teachers to use advanced technology effectively in their classrooms.

(2) Period of awards

The Secretary may award grants, or enter into contracts or cooperative agreements, under this part for periods that are not more than 5 years in duration.

(Pub. L. 89–329, title II, § 221, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 99–498, title II, §§ 204(b)(2), 206, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized grants to institutions with major research libraries, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, set out the Congressional statement of findings and purpose for the research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1041, Pub. L. 89–329, title II, § 231, Nov. 8, 1965, 79 Stat. 1228; Pub. L. 90–575, title II, §§ 217, 218, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 114(a), June 23, 1972, 86 Stat. 240, authorized appropriations for assistance to Library of Congress for acquisition of Library material, prior to the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to repeal by Pub. L. 92–318.

EFFECTIVE DATE

Part effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

§ 1042. Eligibility

(a) Eligible applicants

In order to receive a grant or enter into a contract or cooperative agreement under this part, an applicant shall be a consortium that includes the following:

(1) At least one institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into teaching.

(2) At least one State educational agency or local educational agency.

(3) One or more of the following entities:

(A) An institution of higher education (other than the institution described in paragraph (1)).

(B) A school or department of education at an institution of higher education.

(C) A school or college of arts and sciences (as defined in section 1021(b) of this title) at an institution of higher education.

(D) A professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

(b) Application requirements

In order to receive a grant or enter into a contract or cooperative agreement under this part, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

(1) A description of the proposed project, including how the project would—

(A) ensure that individuals participating in the project would be prepared to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(B) improve the ability of at least one participating institution of higher education described in subsection (a)(1) of this section to ensure such preparation.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

(B) the active support of the leadership of each organization that is a member of the consortium for the proposed project.

(3) A description of how each member of the consortium will participate in project activities.

(4) A description of how the proposed project will be continued after Federal funds are no longer awarded under this part for the project.

(5) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

(c) Matching requirements

(1) In general

The Federal share of the cost of any project funded under this part shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

(2) Acquisition of equipment

Not more than 10 percent of the funds awarded for a project under this part may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

(Pub. L. 89–329, title II, § 222, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2081.)

PRIOR PROVISIONS

A prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 471, required Secretary to endeavor to achieve broad and equitable geographical distribution of grants, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090; amended Pub. L. 96–49, § 3(b), Aug. 13, 1979, 93 Stat. 351, which authorized appropriations through fiscal year 1980, was omitted in the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 92–318, title I, § 115(a), June 23, 1972, 86 Stat. 241, which required an evaluation and report to Congressional committees by the Librarian of the Congress, was omitted in the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 222 of Pub. L. 89–329 was classified to section 1032 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 222 of Pub. L. 89–329 was classified to section 1032 of this title, prior to repeal by Pub. L. 92–318.

Another prior section 222 of Pub. L. 89–329 was classified to section 1033 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1043 of this title.

§ 1043. Use of funds

(a) Required uses

A consortium that receives a grant or enters into a contract or cooperative agreement under this part shall use funds made available under this part for—

(1) a project creating one or more programs that prepare prospective teachers to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(2) evaluating the effectiveness of the project.

(b) Permissible uses

The consortium may use funds made available under this part for a project, described in the ap-

plication submitted by the consortium under this part, that carries out the purpose of this part, such as the following:

(1) Developing and implementing high-quality teacher preparation programs that enable educators—

(A) to learn the full range of resources that can be accessed through the use of technology;

(B) to integrate a variety of technologies into curricula and instruction in order to expand students' knowledge;

(C) to evaluate educational technologies and their potential for use in instruction;

(D) to help students develop their technical skills; and

(E) to use technology to collect, manage, and analyze data to improve teaching and decisionmaking.

(2) Developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators.

(3) Developing achievement-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms.

(4) Providing technical assistance to entities carrying out other teacher preparation programs.

(5) Developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms.

(6) Subject to section 1042(c)(2) of this title, acquiring technology equipment, networking capabilities, infrastructure, software, and digital curricula to carry out the project.

(Pub. L. 89–329, title II, § 223, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2082.)

PRIOR PROVISIONS

A prior section 1043, Pub. L. 89–329, title II, § 233, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, related to eligibility for assistance under research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 223 of Pub. L. 89–329 was classified to section 1033 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 223 of Pub. L. 89–329 was renumbered section 222, and was classified to section 1033 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 223 of Pub. L. 89–329 was classified to section 1034 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1044. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2002 and 2003.

(Pub. L. 89–329, title II, § 224, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2083.)

PRIOR PROVISIONS

A prior section 1044, Pub. L. 89–329, title II, § 234, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, related to regional balance in allocation of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 224 of Pub. L. 89–329 was classified to section 1034 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 224 of Pub. L. 89–329 was classified to section 1034 of this title, prior to repeal by Pub. L. 99–498.

Another prior section 224 of Pub. L. 89–329 was renumbered section 223, and was classified to section 1034 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1045 and 1046 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1045, Pub. L. 89–329, title II, § 235, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2091, set out limitations on grants as regards sectarian or religious use.

Section 1046, Pub. L. 89–329, title II, § 236, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2091, required consultations by grantees with State agencies.

A prior section 1047, Pub. L. 89–329, title II, § 241, as added Pub. L. 99–498, title II, § 207, Oct. 17, 1986, 100 Stat. 1289; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 471; Pub. L. 103–208, § 2(a)(3), Dec. 20, 1993, 107 Stat. 2457, authorized Secretary to make grants to and enter into contracts with eligible institutions, library organizations or agencies to assist in strengthening library and information science programs and libraries in historically black colleges and universities and other minority-serving institutions, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1047 and prior sections 1047a to 1047j were omitted in the general amendment of former part D of this subchapter by Pub. L. 99–498.

Section 1047, Pub. L. 89–329, title II, § 241, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386, stated congressional declaration of purpose.

Section 1047a, Pub. L. 89–329, title II, § 242, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, established National Periodical System Corporation.

Section 1047b, Pub. L. 89–329, title II, § 243, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, related to functions of National Periodical System Corporation.

Section 1047c, Pub. L. 89–329, title II, § 244, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1387, related to board of directors of National Periodical System Corporation.

Section 1047d, Pub. L. 89–329, title II, § 245, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to director and staff of National Periodical System Corporation.

Section 1047e, Pub. L. 89–329, title II, § 246, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to nonprofit nature of National Periodical System Corporation.

Section 1047f, Pub. L. 89–329, title II, § 247, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1388, related to authority of National Periodical System Corporation.

Section 1047g, Pub. L. 89–329, title II, § 248, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, related to congressional approval of design for national periodical system.

Section 1047h, Pub. L. 89–329, title II, § 249, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, related to effect of former part D of this subchapter on copyright law.

Section 1047i, Pub. L. 89–329, title II, § 250, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1389, defined terms used in former part D of this subchapter.

Section 1047j, Pub. L. 89–329, title II, § 251, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1390, authorized appropriations to carry out former part D of this subchapter.

SUBCHAPTER III—INSTITUTIONAL AID

CODIFICATION

Title III of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title III, Nov. 8, 1965, 79 Stat. 1229, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–95, Sept. 26, 1983, 97 Stat. 708; Pub. L. 98–312, June 12, 1984, 98 Stat. 233. Such title is shown herein, however, as having been added by Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290, without reference to such intervening amendments because of the extensive revision of title III by Pub. L. 99–498.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 6951 of this title.

§1051. Findings and purpose

(a) Findings

The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;

(4) the subchapter III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(5) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(6) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(7) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(8) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose

It is the purpose of this subchapter to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(Pub. L. 89–329, title III, §301, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290; amended Pub. L. 102–325, title III, §301, July 23, 1992, 106 Stat. 472; Pub. L. 103–208, §2(a)(4), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §302, Oct. 7, 1998, 112 Stat. 1637.)

PRIOR PROVISIONS

A prior section 1051, Pub. L. 89–329, title III, §301, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1390, stated Congressional findings and purposes for program of providing Federal assistance to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1051, Pub. L. 89–329, title III, §301, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 89–752, §10, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, §§221, 222, Oct. 16, 1968, 82 Stat. 1038; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 241; Pub. L. 94–482, title I, §111, Oct. 12, 1976, 90 Stat. 2091; Pub. L. 96–49, §4, Aug. 13, 1979, 93 Stat. 351, related to a program of special assistance to strengthen the academic quality of developing institutions, prior to the general revision of this subchapter by Pub. L. 96–374.

Prior sections 1052 to 1056 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1052, Pub. L. 89–329, title III, §302, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 241; Pub. L. 93–380, title VIII, §832, Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, §112, Oct. 12, 1976, 90 Stat. 2091, related to eligibility for special assistance.

Section 1053, Pub. L. 89–329, title III, §303, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174; Pub. L. 92–318, title I, §121(a), title III, §301(a)(1), June 23, 1972, 86 Stat. 242, 326, provided for the establishment of an Advisory Council on Developing Institutions.

Section 1054, Pub. L. 89–329, title III, §304, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 243, authorized the Commissioner of Education to make grants and awards.

Section 1055, Pub. L. 89–329, title III, §305, Nov. 8, 1965, 79 Stat. 1231; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 244, related to assistance to developing institutions under other programs.

Section 1056, Pub. L. 89–329, title III, §306, as added Pub L. 90–575, title II, §223(a), Oct. 16, 1968, 82 Stat. 1038; amended Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 245, prohibited the use of funds for religious activities.

AMENDMENTS

1998—Pars. (3) to (8). Pub. L. 105–244 added par. (3) and redesignated former pars. (3) to (7) as (4) to (8), respectively.

1993—Subsec. (a)(2). Pub. L. 103–208 struck out the comma after ''planning''.

1992—Subsec. (a)(1). Pub. L. 102–325, §301(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;''.

Subsec. (a)(2). Pub. L. 102–325, §301(2), struck out ''recruitment activities,'' after ''long-range planning,''.

Subsec. (a)(5). Pub. L. 102–325, §301(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''providing a minimum level of assistance to all categories of eligible institutions will assure the con-

tinued participation of the institutions in the program established in this subchapter and enhance their role in providing access and quality education to low-income and minority students;''.

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

Section 5 of Pub. L. 103–208 provided that:

''(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act [see Tables for classification] shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act [section 1098a of this title] shall not apply to the amendments made by this Act [see Tables for classification].

''(b) EXCEPTIONS.—

''(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40) [amending sections 1070d–34, 1134e, 1134j, and 1134q of this title].

''(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act [Dec. 20, 1993]: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62) [amending sections 1070a, 1070a–11, 1070d–33, 1075, 1077a, 1078, 1078–1, and 1085 of this title].

''(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(19), (c)(20), (c)(21), (c)(59) [amending sections 1078 and 1085 of this title].

''(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(31) and (c)(53) [amending sections 1078–1 and 1083 of this title].

''(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act [amending section 1078–8 of this title] shall be effective on and after April 1, 1994.

''(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection[s] of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29) [amending sections 1070b–2, 1075, 1078, and 1078–1 of this title].

''(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) [amending section 1085 of this title] shall be effective on and after October 1, 1994.

''(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection[s] (a)(3) and (m)(1)(B) of section 435 of this [the] Act [section 1085(a)(3) and (m)(1)(B) of this title] shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.''

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

Section 301(b) of Pub. L. 99–498 provided that: ''The amendment made by subsection (a) [enacting this subchapter] shall take effect July 1, 1987.''

PART A—STRENGTHENING INSTITUTIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1065, 1068, 1068a, 1068b, 1068c, 1068d, 1068h, 1070a–14, 1101d, 1124 of this title.

§ 1057. Program purpose

(a) General authorization

The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) Grants awarded; special consideration

(1) From the sums available for this part under section 1068h(a)(1) of this title, the Secretary may award grants to any eligible institution with an application approved under section 1068[1] of this title in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

(c) Authorized activities

Grants awarded under this section shall be used for 1 or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities,

[1] See References in Text note below.

including the integration of computer technology into institutional facilities to create smart buildings.

(3) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the field of instruction of the faculty.

(4) Development and improvement of academic programs.

(5) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or improving an endowment fund.

(11) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(12) Other activities proposed in the application submitted pursuant to subsection (c)[2] that—

(A) contribute to carrying out the purposes of the program assisted under this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) Endowment fund

(1) In general

An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title III, § 311, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1291; amended Pub. L. 100–50, § 2(a)(1), June 3, 1987, 101 Stat. 335; Pub. L. 105–244, title III, §§ 301(c)(1), 303(a), Oct. 7, 1998, 112 Stat. 1636, 1638.)

[2] So in original.

REFERENCES IN TEXT

Section 1068 of this title, referred to in subsec. (b)(1), was in the original a reference to section 351 of Pub. L. 89–329 which was translated as if it referred to section 391 of Pub. L. 89–329 to reflect the probable intent of Congress. Pub. L. 105–244, title III, § 301(a)(2), (7), Oct. 7, 1998, 112 Stat. 1636, renumbered sections 351 and 1021 of Pub. L. 89–329 as sections 391 and 351, respectively, of Pub. L. 89–329, and those sections are classified to sections 1067a and 1068, respectively, of this title.

PRIOR PROVISIONS

A prior section 1057, Pub. L. 89–329, title III, § 311, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, enumerated purposes and established grant authority for program to strengthen eligible institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 301(c)(1), substituted ''section 1068h(a)(1)'' for ''section 1069f(a)(1)''.

Subsecs. (c), (d). Pub. L. 105–244, § 303(a), added subsecs. (c) and (d).

1987—Subsec. (b)(1). Pub. L. 100–50 substituted ''section 1069f(a)(1) of this title'' for ''section 1069d(a)(1) 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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1068, 1068b, 1068c of this title.

§ 1058. Definitions; eligibility

(a) Educational and general expenditures

For the purpose of this part, the term ''educational and general expenditures'' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) Eligible institution

For the purpose of this part, the term ''eligible institution'' means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (c)[1] of this section;

(B) except as provided in section 1068a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

[1] See References in Text note below.

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) Endowment fund

For the purpose of this part, the term ''endowment fund'' means a fund that—

(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

(2) is maintained for the purpose of generating income for the support of the institution; and

(3) does not include real estate.

(d) Enrollment of needy students

For the purpose of this part, the term ''enrollment of needy students'' means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this subdivision is waived under section 1068a(a) of this title.

(e) Full-time equivalent students

For the purpose of this part, the term ''full-time equivalent students'' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(f) Junior or community college

For the purpose of this part, the term ''junior or community college'' means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(g) Historically black college or university

For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this subchapter is eligible for or may receive funds under this part.

(Pub. L. 89–329, title III, § 312, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1292; amended Pub. L. 100–50, § 2(a)(2)–(6), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(a), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title III, § 302(a), (b), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, § 2(a)(5), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, title III, § 353, Oct. 20, 1994, 108 Stat. 3966; Pub. L. 105–244, title III, §§ 301(c)(2), 303(b), Oct. 7, 1998, 112 Stat. 1636, 1639.)

REFERENCES IN TEXT

Subsection (c) of this section, referred to in subsec. (b)(1)(A), was redesignated subsec. (d) of this section and a new subsec. (c) was added by Pub. L. 105–244, title III, § 303(b), Oct. 7, 1998, 112 Stat. 1639.

PRIOR PROVISIONS

A prior section 1058, Pub. L. 89–329, title III, § 312, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1)(B). Pub. L. 105–244, § 301(c)(2)(A), substituted ''section 1068a(b)'' for ''section 1067(b)''.

Subsec. (c). Pub. L. 105–244, § 303(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 105–244, § 301(c)(2)(B), substituted ''section 1068a(a)'' for ''section 1067(a)''.

Subsecs. (d) to (g). Pub. L. 105–244, § 303(b)(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

1994—Subsec. (b)(1)(C). Pub. L. 103–382, § 353(1), amended subpar. (C) generally. Prior to amendment, subpar.

(C) read as follows: ''(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;''.

Subsec. (b)(1)(F). Pub. L. 103–382, § 353(2), (3), added subpar. (F).

1993—Subsec. (c)(2). Pub. L. 103–208 inserted ''the'' after ''such institutions in''.

1992—Subsec. (b)(1), (2). Pub. L. 102–325, § 302(a)(1), (2), inserted ''and'' at end of subpar. (D), struck out subpar. (E), redesignated subpar. (F) as (E) and inserted ''and'' at end, and substituted period for semicolon at end of par. (2). Prior to amendment, subpar. (E) of par. (1) read as follows: ''except as provided in section 1067(b) of this title which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

''(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

''(ii) met the requirement of subparagraph (D); and''.

Subsec. (b)(3) to (5). Pub. L. 102–325, § 302(a)(3), struck out pars. (3) to (5) which read as follows:

''(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

''(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

''(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1).''

Subsec. (c)(2). Pub. L. 102–325, § 302(b), substituted ''second fiscal year preceding the fiscal year for which the determination is made, unless the requirement'' for ''second preceding fiscal year, unless the requirement''.

1988—Subsec. (f). Pub. L. 100–369 added subsec. (f).

1987—Subsec. (b)(1)(C), (D). Pub. L. 100–50, § 2(a)(2)(A), inserted ''which'' before ''is'' wherever appearing.

Subsec. (b)(1)(E). Pub. L. 100–50, § 2(a)(2)(B), inserted ''which'' before ''has''.

Subsec. (b)(1)(F). Pub. L. 100–50, § 2(a)(2)(C), inserted ''which'' before ''meets''.

Subsec. (b)(3), (5). Pub. L. 100–50, § 2(a)(3), (4), substituted ''subparagraphs (A), (B), (C), and (D)'' for ''subparagraphs (A) and (B)''.

Subsec. (c)(1). Pub. L. 100–50, § 2(a)(5), inserted ''in the second fiscal year preceding the fiscal year for which the determination is being made'' after ''chapter 34 of title 42''.

Subsec. (c)(2). Pub. L. 100–50, § 2(a)(6), substituted ''fiscal year preceding the fiscal year for which determination is being made'' for ''preceding fiscal year'' and ''second preceding fiscal year'' for ''such fiscal year''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1059c, 1059d, 1063a, 1065, 1068, 1068a of this title; title 10 section 2194; title 25 sections 1616h, 1809.

§ 1059. Duration of grant

(a) Award period

The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) Limitations

In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under subsection (c) of this section and a grant under section 1068c(a)(1) of this title shall not be considered a grant under this part.

(c) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(d) Wait-out-period

Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

(Pub. L. 89–329, title III, § 313, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 102–325, title III, § 302(c), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, § 2(a)(6), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §§ 301(c)(3), 303(c), Oct. 7, 1998, 112 Stat. 1637, 1639.)

PRIOR PROVISIONS

A prior section 1059, Pub. L. 89–329, title III, § 313, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1392, provided for duration of grants under this part, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 303(c)(1), inserted ''subsection (c) of this section and a grant under'' after ''this subsection a grant under''.

Pub. L. 105–244, § 301(c)(3), substituted ''section 1068c(a)(1)'' for ''section 1069(a)(1)''.

Subsec. (d). Pub. L. 105–244, § 303(c)(2), added subsec. (d).

1993—Subsec. (b). Pub. L. 103–208 inserted before period at end '', except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part''.

1992—Subsecs. (a), (b). Pub. L. 102–325 amended subsecs. (a) and (b) generally, substituting present provisions for provisions which related: in subsec. (a), to the awarding of grants for not to exceed 3, 4, or 5 years; and

in subsec. (b), to waiting periods for awarding of subsequent grants.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1059c, 1059d, 1068c of this title.

§ 1059a. Applications

Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 1068 of this title.

(Pub. L. 89–329, title III, § 314, as added Pub. L. 105–244, title III, § 303(d), Oct. 7, 1998, 112 Stat. 1639.)

PRIOR PROVISIONS

A prior section 1059a, Pub. L. 89–329, title III, § 314, as added Pub. L. 100–50, § 2(b), June 3, 1987, 101 Stat. 336, related to application review process, prior to repeal by Pub. L. 105–244, § 3, title III, § 303(d), Oct. 7, 1998, 112 Stat. 1585, 1639, effective Oct. 1, 1998.

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.

§ 1059b. Goals for financial management and academic program

(a) Goals

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) Continuation requirements

Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a) of this section.

(Pub. L. 89–329, title III, § 315, as added Pub. L. 102–325, title III, § 302(d)(1), July 23, 1992, 106 Stat. 472.)

EFFECTIVE DATE

Section 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.

§ 1059c. American Indian tribally controlled colleges and universities

(a) Program authorized

The Secretary shall provide grants and related assistance to Indian Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

(b) Definitions

In this section:

(1) Indian

The term ''Indian'' has the meaning given the term in section 1801 of title 25.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 1801 of title 25.

(3) Tribal College or University

The term ''Tribal College or University'' has the meaning give the term ''tribally controlled college or university'' in section 1801 of title 25, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

(4) Institution of higher education

The term ''institution of higher education'' means an institution of higher education as defined in section 1001(a) of this title, except that paragraph (2) of such section shall not apply.

(c) Authorized activities

(1) In general

Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

(2) Examples of authorized activities

The activities described in paragraph (1) may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) academic instruction in disciplines in which Indians are underrepresented;

(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

(F) tutoring, counseling, and student service programs designed to improve academic success;

(G) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

(H) joint use of facilities, such as laboratories and libraries;

(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(J) establishing or enhancing a program of teacher education designed to qualify stu-

dents to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

(K) establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education; and

(L) other activities proposed in the application submitted pursuant to subsection (d) of this section that—

(i) contribute to carrying out the activities described in subparagraphs (A) through (K); and

(ii) are approved by the Secretary as part of the review and acceptance of such application.

(3) Endowment fund

(A) In general

A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) Matching requirement

In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

(d) Application process

(1) Institutional eligibility

To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 1058(b) of this title.

(2) Application

Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Each such application shall include—

(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with paragraph (1).

(3) Special rules

(A) Eligibility

No Tribal College or University that receives funds under this section shall concurrently receive funds under other provisions of this part or part B of this subchapter.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(Pub. L. 89–329, title III, § 316, as added Pub. L. 102–325, title III, § 302(d)(1), July 23, 1992, 106 Stat. 473; amended Pub. L. 103–208, § 2(a)(7), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, § 303(e), Oct. 7, 1998, 112 Stat. 1639; Pub. L. 106–211, § 1(a), (b)(1), May 26, 2000, 114 Stat. 330.)

REFERENCES IN TEXT

The Equity in Educational Land Grant Status Act of 1994, referred to in subsec. (b)(3), means the Equity in Educational Land-Grant Status Act of 1994, Pub. L. 103–382, title V, part C, Oct. 20, 1994, 108 Stat. 4048, as amended, which is set out as a note under section 301 of Title 7, Agriculture.

AMENDMENTS

2000—Subsec. (d)(2). Pub. L. 106–211, § 1(a), inserted after first sentence ''The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section.''

Subsec. (d)(3). Pub. L. 106–211, § 1(b)(1), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter.''

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (e) authorizing grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

1993—Subsec. (c). Pub. L. 103–208 substituted ''(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—'' for ''Such programs may include—''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–211, § 1(c), May 26, 2000, 114 Stat. 331, provided that: ''The amendments made by this Act [amending this section and section 1059d of this title] shall be effective on the date of the enactment of this Act [May 26, 2000].''

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

Section 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1068, 1068h of this title; title 7 sections 1926, 2206a, 3103.

§ 1059d. Alaska Native and Native Hawaiian-serving institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

(b) Definitions

For the purpose of this section—

(1) the term ''Alaska Native'' has the meaning given the term in section 7546 of this title;

(2) the term ''Alaska Native-serving institution'' means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

(3) the term ''Native Hawaiian'' has the meaning given the term in section 7517 of this title; and

(4) the term ''Native Hawaiian-serving institution'' means an institution of higher education which—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Alaska Natives or Native Hawaiians.

(2) Examples of authorized activities

Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries; and

(H) academic tutoring and counseling programs and student support services.

(d) Application process

(1) Institutional eligibility

Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b) of this section, along with such other information and data as the Secretary may by regulation require.

(2) Applications

Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

(B) such other information and assurance as the Secretary may require.

(3) Special rules

(A) Eligibility

No Alaskan Native-serving institution or Native Hawaiian-serving institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B of this subchapter.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(Pub. L. 89–329, title III, § 317, as added Pub. L. 105–244, title III, § 303(f), Oct. 7, 1998, 112 Stat. 1641; amended Pub. L. 106–211, § 1(a), (b)(2), May 26, 2000, 114 Stat. 330; Pub. L. 107–110, title VII, § 702(a), Jan. 8, 2002, 115 Stat. 1946.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110, § 702(a)(1), substituted ''section 7546'' for ''section 7938''.

Subsec. (b)(3). Pub. L. 107–110, § 702(a)(2), substituted ''section 7517'' for ''section 7912''.

2000—Subsec. (d)(2). Pub. L. 106–211, § 1(a), inserted after first sentence ''The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section.''

Subsec. (d)(3). Pub. L. 106–211, § 1(b)(2), added par. (3).

Subsec. (e). Pub. L. 106–211, § 1(b)(2), struck out heading and text of subsec. (e). Text read as follows: ''For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1068h, 1085 of this title.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1057, 1058, 1059c, 1059d, 1063c, 1065, 1068b, 1068c, 1068d, 1068h, 1070a, 1070a–14, 1085, 1101d, 1124, 1131 of this title.

§ 1060. Findings and purposes

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 [7 U.S.C. 301 et seq.] and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this chapter and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(Pub. L. 89–329, title III, § 321, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1294.)

REFERENCES IN TEXT

The Morrill Act of 1862, referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, also known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

This chapter, referred to in par. (2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1060, Pub. L. 89–329, title III, § 321, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1393, set out purpose and grant authority for program of aiding institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1060, Pub. L. 90–575, title V, § 504, Oct. 16, 1968, 82 Stat. 1062, related to eligibility for student assistance because of conviction of crimes involving force, disruption, or seizure of property of educational institution; refusal to obey regulations or orders and disruption of administration of institution; other misconduct, disciplinary proceedings, and freedom of expression; and description of programs covered by such disqualification, prior to repeal by Pub. L. 92–318, title I, § 139B(b), June 23, 1972, 86 Stat. 282.

EXECUTIVE ORDER NO. 12320

Ex. Ord. No. 12320, Sept. 15, 1981, 46 F.R. 46107, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, formerly set out below.

EXECUTIVE ORDER NO. 12677

Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12876, § 13, Nov. 1, 1993, 58 F.R. 58735, formerly set out below.

EXECUTIVE ORDER NO. 12876

Ex. Ord. No. 12876, Nov. 1, 1993, 58 F.R. 58735, which established in the Department of Education the President's Board of Advisors on Historically Black Colleges and Universities, a Presidential advisory committee, was revoked by Ex. Ord. No. 13256, § 11, Feb. 12, 2002, 67 F.R. 6825, set out below.

EX. ORD. NO. 13256. PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13256, Feb. 12, 2002, 67 F.R. 6823, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to advance the development of the Nation's full human potential and to advance equal opportunity in higher education, to strengthen the capacity of historically black colleges and universities to

provide the highest quality education, and to increase opportunities for these institutions to participate in and benefit from Federal programs, as do other colleges and universities, it is hereby ordered as follows:

SECTION 1. There is established, in the Office of the Secretary of Education, a Presidential advisory committee entitled the ''President's Board of Advisors on Historically Black Colleges and Universities'' (Board). The Board shall prepare and issue an annual report to the President on the results of the participation of historically black colleges and universities in Federal programs. The Board also shall provide advice to the President and to the Secretary of Education (Secretary) regarding the needs of historically black colleges and universities in the areas of infrastructure, academic programs, and faculty and institutional development. In the annual report to the President, the Board shall make recommendations on how to increase the private sector role, including the role of private foundations, in strengthening historically black colleges and universities. Particular emphasis should also be given in the report to enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions.

SEC. 2. The Board shall be appointed by the President. The Board membership shall include sitting presidents of historically black colleges and universities, representatives of other higher education institutions, business and financial leaders, representatives of private foundations, and secondary school administrators. The President shall designate a Chair or Co-Chairs from among the members.

SEC. 3. The White House Initiative on Historically Black Colleges and Universities (Initiative), located in the Office of the Secretary of Education, shall: (1) provide staff, resources, and assistance to the Board; (2) assist the Secretary in performing the liaison function between the executive branch and historically black colleges and universities; and (3) serve the Secretary in carrying out the responsibilities described in section 6 of this order.

SEC. 4. To carry out this order, each executive department and agency identified by the Secretary may, consistent with applicable law and regulations, enter into appropriate grants, contracts, or cooperative agreements with historically black colleges and universities. The head of each department or agency so identified shall establish an annual plan that will establish clear goals for how the department or agency intends to increase the capacity of historically black colleges and universities to compete effectively for grants, contracts, or cooperative agreements and to encourage historically black colleges and universities to participate in Federal programs. The department's or agency's annual goal should be clearly reflected in the department's or agency's annual budget submission to the Office of Management and Budget. To facilitate the attainment of these goals, the head of each department or agency identified by the Secretary shall provide, as appropriate, technical assistance and information to historically black colleges and universities regarding the program activities of the department or agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

SEC. 5. Each executive department and agency identified by the Secretary shall appoint a senior official, who is a full-time officer of the Federal Government, to report directly to the department or agency head with respect to department or agency activity under this order, and to serve as liaison to the Board and to the Initiative. To the extent permitted by law and regulations, each executive department and agency identified by the Secretary shall provide appropriate information requested by the Board and staff pursuant to the order.

SEC. 6. Each executive department and agency identified by the Secretary shall develop an annual plan for, and shall document the agency's effort in, increasing the capacity of historically black colleges and universities to participate in Federal programs. Each department's and agency's plan shall describe new or existing department and agency programs and measurable objectives for proposed department and agency actions, in connection with those programs, to achieve the purposes of this order. These plans shall be submitted at such time and in such form as the Secretary shall require. In consultation with the participating departments and agencies, the Secretary shall review the plans and develop, with the advice of the Board, an integrated Annual Federal Plan for Assistance to Historically Black Colleges and Universities for submission to the President. The Secretary shall provide the president of each historically black college and university with a copy of, and an opportunity to comment on, the proposed Annual Federal Plan prior to its submission to the President. Each participating department and agency shall submit to the Secretary an Annual Performance Report that shall measure each department's and agency's performance against the objectives set forth in the department's or agency's annual plan. The Secretary shall be responsible for monitoring compliance with the Annual Federal Plan after it is approved by the President.

SEC. 7. In developing its annual plan, each executive department and agency identified by the Secretary shall emphasize programs and activities that develop the capacity of historically black colleges and universities to contribute to the development of human capital and to strengthen America's economic and technological base through: (1) infrastructure development and acquisitions for instruction and research; (2) student and faculty doctoral fellowships and faculty development; (3) domestic and international faculty and student exchanges and study-abroad opportunities; (4) undergraduate and graduate student internships; and (5) summer, part-time, and permanent employment opportunities.

SEC. 8. Each year, the Board shall report to the President on the progress achieved in enhancing the capacity of historically black colleges and universities to serve their students, including findings and recommendations for individual departments and agencies in connection with their Annual Performance Reports, as described in section 6 of this order.

SEC. 9. The Board, in consultation with the Department of Education and other executive departments and agencies, shall develop a Private Sector Strategy to assist historically black colleges and universities in: (1) increasing voluntary private-sector contributions to support the enhancement of endowments and the overall financial stability of such institutions; (2) improving and enhancing the quality and number of private-sector partnerships focused on academic program development, student achievement and faculty development, cooperative research and development projects, and faculty exchanges; and (3) improving information management, and facilities, and strengthening academic course offerings.

SEC. 10. (a) The provisions in this Executive Order shall be implemented to the fullest extent permitted by law.

(b) The Department of Education shall provide funding and administrative support for the Board and the Initiative.

(c) Members of the Board shall serve without compensation, but shall be reimbursed for all travel expenses, including per diem in lieu of subsistence, as authorized by law;

(d) Insofar as the Federal Advisory Committee Act, as amended [5 App. U.S.C.], may apply to the Board, any functions of the President under that Act, except for those in section 6 of that Act, shall be performed by the Department of Education, in accordance with the guidelines that have been issued by the Administrator of General Services.

SEC. 11. Executive Order 12876 of November 1, 1993, as amended, is hereby revoked.

GEORGE W. BUSH.

EXTENSION OF TERM OF PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(e), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

DETERMINATIONS REGARDING PRESIDENT'S BOARD OF ADVISORS

Memorandum of the President of the United States, Aug. 17, 1990, 55 F.R. 46491, provided:

Memorandum for the Secretary of Education

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 208 of title 18 of the United States Code and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Education my authority to make determinations under subsection (b) of section 208 of title 18, United States Code, for the members of the President's Board of Advisors on Historically Black Colleges and Universities, established pursuant to Executive Order 12677 of April 28, 1989 [formerly set out above].

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1061 of this title.

§ 1061. Definitions

For the purpose of this part:

(1) The term ''graduate'' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term ''part B institution'' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation,,[1] except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution.

(3) The term ''Pell Grant recipient'' means a recipient of financial aid under subpart 1 of part A of subchapter IV of this chapter.

(4) The term ''professional and academic areas in which Blacks are underrepresented'' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term ''school year'' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(Pub. L. 89–329, title III, §322, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 100–369, §10(c), July 18, 1988, 102 Stat. 838.)

PRIOR PROVISIONS

A prior section 1061, Pub. L. 89–329, title III, §322, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1393, defined terms used in this part, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1061, Pub. L. 89–329, title IV, §401, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, §101(a), (b)(1), Oct. 16, 1968, 82 Stat. 1017; Pub. L. 91–95, §4, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §131(a)(1)(A), June 23, 1972, 86 Stat. 247, related to statement of purpose and authorization of appropriations for educational opportunity grants, 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.

AMENDMENTS

1988—Par. (2). Pub. L. 100–369 inserted '',, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution'' after ''accreditation''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1085, 1131–1, 1131a, 1131c, 9501 of this title; title 25 section 1809; title 29 section 718; title 42 sections 1862d, 3032a, 5197h.

§ 1062. Grants to institutions

(a) General authorization; uses of funds

From amounts available under section 1069f(a)(2)[1] of this title in any fiscal year the Secretary shall make grants (under section 1063 of this title) to institutions which have applications approved by the Secretary (under section 1063a of this title) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

[1] So in original.

[1] See References in Text note below.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Other activities proposed in the application submitted pursuant to section 1063a of this title that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) Endowment fund

(1) In general

An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(c) Limitations

(1) No grant may be made under this chapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term ''school or department of divinity'' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(Pub. L. 89–329, title III, § 323, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1295; amended Pub. L. 100–50, § 2(a)(7), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(b), July 18, 1988, 102 Stat. 838; Pub. L. 102–325, title III, § 303(a), (b), July 23, 1992, 106 Stat. 474, 475; Pub. L. 103–208, § 2(a)(8), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, § 304(a), Oct. 7, 1998, 112 Stat. 1642.)

REFERENCES IN TEXT

Section 1069f(a)(2) of this title, referred to in subsec. (a), was in the original a reference to section 360(a)(2) of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1062, Pub. L. 89–329, title III, § 323, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395, provided for duration of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1062, Pub. L. 89–329, title IV, § 402, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, § 102, Oct. 16, 1968, 82 Stat. 1017, related to determination of amount of grant and establishment of basic criteria or schedules, 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.

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–244, § 304(a)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(3). Pub. L. 105–244, § 304(a)(3), struck out par. (3) which read as follows: ''The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of title 47.''

1993—Subsec. (b)(3). Pub. L. 103–208 realigned margin.

1992—Subsec. (a)(2). Pub. L. 102–325, § 303(a)(1), inserted '', including purchase or rental of telecommunications technology equipment or services'' after ''facilities''.

Subsec. (a)(5). Pub. L. 102–325, § 303(a)(2), inserted '', including telecommunications program materials'' after ''materials''.

Subsec. (a)(9) to (12). Pub. L. 102–325, § 303(a)(3), added pars. (9) to (12).

Subsec. (b)(3). Pub. L. 102–325, § 303(b), added par. (3).

1988—Subsec. (a)(3). Pub. L. 100–369, § 10(b)(1), inserted '', and faculty development'' after ''exchanges''.

Subsec. (a)(7), (8). Pub. L. 100–369, § 10(b)(2), added pars. (7) and (8).

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1069f(a)(2) of this title'' for ''section 1069d(a)(2) 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1063a, 1068, 1068b, 1068c of this title.

§ 1063. Allotments to institutions

(a) Allotment; Pell Grant basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; graduates basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; graduate and professional student basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) Minimum allotment

(1) Notwithstanding subsections (a), (b), and (c) of this section, the amount allotted to each part B institution under this section shall not be less than $500,000.

(2) If the amount appropriated pursuant to section 1069f(a)(2)(A)[1] of this title for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) Reallotment

The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) of this section for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) Special merger rule

(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) Special rule for certain District of Columbia eligible institutions

In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under section 123 of this title, relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Home Rule Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(Pub. L. 89–329, title III, § 324, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 99–509, title VII, § 7007, Oct. 21, 1986, 100 Stat. 1950; Pub. L. 102–325, title III, § 303(c), (d), July 23, 1992, 106 Stat. 475; Pub. L. 105–33, title XI, § 11717(b), Aug. 5, 1997, 111 Stat. 786.)

REFERENCES IN TEXT

Section 1069f(a)(2)(A) of this title, referred to in subsec. (d)(2), was in the original a reference to section 360(a)(2)(A) of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

The District of Columbia Home Rule Act, referred to in subsec. (g), is Pub. L. 93–198, Dec. 24, 1973, 87 Stat.

[1] See References in Text note below.

774, as amended. For classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1063, Pub. L. 89–329, title III, § 324, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395, related to Federal share of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1063, Pub. L. 89–329, title IV, § 403, Nov. 8, 1965, 79 Stat. 1233, related to duration of grant and eligibility for payments, 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.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–33 substituted ''District of Columbia Home Rule Act'' for ''District of Columbia Self-Government and Governmental Reorganization Act''.

1992—Subsec. (c). Pub. L. 102–325, § 303(c), inserted '', within 5 years of graduation with a baccalaureate degree,'' after ''in attendance at''.

Subsec. (d)(1). Pub. L. 102–325, § 303(d), substituted ''$500,000'' for ''$350,000''.

1986—Subsec. (c). Pub. L. 99–509, § 7007(4), amended subsec. generally, substituting ''percentage of graduates per institution'' for ''number of graduates'' and ''percentage of such graduates per institution'' for ''number of such graduates''.

Subsec. (d). Pub. L. 99–509, § 7007(1), (2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–509, § 7007(1), (3), redesignated former subsec. (d) as (e), and substituted ''subsection (a), (b), (c), or (d) of this section'' for ''subsection (a), (b), or (c) of this section''. Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 99–509, § 7007(1), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1062, 1063a, 1065 of this title.

§ 1063a. Applications

(a) Contents

No part B institution shall be entitled to its allotment of Federal funds for any grant under section 1063 of this title for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E)[1] of section 1058(b)(1) of this title and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this chapter will be used for the purposes set forth in section 1062 of this title; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this subchapter at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31 deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) Approval

The Secretary shall approve any application which meets the requirements of subsection (a) of this section and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) Goals for financial management and academic programs

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

(Pub. L. 89–329, title III, § 325, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 100–50, § 2(a)(8), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, § 303(e), July 23, 1992, 106 Stat. 475.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (a), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 added subsec. (c).

1987—Subsec. (a)(1). Pub. L. 100–50 substituted ''section 1062 of this title'' for ''section 1061 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1062 of this title.

[1] See References in Text note below.

§ 1063b. Professional or graduate institutions

(a) General authorization

(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) of this section that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities in mathematics, engineering, or the physical or natural sciences for Black Americans.

(2) No grant in excess of $1,000,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(b) Duration

Grants shall be made for a period not to exceed 5 years.

(c) Uses of funds

A grant under this section may be used for—

(1) purchase, rental or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate and professional students to permit the enrollment of the students in and completion of the doctoral degree in medicine, dentistry, pharmacy, veterinary medicine, law, and the doctorate degree in the physical or natural sciences, engineering, mathematics, or other scientific disciplines in which African Americans are underrepresented;

(5) establish or improve a development office to strengthen and increase contributions from alumni and the private sector;

(6) assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title; and

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems.

(d) Application

Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $1,000,000, the assurances required by subsection (a)(2) of this section and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) Eligibility

(1) In general

Independent professional or graduate institutions and programs eligible for grants under subsection (a) of this section are the following[1]

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;

(D) Clark-Atlanta University;

(E) Tuskegee University School of Veterinary Medicine and other qualified graduate programs;

(F) Xavier University School of Pharmacy and other qualified graduate programs;

(G) Southern University School of Law and other qualified graduate programs;

(H) Texas Southern University School of Law and School of Pharmacy and other qualified graduate programs;

(I) Florida A&M University School of Pharmaceutical Sciences and other qualified graduate programs;

(J) North Carolina Central University School of Law and other qualified graduate programs;

(K) Morgan State University qualified graduate program;

(L) Hampton University qualified graduate program;

(M) Alabama A&M qualified graduate program;

(N) North Carolina A&T State University qualified graduate program;

(O) University of Maryland Eastern Shore qualified graduate program;

(P) Jackson State University qualified graduate program;

(Q) Norfolk State University qualified graduate programs; and

(R) Tennessee State University qualified graduate programs.

(2) Qualified graduate program

(A) For the purposes of this section, the term ''qualified graduate program'' means a graduate or professional program that provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented and has students enrolled in such program at the time of application for a grant under this section.

(B) Notwithstanding the enrollment requirement contained in subparagraph (A), an insti-

[1] So in original. Probably should be followed by a colon.

tution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified graduate program.

(3) Special rule

Institutions that were awarded grants under this section prior to October 1, 1998, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (Q) and (R) of paragraph (1).

(4) One grant per institution

The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system.

(5) Institutional choice

The president or chancellor of the institution may decide which graduate or professional school or qualified graduate program will receive funds under the grant in any 1 fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(f) Funding rule

Subject to subsection (g) of this section, of the amount appropriated to carry out this section for any fiscal year—

(1) the first $26,600,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section;

(2) any amount in excess of $26,600,000, but not in excess of $28,600,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (Q) and (R) of subsection (e)(1) of this section; and

(3) any amount in excess of $28,600,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (R)[2] pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the programs for which the eligible institution received funding under this section in the previous year.

(C) The average cost of education per student, for all full-time graduate or professional students (or the equivalent) enrolled in the eligible professional or graduate school, or for doctoral students enrolled in the qualified graduate programs.

(D) The number of students in the previous year who received their first professional or doctoral degree from the programs for which the eligible institution received funding under this section in the previous year.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving graduate or professional degrees in the professions or disciplines related to the programs for the previous year.

(g) Hold harmless rule

Notwithstanding paragraphs (2) and (3) of subsection (f) of this section, no institution or qualified program identified in subsection (e)(1) of this section that received a grant for fiscal year 1998 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 1998, unless the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs, or the institution cannot provide sufficient matching funds to meet the requirements of this section.

(Pub. L. 89–329, title III, § 326, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1297; amended Pub. L. 100–50, § 2(a)(9), (10), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, § 303(f)(1), (g), July 23, 1992, 106 Stat. 475, 476; Pub. L. 103–208, § 2(a)(9), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 104–141, § 2, May 6, 1996, 110 Stat. 1328; Pub. L. 105–244, title III, § 304(b), Oct. 7, 1998, 112 Stat. 1643.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 304(b)(1)(A)(i), inserted ''in mathematics, engineering, or the physical or natural sciences'' after ''graduate education opportunities''.

Subsec. (a)(2). Pub. L. 105–244, § 304(b)(1)(A)(ii), substituted ''$1,000,000 may'' for ''$500,000 may'' and '', except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.'' for ''except that the Morehouse School of Medicine shall receive at least $3,000,000.''

Subsec. (c). Pub. L. 105–244, § 304(b)(2), added pars. (1) to (7) and struck out former pars. (1) to (3) which read as follows:

''(1) any of the purposes enumerated under section 1062 of this title;

''(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

''(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title.''

Subsec. (d)(2). Pub. L. 105–244, § 304(b)(1)(B), substituted ''$1,000,000'' for ''$500,000''.

Subsec. (e)(1). Pub. L. 105–244, § 304(b)(3)(A)(i), substituted ''are the following'' for ''include—'' in introductory provisions.

Subsec. (e)(1)(E) to (J). Pub. L. 105–244, § 304(b)(3)(A)(ii), inserted ''and other qualified graduate programs'' before semicolon at end.

Subsec. (e)(1)(P). Pub. L. 105–244, § 304(b)(3)(A)(iv)(I), inserted ''University'' after ''State''.

Subsec. (e)(1)(Q), (R). Pub. L. 105–244, § 304(b)(3)(A)(iii), (iv)(II), (III), added subpars. (Q) and (R).

Subsec. (e)(2). Pub. L. 105–244, § 304(b)(3)(B), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''For the purposes of this section, the term 'qualified graduate program' means a graduate or professional program that—

[2] So in original. Probably should be ''subparagraphs (A) to (R) of subsection (e)(1) of this section''.

''(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented; and

''(B) has students enrolled in such program at the time of application for a grant under this section.''

Subsec. (e)(3). Pub. L. 105–244, § 304(b)(3)(B), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later.''

Subsec. (e)(5). Pub. L. 105–244, § 304(b)(3)(C), added par. (5).

Subsec. (f). Pub. L. 105–244, § 304(b)(4)(A), substituted ''Subject to subsection (g), of the amount appropriated'' for ''Of the amount appropriated'' in introductory provisions.

Subsec. (f)(1). Pub. L. 105–244, § 304(b)(4)(B), substituted ''$26,600,000'' for ''$12,000,000'' and ''(A) through (P)'' for ''(A) through (E)''.

Subsec. (f)(2), (3). Pub. L. 105–244, § 304(b)(4)(C), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''any amount appropriated in excess of $12,000,000 shall be available—

''(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1) of this section; and

''(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section.''

Subsec. (g). Pub. L. 105–244, § 304(b)(5), added subsec. (g).

1996—Subsec. (b). Pub. L. 104–141 struck out at end ''No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.''

1993—Subsec. (e)(2). Pub. L. 103–208 redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''has been accredited by a nationally recognized accrediting agency or association or has been approved by a nationally recognized approving agency; and''.

1992—Subsec. (e). Pub. L. 102–325, § 303(f)(1), substituted ''Eligibility'' for ''Eligible professional or graduate institutions'' in heading and amended text generally. Prior to amendment, text read as follows: ''Independent professional or graduate institutions eligible for grants under subsection (a) of this section include—

''(1) Morehouse School of Medicine;

''(2) Meharry Medical School;

''(3) Charles R. Drew Postgraduate Medical School;

''(4) Atlanta University; and

''(5) Tuskegee Institute School of Veterinary Medicine.''

Subsec. (f). Pub. L. 102–325, § 303(g), added subsec. (f).

1987—Subsec. (a)(2). Pub. L. 100–50, § 2(a)(9), inserted ''except that the Morehouse School of Medicine shall receive at least $3,000,000''.

Subsec. (c)(3). Pub. L. 100–50, § 2(a)(10), made technical amendment to reference to section 1065 of this title to correct reference to corresponding section of original act.

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.

CONGRESSIONAL FINDINGS

Section 1 of Pub. L. 104–141 provided that: ''The Congress finds the following:

''(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act [20 U.S.C. 1063b] may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

''(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

''(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

''(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1068h of this title; title 42 section 5197h.

§ 1063c. Reporting and audit requirements

(a) Recordkeeping

Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Repayment of unexpended funds

Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this subchapter shall be repaid to the Treasury of the United States.

(Pub. L. 89–329, title III, § 327, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298; amended Pub. L. 100–50, § 2(a)(11), June 3, 1987, 101 Stat. 335.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''part'' for ''chapter'' in introductory text.

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 C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1057, 1059c, 1062, 1068, 1068h, 1101b of this title.

§ 1064. Repealed. Pub. L. 102–325, title III, § 304(a)(2), July 23, 1992, 106 Stat. 476

Section, Pub. L. 89–329, title III, § 331, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program.

A prior section 1064, Pub. L. 89–329, title III, § 331, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395; amended Pub. L. 97–35, title V, § 516(c)(2), Aug. 13, 1981, 95 Stat. 447, established a challenge grant program, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1064, Pub. L. 89–329, title IV, § 404, Nov. 8, 1965, 79 Stat. 1233, related to time and manner of making application for grant, selection of recipients and conditions precedent to award, 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.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 1065. Endowment challenge grants

(a) Purpose; definitions

(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term ''endowment fund'' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term ''endowment fund income'' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term ''eligible institution'' means an institution that is an—

(I) eligible institution under part A of this subchapter or would be considered to be such an institution if section 1058(b)(1)(C) of this title referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B of this subchapter or would be considered to be such an institution if section 1063 of this title referred to a postgraduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) Grants authorized

(1) From sums available for this section under section 1068h of this title, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g) of this section.

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

(i) applies for a grant in an amount not exceeding $500,000; and

(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution

shall be in an amount which is not less than $50,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) Grant agreement; endowment fund provisions

(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2) of this section, (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) Repayment provisions

(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c) of this section, the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) Audit information

An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) Selection criteria

In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A of this subchapter or part B of this subchapter or has received a grant under part A of this subchapter or part B of this subchapter within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Application

Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f) of this section, the Secretary may approve an application for a grant if an institution, in its application, provides adequate assur-

ances that it will comply with the requirements of this section.

(h) Termination and recovery provisions

(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3) of this section;

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2) of this section; or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(Pub. L. 89–329, title III, § 331, formerly § 332, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1299; amended Pub. L. 100–50, § 2(a)(12), June 3, 1987, 101 Stat. 336; renumbered § 331 and amended Pub. L. 102–325, title III, § 304(a)(3), (b), July 23, 1992, 106 Stat. 476; Pub. L. 103–208, § 2(a)(8), (10), (11), Dec. 20, 1993, 107 Stat. 2457, 2458; Pub. L. 105–244, title III, § 305, Oct. 7, 1998, 112 Stat. 1646.)

PRIOR PROVISIONS

A prior section 331 of Pub. L. 89–329, title III, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 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 reallotment 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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1057, 1063b, 4425 of this title; title 25 section 1832.

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.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1068, 1068b, 1068d, 1068h, 1070a of this title.

§ 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 normally 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 eligible 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,,[1] 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

[1] So in original.

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 a nationally recognized accrediting agency or association; 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 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.)

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

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 1066e[1] 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

[1] See References in Text note below.

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

(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 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; and

(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.

(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 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.)

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1066a, 1066d 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 $375,000,000, of which—

(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $125,000,000 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.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1066a, 1066b of this title.

§ 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 July 23, 1992, 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 require that the first loans for capital projects authorized under section 1066b of this title be made no later than March 31, 1994;

(3) 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;

(4)(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;

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

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

(7) 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.

(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.)

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1066a, 1066b, 1066g, 1068h 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 9 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) Two 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.

(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.

(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.)

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1066a, 1068h of this title.

§ 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 section 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

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1068, 1068h of this title.

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)[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.)

REFERENCES IN TEXT

Section 3444(a)(1) of this title, referred to in subsec. (a), was in the original a reference to section 304(a)(1) of the Department of Education Organization Act of 1979. Sections 304 and 305 of that Act were renumbered as sections 303 and 304, respectively, by Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929, and are classified to sections 3444 and 3445, respectively, of this title.

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

1992—Subsec. (b). Pub. L. 102–325 inserted ‘‘, particularly minority women,’’ after ‘‘ethnic minorities’’.

[1] See References in Text note below.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1067h 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 Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) Required criteria

In establishing criteria under subsection (a) of this section, the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

(Pub. L. 89–329, title III, § 352, formerly title X, § 1022, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561; renumbered title III, § 352, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135b–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 352 of Pub. L. 89–329 was renumbered section 392 and is classified to section 1068a of this title.

§ 1067c. Use of funds

(a) Types of grants

Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1067k(6) of this title);
(2) cooperative grants (as defined in section 1067k(7) of this title);
(3) design projects (as defined in section 1067k(8) of this title); or
(4) special projects (as defined in section 1067k(9) of this title).

(b) Authorized uses for each type of grant

(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or
(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—
(A) assisting institutions in sharing facilities and personnel;
(B) disseminating information about established programs in science and engineering;
(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or
(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—
(A) developing planning, management, and evaluation systems; or
(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—
(A) advanced science seminars;
(B) science faculty workshops and conferences;
(C) faculty training to develop specific science research or education skills;
(D) research in science education;
(E) programs for visiting scientists;
(F) preparation of films or audio-visual materials in science;
(G) development of learning experiences in science beyond those normally available to minority undergraduate students;
(H) development of pre-college enrichment activities in science; or
(I) any other activities designed to address specific barriers to the entry of minorities into science.

(Pub. L. 89–329, title III, § 353, formerly title X, § 1023, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562; renumbered title III, § 353, and amended Pub. L. 105–244, title III, § 301(a)(5), (7), (c)(8), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135b–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 353 of Pub. L. 89–329 was renumbered section 393 and is classified to section 1068b of this title.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 301(c)(8)(A), substituted ''section 1067k(6)'' for ''section 1135d–5(6)''.
Subsec. (a)(2). Pub. L. 105–244, § 301(c)(8)(B), substituted ''section 1067k(7)'' for ''section 1135d–5(7)''.
Subsec. (a)(3). Pub. L. 105–244, § 301(c)(8)(C), substituted ''section 1067k(8)'' for ''section 1135d–5(8)''.
Subsec. (a)(4). Pub. L. 105–244, § 301(c)(8)(D), substituted ''section 1067k(9)'' for ''section 1135d–5(9)''.

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.

§ 1067d. Omitted

CODIFICATION

Section, Pub. L. 89–329, title III, formerly title X, § 1024, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562; amended Pub. L. 102–325, title X, § 1002(b), July 23, 1992, 106 Stat. 780; renumbered title III, Pub. L. 105–244, title III, § 301(a)(5), Oct. 7, 1998, 112 Stat. 1636, required Secretary to submit to President and Congress a report by Jan. 1, 1996, summarizing and evaluating Federal programs which seek to increase minority participation and representation in scientific fields.

Section was formerly classified to section 1135b–3 of this title prior to renumbering by Pub. L. 105–244.

SUBPART 2—ADMINISTRATIVE AND GENERAL PROVISIONS

CODIFICATION

Pub. L. 105–244, title III, § 301(a)(5), Oct. 7, 1998, 112 Stat. 1636, redesignated subpart 3 (§ 1135d et seq.) of part B of subchapter X of this chapter as subpart 2 of part E of subchapter III of this chapter.

§ 1067g. Eligibility for grants

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions of higher education that—
(A) award baccalaureate degrees; and
(B) are minority institutions;

(2) public or private nonprofit institutions of higher education that—
(A) award associate degrees; and
(B) are minority institutions that—
(i) have a curriculum that includes science or engineering subjects; and
(ii) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

(3) nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees, that—
(A) provide a needed service to a group of minority institutions; or
(B) provide in-service training for project directors, scientists, and engineers from minority institutions; or

(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—
(A) institutions of higher education which have a curriculum in science or engineering;
(B) institutions of higher education that have a graduate or professional program in science or engineering;
(C) research laboratories of, or under contract with, the Department of Energy;
(D) private organizations that have science or engineering facilities; or
(E) quasi-governmental entities that have a significant scientific or engineering mission.

(Pub. L. 89–329, title III, § 361, formerly title X, § 1041, as added Pub. L. 99–498, title X, § 1002, Oct.

17, 1986, 100 Stat. 1564; renumbered title III, § 361, and amended Pub. L. 105–244, title III, §§ 301(a)(5), (7), (b), (c)(9), 307(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648.)

CODIFICATION

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

AMENDMENTS

1998—Pub. L. 105–244, § 307(b), amended section catchline and text generally. Prior to amendment, text read as follows: ''Eligibility to receive grants under this part is limited to—

''(1) public and private nonprofit institutions that are minority institutions (as defined in section 1067k(3) of this title); and

''(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions.''

Par. (1). Pub. L. 105–244, § 301(c)(9), substituted ''section 1067k(3)'' for ''section 1135d–5(3)''.

Pub. L. 105–244, § 301(b)(1), inserted ''and'' after the semicolon.

Par. (2). Pub. L. 105–244, § 301(b)(2), substituted a period for ''; and''.

Par. (3). Pub. L. 105–244, § 301(b)(3), struck out par. (3) which read as follows: ''for the purposes of section 1135c–1 of this title, public and private nonprofit institutions that have at least 10 percent minority enrollment.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1067h of this title.

§ 1067h. Grant application

(a) Submission and contents of applications

An eligible applicant (as determined under section 1067g of this title) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1067a(b) of this title in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) Approval based on likelihood of progress

The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(Pub. L. 89–329, title III, § 362, formerly title X, § 1042, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, § 362, and amended Pub. L. 105–244, title III, § 301(a)(5), (7), (c)(10), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135d–1 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 301(c)(10), substituted ''section 1067g'' for ''section 1135d'' in introductory provisions and ''section 1067a(b)'' for ''section 1135b(b)'' in par. (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 section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1067i. Cross program and cross agency cooperation

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(Pub. L. 89–329, title III, § 363, formerly title X, § 1043, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; amended Pub. L. 102–325, title X, § 1002(d), July 23, 1992, 106 Stat. 780; renumbered title III, § 363, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135d–2 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1992—Pub. L. 102–325 inserted ''and consult'' after ''cooperate''.

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.

§ 1067j. Administrative provisions

(a) Technical staff

The Secretary shall appoint, without regard to the provisions of title 5 governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures for grant review

The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subchapter may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(Pub. L. 89–329, title III, § 364, formerly title X, § 1044, as added Pub. L. 99–498, title X, § 1002, Oct.

17, 1986, 100 Stat. 1564; renumbered title III, § 364, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 1135d–3 of this title prior to renumbering by Pub. L. 105–244.

§ 1067k. Definitions

For the purpose of this part—

(1) The term ''accredited'' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term ''minority'' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term ''minority institution'' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term ''science'' means, for the purpose of this program, the biological, engineering, mathematical, physical, behavioral, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term ''underrepresented in science and engineering'' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term ''institutional grant'' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term ''cooperative grant'' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term ''design projects'' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term ''special projects'' means—

(A) a special project grant to a minority institution which support activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(Pub. L. 89–329, title III, § 365, formerly title X, § 1046, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1566; renumbered title III, § 365, and amended Pub. L. 105–244, title III, §§ 301(a)(5), (7), 307(c), Oct. 7, 1998, 112 Stat. 1636, 1648.)

CODIFICATION

Section was formerly classified to section 1135d–5 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Par. (4). Pub. L. 105–244, § 307(c), inserted ''behavioral,'' after ''physical,''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1067c, 1131–1 of this title; title 10 section 2323.

§ 1067*l*. Repealed. Pub. L. 105–244, title III, § 301(a)(8), Oct. 7, 1998, 112 Stat. 1636

Section, Pub. L. 89–329, title III, § 366, formerly title X, § 1047, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, § 6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, § 1002(f), July 23, 1992, 106 Stat. 780; renumbered title III, § 366, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, authorized appropriations to carry out Fund for Improvement of Postsecondary Education program.

CODIFICATION

Section was formerly classified to section 1135d–6 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.

PART F—GENERAL PROVISIONS

CODIFICATION

Pub. L. 105–244, title III, § 301(a)(1), Oct. 7, 1998, 112 Stat. 1636, redesignated part D (§ 1066 et seq.) of this subchapter as part F of this subchapter.

§ 1068. Applications for assistance

(a) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the avail-

ability of appropriations to carry out this subchapter, the Secretary may approve an application for assistance under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section;

(B) the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this subchapter and the performance objectives and indicators for this subchapter established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by eligible institutions applying under part A of this subchapter prior to the submission of the principal application.

(b) Contents

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E of this subchapter) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or 1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1068e of this title, except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

(8) include such other information as the Secretary may prescribe.

(c) Priority criteria publication required

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all policies and procedures required to exercise the authority set forth in subsection (a) of this section. No other criteria, policies, or procedures shall apply.

(d) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations under section 1058 of this title and shall advance the base-year forward following each annual grant cycle.

(Pub. L. 89–329, title III, §391, formerly §351, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1302; amended Pub. L. 100–50, §2(a)(13), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, §305(a), July 23, 1992, 106 Stat. 478; renumbered §391 and amended Pub. L. 105–244, title III, §§301(a)(2), (c)(11), 308(a)–(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648, 1649.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (a)(1)(C), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115

of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

CODIFICATION

Section was formerly classified to section 1066 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1068, Pub. L. 89–329, title III, § 353, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305, which related to application review process, was renumbered section 393 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 1068b of this title.

Another prior section 1068, Pub. L. 89–329, title III, § 343, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1398, related to application review process and provided for reader panels, recommendation of such panels, and notification to institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1068, Pub. L. 89–329, title IV, § 408, Nov. 8, 1965, 79 Stat. 1235; Pub. L. 90–575, title I, § 105(a), Oct. 16, 1968, 82 Stat. 1018; Pub. L. 91–230, title VIII, § 801, Apr. 13, 1970, 84 Stat. 190; Pub. L. 92–318, title I, § 131(a)(1)(B), June 23, 1972, 86 Stat. 247, related to programs for identifying qualified low-income students and preparing them for post secondary education, grants or contracts for planning, developing or carrying out programs, ''Talent Search'' program, ''Upward Bound'' program, ''Special Services for Disadvantaged Students'' program, nature of programs, waiver of matching requirement in the ''Upward Bound'' program and authorization of appropriations, 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.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 308(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter if the application meets the requirements of subsection (b) of this section and shows that the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought.''

Subsec. (b)(1). Pub. L. 105–244, § 308(b), inserted '', D or E'' after ''part C''.

Subsec. (b)(6). Pub. L. 105–244, §§ 301(c)(11), 308(c), substituted ''section 1068e'' for ''section 1069c'' and inserted '', except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply'' before semicolon.

1992—Subsec. (b)(7)(D) to (F). Pub. L. 102–325 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: ''information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;''.

1987—Subsec. (b)(6). Pub. L. 100–50 substituted ''section 1069c of this title'' for ''section 1069b 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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1057, 1059a of this title.

§ 1068a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1058(b)(1)(A) of this title in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(6) that is a tribally controlled college or university as defined in section 1801 of title 25; or

(7) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) Waiver determinations; expenditures

(1) The Secretary may waive the requirements set forth in section 1058(b)(1)(B) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of such parts.[1]

(2) Omitted.

(3) The Secretary may waive the requirement set forth in section 1058(b)(1)(E)[2] of this title in

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

[2] See References in Text note below.

the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(Pub. L. 89–329, title III, § 392, formerly § 352, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1304; amended Pub. L. 100–50, § 2(a)(14), (15), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, § 305(b), July 23, 1992, 106 Stat. 478; renumbered § 392 and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(d), Oct. 7, 1998, 112 Stat. 1636, 1649.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (b)(3), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

CODIFICATION

Subsec. (b)(2) of this section, which required the Secretary to submit a report to Congress every other year on institutions which, although not satisfying the criterion contained in section 1058(b)(1)(B) of this title, have been determined to be eligible institutions under part A of this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 79 of House Document No. 103–7.

Section was formerly classified to section 1067 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a)(5) to (7). Pub. L. 105–244 struck out ''or'' at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

1992—Subsec. (a). Pub. L. 102–325 substituted ''Secretary may waive'' for ''Secretary shall waive''.

1987—Subsec. (a)(2). Pub. L. 100–50, § 2(a)(14), substituted ''low-income'' for ''low- and middle-income''.

Subsec. (b)(3). Pub. L. 100–50, § 2(a)(15), added par. (3).

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1058 of this title.

§ 1068b. Application review process

(a) Review panel

(1) All applications submitted under this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Tribal Colleges and Universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter and consistent with the provisions of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that should receive special consideration for grants awarded under part A of this subchapter and of the types of activities referred to in section 1062 of this title that should receive special consideration for grants awarded under part B of this subchapter;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(d) Exclusion

The provisions of this section shall not apply to applications submitted under part D of this subchapter.

(Pub. L. 89–329, title III, § 393, formerly § 353, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered § 393 and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(e), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1068 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 308(e)(1), substituted ''Tribal Colleges and Universities'' for ''Native American colleges and universities''.

Subsec. (d). Pub. L. 105–244, § 308(e)(2), added subsec. (d).

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.

§ 1068c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A of this subchapter, between institutions eligible for assistance under part A of this subchapter and between such institutions and institutions not receiving assistance under this subchapter; or

(2) with funds available to carry out part B of this subchapter, between institutions eligible for assistance under part B of this subchapter and institutions not receiving assistance under this subchapter;

for the activities described in section 1057(b) of this title or section 1062 of this title, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) Duration

Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 1059 of this title or section 1062 of this title.

(Pub. L. 89–329, title III, § 394, formerly § 354, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered § 394, Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069 of this title prior to renumbering by Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1059 of this title.

§ 1068d. Assistance to institutions under other programs

(a) Assistance eligibility

Each institution which the Secretary determines to be an institution eligible under part A of this subchapter or an institution eligible under part B of this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by part D of this subchapter or subchapter IV of this chapter or part C of subchapter I of chapter 34 of title 42.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title III, § 395, formerly § 356, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 102–325, title III, § 305(d), July 23, 1992, 106 Stat. 478; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–314; renumbered § 395 and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(f), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1069b of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, § 308(f), substituted ''part D of this subchapter or subchapter IV of this chapter'' for ''subchapter IV, VII, or VIII of this chapter''.

1996—Subsec. (b)(2). Pub. L. 104–208 struck out ''II,'' after ''authorized by subchapter''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''may be eligible'' for ''shall be eligible''.

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 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.

§ 1068e. Limitations

The funds appropriated under section 1069f[1] of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which

[1] See References in Text note below.

the funds were made available to the institution.

(Pub. L. 89–329, title III, § 396, formerly § 357, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered § 396, Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

Section 1069f of this title, referred to in text, was in the original a reference to section 360 of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1068 of this title.

§ 1068f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title III, § 397, formerly § 358, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered § 397, Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069d of this title prior to renumbering by Pub. L. 105–244.

§ 1068g. Continuation awards

The Secretary shall make continuation awards under this subchapter for the second and succeeding years of a grant only after determining that the recipient is making satisfactory progress in carrying out the grant.

(Pub. L. 89–329, title III, § 398, as added Pub. L. 105–244, title III, § 308(g), Oct. 7, 1998, 112 Stat. 1649.)

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.

§ 1068h. Authorization of appropriations

(a) Authorizations

(1) Part A

(A) There are authorized to be appropriated to carry out part A of this subchapter, $135,000,000 (other than section 1059c of this title) for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1059c of this title, $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(C) There are authorized to be appropriated to carry out section 1059d of this title, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Part B

(A) There are authorized to be appropriated to carry out part B of this subchapter (other than section 1063b of this title), $135,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1063b of this title, $35,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) Part C

There are authorized to be appropriated to carry out part C of this subchapter, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) Part D

(A) There are authorized to be appropriated to carry out part D of this subchapter (other than section 1066d(7) of this title, but including section 1066f of this title), $110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1066d(7) of this title, such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(5) Part E

There are authorized to be appropriated to carry out part E of this subchapter, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the recipient.

(Pub. L. 89–329, title III, § 399, formerly § 360, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; amended Pub. L. 102–325, title III, § 305(e)–(g), July 23, 1992, 106 Stat. 479; renumbered § 399, and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(h), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1069f of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1069, Pub. L. 89–329, title III, § 354, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305, which related to cooperative arrangements, was renumbered section 394 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 1068c of this title.

Another prior section 1069, Pub. L. 89–329, title III, § 344, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980,

94 Stat. 1399, provided for a program of grants to encourage cooperative arrangements between institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1069, Pub. L. 89–329, title IV, § 409, Nov. 8, 1965, 79 Stat. 1236, related to definition of academic year, 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.

A prior section 1069a, Pub. L. 89–329, title III, § 355, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 100–50, § 2(a)(16), (17), June 3, 1987, 101 Stat. 336, related to special payments rules, prior to repeal by Pub. L. 102–325, § 2, title III, § 305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

Another prior section 1069a, Pub. L. 89–329, title III, § 345, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1399, related to assistance to institutions under other programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069b, Pub. L. 89–329, title III, § 356, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306, and amended, which related to assistance to institutions under other programs, was renumbered section 395 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 1068d of this title.

Another prior section 1069b, Pub. L. 89–329, title III, § 346, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, limited activities for which funds appropriated to carry out this subchapter could be expended, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069c, Pub. L. 89–329, title III, § 357, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, which related to limitations on use of funds, was renumbered section 396 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 1068e of this title.

Another prior section 1069c, Pub. L. 89–329, title III, § 347, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, and Pub. L. 98–95, § 3, Sept. 26, 1983, 97 Stat. 711; Pub. L. 98–312, § 1, June 12, 1984, 98 Stat. 233, authorized appropriations to carry out parts A to C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069d, Pub. L. 89–329, title III, § 358, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, which related to penalties, was renumbered section 397 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 1068f of this title.

A prior section 1069e, Pub. L. 89–329, title III, § 359, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, required application for challenge grant, prior to repeal by Pub. L. 102–325, § 2, title III, § 305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

A prior section 1069f, Pub. L. 89–329, title III, § 360, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, and amended, which authorized appropriations, was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to this section.

AMENDMENTS

1998—Subsec. (a)(1)(A). Pub. L. 105–244, § 308(h)(1)(A), substituted ''1999'' for ''1993''.

Subsec. (a)(1)(B). Pub. L. 105–244, § 308(h)(1)(B), redesignated cl. (i) as entire subpar., substituted ''$10,000,000 for fiscal year 1999'' for ''$45,000,000 for fiscal year 1993'', and struck out cl. (ii) which read as follows: ''No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.''

Subsec. (a)(1)(C). Pub. L. 105–244, § 308(h)(1)(C), added subpar. (C).

Subsec. (a)(2)(A). Pub. L. 105–244, § 308(h)(2)(A), substituted ''1999'' for ''1993''.

Subsec. (a)(2)(B). Pub. L. 105–244, § 308(h)(2)(B), substituted ''$35,000,000 for fiscal year 1999'' for ''$20,000,000 for fiscal year 1993''.

Subsec. (a)(3). Pub. L. 105–244, § 308(h)(3), substituted ''$10,000,000 for fiscal year 1999'' for ''$50,000,000 for fiscal year 1993''.

Subsec. (a)(4), (5). Pub. L. 105–244, § 308(h)(4), added pars. (4) and (5).

Subsec. (c). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (c). Text read as follows: ''If the amount appropriated under subsection (a)(1) of this section for part A of this subchapter for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

''(1) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

''(2) allocate 75 percent of such excess among other eligible institutions.''

Subsec. (d). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (d). Text read as follows: ''In any fiscal year in which the sums appropriated for part A of this subchapter are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.''

Subsec. (e). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (e). Text read as follows: ''In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) of this section in each fiscal year to historically black colleges and universities that meet the requirements of part C of this subchapter, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 1065 of this title.''

1992—Subsec. (a). Pub. L. 102–325, § 305(e), amended subsec. (a) generally, substituting present provisions for provisions authorizing appropriations for fiscal year 1987 and the four succeeding fiscal years.

Subsec. (c). Pub. L. 102–325, § 305(f), substituted ''1986, the Secretary shall, for such fiscal year—'' for ''1986—'' in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

''(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A of this subchapter to institutions that are junior or community colleges not less than $51,400,000; and

''(2) the Secretary shall, for such fiscal year—

''(A) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

''(B) allocate 75 percent of such excess among other eligible institutions.''

Subsec. (e). Pub. L. 102–325, § 305(g), added subsec. (e).

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1057, 1062, 1063, 1065, 1068e of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1001, 1002, 1003, 1011c, 1015, 1018, 1018a, 1018b, 1028, 1058, 1068, 1068d, 1101a, 1103, 1103d, 6103, 6674 of this title; title 8 sections 1255a, 1613; title 10 sections 1598, 2410j; title 15 section 1603; title 22 section 2462; title 26 sections 25A, 529; title 29 sections 2842, 2864; title 31 section 3716; title 38 section 3698; title 42 sections 653, 3796d–6, 7274e, 12604; title 48 section 1905; title 50 App. section 462.

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

CODIFICATION

Part A of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1232, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–336, Aug. 4, 1978, 92 Stat. 451; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–145, Nov. 8, 1985, 99 Stat. 583. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1308, without reference to such intervening amendments because of the extensive revision of part A by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1090 of this title; title 31 section 6703; title 42 section 12604.

§1070. Statement of purpose; program authorization

(a) Purpose

It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 1091 of this title) in institutions of higher education by—

(1) providing Federal Pell Grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) Secretary required to carry out purposes

The Secretary shall, in accordance with subparts 1 through 8 of this part, carry out programs to achieve the purposes of this part.

(Pub. L. 89–329, title IV, §400, formerly §401, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1308; renumbered §400, Pub. L. 102–325, title IV, §402(a)(3), July 23, 1992, 106 Stat. 482; amended Pub. L. 105–244, title IV, §401(g)(1), Oct. 7, 1998, 112 Stat. 1652.)

PRIOR PROVISIONS

A prior section 1070, Pub. L. 89–329, title IV, §401, as added and amended Pub. L. 92–318, title I, §131(b)(1), title X, §1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, §125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, §401, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, stated purpose of program of grants to students in attendance at institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244 substituted ''Federal Pell Grants'' for ''basic educational opportunity grants''.

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.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

Pub. L. 107–122, Jan. 15, 2002, 115 Stat. 2386, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Higher Education Relief Opportunities for Students Act of 2001'.

''SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL EMERGENCY.

''(a) WAIVERS AND MODIFICATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this Act as the 'Secretary') may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) as the Secretary deems necessary in connection with the national emergency to provide the waivers or modifications authorized by paragraph (2).

''(2) ACTIONS AUTHORIZED.—The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

''(A) borrowers of Federal student loans who are affected individuals are not placed in a worse position financially in relation to those loans because of their status as affected individuals;

''(B) administrative requirements placed on affected individuals who are borrowers of Federal student loans are minimized, to the extent possible without impairing the integrity of the student loan programs, to ease the burden on such borrowers and avoid inadvertent, technical violations or defaults;

''(C) the calculation of 'annual adjusted family income' and 'available income', as used in the determination of need for student financial assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family; and

''(D) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) that are located in, or whose operations are directly affected by, areas that are de-

clared disaster areas by any Federal, State, or local official in connection with the national emergency may be granted temporary relief from requirements that are rendered infeasible or unreasonable by the national emergency, including due diligence requirements and reporting deadlines.

''(b) NOTICE OF WAIVERS OR MODIFICATIONS.—

''(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

''(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

''(3) CASE-BY-CASE BASIS.—The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

''(c) IMPACT REPORT.—The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

''(d) NO DELAY IN WAIVERS AND MODIFICATIONS.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the waivers and modifications authorized or required by this Act.

''SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF ARMED FORCES.

''(a) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) all institutions offering postsecondary education should provide a full refund to students who are members of the Armed Forces serving on active duty during the national emergency, for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service; and

''(2) if affected individuals withdraw from a course of study as a result of such service, such institutions should make every effort to minimize deferral of enrollment or reapplication requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

''(b) DEFINITION OF FULL REFUND.—For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

''SEC. 4. USE OF PROFESSIONAL JUDGMENT.

''At the time of publishing any waivers or modifications pursuant to section 2(b), the Secretary shall publish examples of measures that institutions may take in the appropriate exercise of discretion under section 479A of the Higher Education Act of 1965 (20 U.S.C. 1087tt) to adjust financial need and aid eligibility determinations for affected individuals.

''SEC. 5. DEFINITIONS.

''In this Act:

''(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

''(2) AFFECTED INDIVIDUAL.—The term 'affected individual' means an individual who—

''(A) is serving on active duty during the national emergency;

''(B) is serving on National Guard duty during the national emergency;

''(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with the national emergency; or

''(D) suffered direct economic hardship as a direct result of the national emergency, as determined under a waiver or modification issued under this Act.

''(3) FEDERAL STUDENT LOAN.—The term 'Federal student loan' means a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 20 U.S.C. 1087a et seq., and 20 U.S.C. 1087aa et seq.).

''(4) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

''(5) SERVING ON ACTIVE DUTY DURING THE NATIONAL EMERGENCY.—The term 'serving on active duty during the national emergency' shall include service by an individual who is—

''(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with such emergency or subsequent actions or conditions, regardless of the location at which such active duty service is performed; and

''(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

''(6) SERVING ON NATIONAL GUARD DUTY DURING THE NATIONAL EMERGENCY.—The term 'serving on National Guard duty during the national emergency' shall include performing training or other duty authorized by section 502(f) of title 32, United States Code, as a member of the National Guard, at the request of the President, for or in support of an operation during the national emergency.

''SEC. 6. TERMINATION OF AUTHORITY.

''The provisions of this Act shall cease to be effective on September 30, 2003.''

COMMUNITY SCHOLARSHIP MOBILIZATION

Pub. L. 105–244, title VIII, part C, Oct. 7, 1998, 112 Stat. 1810, provided that:

''SEC. 811. SHORT TITLE.

''This part may be cited as the 'Community Scholarship Mobilization Act'.

''SEC. 812. FINDINGS.

''Congress finds that—

''(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

''(2) local communities, working to complement or augment services currently offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally-based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized, financial assistance;

''(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of regional, State, or commu-

nity program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

''(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

''SEC. 813. DEFINITIONS.

''In this part:

''(1) REGIONAL, STATE, OR COMMUNITY PROGRAM CENTER.—The term 'regional, State, or community program center' means an organization that—

''(A) is a division or member of, responsible to, and overseen by, a national organization; and

''(B) is staffed by professionals trained to create, develop, and sustain local entities in towns, cities, and neighborhoods.

''(2) LOCAL ENTITY.—The term 'local entity' means an organization that—

''(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization);

''(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

''(C) solicits broad-based community support in its academic support and fund-raising activities;

''(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, retirees, and representatives of the business community;

''(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin, or disability; and

''(F) gives priority to awarding scholarships for postsecondary education to deserving students from low-income families in the local community.

''(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

''(A) has the capacity to create, develop and sustain local entities and affiliated regional, State, or community program centers;

''(B) has the capacity to sustain newly created local entities in towns, cities, and neighborhoods through ongoing training support programs;

''(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

''(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(iv) of such Code [26 U.S.C. 170(b)(1)(A)(iv)];

''(E) ensures that each of the organization's local entities meet the criteria described in subparagraphs (C) and (D); and

''(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out the organization's scholarship and academic support activities.

''(4) HIGH POVERTY AREA.—The term 'high poverty area' means a community with a higher percentage of children from low-income families than the national average of such percentage and a lower percentage of children pursuing postsecondary education than the national average of such percentage.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(6) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a).

''SEC. 814. PURPOSE; ENDOWMENT GRANT AUTHORITY.

''(a) PURPOSE.—It is the purpose of this part to establish and support regional, State or community program centers to enable such centers to foster the development of local entities in high poverty areas that promote higher education goals for students from low-income families by—

''(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

''(2) providing scholarship assistance for the cost of postsecondary education.

''(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 816, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of regional, State or community program centers that foster the development of local entities in high poverty areas to improve secondary school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the cost of postsecondary education.

''SEC. 815. GRANT AGREEMENT AND REQUIREMENTS.

''(a) IN GENERAL.—The Secretary shall award one or more endowment grants described in section 814(b) pursuant to an agreement between the Secretary and a national organization. Such agreement shall—

''(1) require a national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

''(2) require a national organization to use 70 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of regional, State or community program centers to enable such centers to work with local communities to establish local entities in high poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local entities;

''(3) require a national organization to use 30 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for postsecondary education to students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by the local entities;

''(4) require that at least 50 percent of all the interest income from the endowment [fund] be allocated to establish new local entities or support regional, State or community program centers in high poverty areas;

''(5) require a national organization to submit, for each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

''(A) a description of the programs and activities supported by the interest on the endowment fund;

''(B) the audited financial statement of the national organization for the preceding fiscal year;

''(C) a plan for the programs and activities to be supported by the interest on the endowment fund as the Secretary may require;

''(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

''(E) data indicating the number of students from low-income families who receive scholarships from local entities, and the amounts of such scholarships;

''(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund; and

''(7) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

''(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(7) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [42 U.S.C. 2751 et seq.]).

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2000.''

COMMUNITY SCHOOL PARTNERSHIPS

Pub. L. 103–382, title V, part B, Oct. 20, 1994, 108 Stat. 4045, which provided for grants to establish community centers giving academic support and postsecondary scholarships to poor students, was repealed by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

STUDY OF FEDERAL BENEFIT COORDINATION

Section 1405 of Pub. L. 102–325 directed Secretary of Education to conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] with other programs funded in whole or in part with Federal funds, with Secretary to prepare and submit to appropriate committees of Congress a report on the study not later than 3 years after July 23, 1992, together with such recommendations as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

OLYMPIC SCHOLARSHIPS

Pub. L. 102–325, title XV, § 1543, July 23, 1992, 106 Stat. 836, as amended by Pub. L. 105–244, title VIII, § 836, Oct. 7, 1998, 112 Stat. 1820; Pub. L. 106–554, § 1(a)(1) [title III, § 319], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–116, title III, § 305(a), Jan. 10, 2002, 115 Stat. 2208, provided that:

''(a) SCHOLARSHIPS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965 [20 U.S.C. 1088(a)]).

''(2) AWARD DETERMINATION.—The amount of the financial assistance provided to an athlete described in paragraph (1) shall be determined in accordance with criteria, and in amounts, specified in the application of the center under subsection (c). Such assistance shall not exceed the athlete's cost of attendance as determined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

''(3) INFORMATION ON DISTRIBUTION OF ASSISTANCE.—Each center providing such assistance shall annually report to the Secretary such information as the Secretary may reasonably require on the distribution of such assistance among athletes and institutions of higher education. The Secretary shall compile such reports and submit them to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

''(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part [part E (§ 1543) of Pub. L. 102–325] is available to both full-time and part-time students who are athletes at centers described in subsection (a).

''(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

''(e) DESIGNATION.—Scholarships awarded under this section shall be known as 'B.J. Stupak Olympic Scholarships'.''

[Pub. L. 107–116, title III, § 305(b), Jan. 10, 2002, 115 Stat. 2208, provided that: ''The amendments made by subsection (a) [amending section 1543 of Pub. L. 102–325, set out above] shall apply with respect to any funds appropriated pursuant to section 1543(d) of the Higher Education Amendments of 1992 [section 1543(d) of Pub. L. 102–325, set out above], including funds appropriated pursuant to that section in fiscal years 2000 and 2001, that are available for financial assistance under section 1543 on or after the date of enactment of this Act [Jan. 10, 2002].'']

PERSIAN GULF CONFLICT HIGHER EDUCATION ASSISTANCE

Pub. L. 102–26, §§ 4–6, Apr. 9, 1991, 105 Stat. 125–127, provided that:

''SEC. 4. OPERATION DESERT SHIELD/DESERT STORM WAIVER AUTHORITY.

''(a) PURPOSE.—It is the purpose of this section to ensure that—

''(1) the men and women serving on active duty in connection with Operation Desert Shield or Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

''(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

''(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because he or she was called up for such service.

''(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

''(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act [20 U.S.C. 1077(a)(2)(C)(ii), 1078(b)(1)(M)(ii), 1087dd(c)(2)(A)(ii)], in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary, be paid by the Secretary of Education, for the duration of such service;

''(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

''(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act [20 U.S.C. 1070a et seq.];

''(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

''(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

''(6) the modification of the terms 'annual adjusted family income' and 'available income,' as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for his or her spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and his or her family.

''(c) NOTICE OF WAIVER.—Notwithstanding section 431 [now 437] of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

''(d) DEFINITIONS.—For purposes of this Act [probably should be ''section'']—

''(1) Individuals 'serving on active duty in connection with Operation Desert Shield or Operation Desert Storm' shall include—

''(A) any Reserve of an Armed Force called to active duty under section 672(a) [now 12301(a)], 672(g) [now 12301(g)], 673 [now 12302], 673b [now 12304], 674 [now 12306], or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

''(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

''(2) The term 'active duty' has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

''SEC. 5. TUITION REFUNDS OR CREDITS.

''(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member or Reserve of an Armed Force on active duty service in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

''(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information he receives regarding any institutions that are not providing such refunds or credits.

''SEC. 6. TERMINATION OF AUTHORITY.

''The provisions of sections 4 and 5 shall cease to be effective on September 30, 1997.''

Pub. L. 102–25, title III, part E (§§ 371–376), Apr. 6, 1991, 105 Stat. 93, provided that:

''SEC. 371. SHORT TITLE

''This part may be cited as the 'Persian Gulf Conflict Higher Education Assistance Act'.

''SEC. 372. [Superseded by section 4 of Pub. L. 102–26, set out above.]

''SEC. 373. [Superseded by section 5 of Pub. L. 102–26, set out above.]

''SEC. 374. [Amended section 294d of Title 42, The Public Health and Welfare.]

''SEC. 375. [Superseded by section 6 of Pub. L. 102–26, set out above.]

''SEC. 376. COORDINATION WITH OTHER LAW

''If the Higher Education Technical Amendments of 1991 [Pub. L. 102–26, see Short Title of 1991 Amendment note set out under section 1001 of this title] is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a of this title.

SUBPART 1—FEDERAL PELL GRANTS

CODIFICATION

Pub. L. 105–244, title IV, § 401(g)(2), Oct. 7, 1998, 112 Stat. 1652, amended subpart heading generally.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1061, 1070, 1070a–14, 1070b–3, 1078, 1085, 1087b, 1087c, 1087e, 1087kk, 1091, 1091b, 1096 of this title; title 25 section 1809; title 26 section 6103.

§ 1070a. Federal Pell Grants: amount and determinations; applications

(a) Program authority and method of distribution

(1) For each fiscal year through fiscal year 2004, the Secretary shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 1091 of this title) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a Federal Pell Grant in the amount for which that student is eligible, as determined pursuant to subsection (b) of this section. Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner,,[1] except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly

[1] So in original.

to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Grants made under this subpart shall be known as ''Federal Pell Grants''.

(b) Purpose and amount of grants

(1) The purpose of this subpart is to provide a Federal Pell Grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 1087*ll* of this title), unless the institution determines that a greater amount of assistance would better serve the purposes of section 1070[2] of this title.

(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

(i) $4,500 for academic year 1999–2000;

(ii) $4,800 for academic year 2000–2001;

(iii) $5,100 for academic year 2001–2002;

(iv) $5,400 for academic year 2002–2003; and

(v) $5,800 for academic year 2003–2004,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the Federal Pell Grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 1089 of this title.

(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,700, the amount of a student's basic grant shall equal $2,700 plus—

(i) one-half of the amount by which such maximum basic grant exceeds $2,700; plus

(ii) the lesser of—

(I) the remaining one-half of such excess; or

(II) the sum of the student's tuition and, if the student has dependent care expenses (as described in section 1087*ll*(8) of this title) or disability-related expenses (as described in section 1087*ll*(9) of this title), an allowance determined by the institution for such expenses.

(B) An institution that charged only fees in lieu of tuition as of October 1, 1998, may include in the institution's determination of tuition charged, fees that would normally constitute tuition.

(4) No Federal Pell Grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 1087*ll* of this title) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a Federal Pell Grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the Federal Pell Grant shall be reduced until the combination of expected family contribution and the amount of the Federal Pell Grant does not exceed the cost of attendance at such institution.

(5) No Federal Pell Grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $400, except that a student who is eligible for a Federal Pell Grant that is equal to or greater than $200 but less than $400 shall be awarded a Federal Pell Grant of $400.

(6)(A) The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single award year, if—

(i) the student is enrolled full-time in an associate or baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

(ii) the student completes course work toward completion of an associate or baccalaureate degree that exceeds the requirements for a full academic year as defined by the institution.

(B) The Secretary shall promulgate regulations implementing this paragraph.

(7) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the Federal Pell Grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such Federal Pell Grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(8) No Federal Pell Grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.

(c) Period of eligibility for grants

(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are deter-

[2] See References in Text note below.

mined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a Federal Pell Grant if the student—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

(B) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.

(d) Applications for grants

(1) The Secretary shall from time to time set dates by which students shall file applications for Federal Pell Grants under this subpart.

(2) Each student desiring a Federal Pell Grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) Distribution of grants to students

Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) Calculation of eligibility

(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a Federal Pell Grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives.

(g) Insufficient appropriations

If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) Use of excess funds

(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made

under this paragraph only with respect to entitlements for that fiscal year.

(i) Treatment of institutions and students under other laws

Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690 [41 U.S.C. 701 et seq.].

(j) Institutional ineligibility based on default rates

(1) In general

No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or C of this subchapter as a result of a final default rate determination made by the Secretary under part B or C of this subchapter after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

(2) Sanctions subject to appeal opportunity

No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution's default rate determination under regulations issued by the Secretary for the loan program authorized under part B or C of this subchapter, as applicable. This subsection shall not apply to an institution that was not participating in the loan program authorized under part B or C of this subchapter on October 7, 1998, unless the institution subsequently participates in the loan programs.

(Pub. L. 89–329, title IV, § 401, formerly § 411, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1309; amended Pub. L. 100–50, § 3(a), June 3, 1987, 101 Stat. 337; renumbered § 401 and amended Pub. L. 102–325, title IV, §§ 401(a)–(h), 402(a)(3), July 23, 1992, 106 Stat. 479–482; Pub. L. 103–208, § 2(b)(1)–(5), (k)(1), Dec. 20, 1993, 107 Stat. 2458, 2485; Pub. L. 103–322, title II, § 20411(a), Sept. 13, 1994, 108 Stat. 1828; Pub. L. 105–244, title IV, § 401(a)–(f), (g)(3), (4), Oct. 7, 1998, 112 Stat. 1650–1652.)

REFERENCES IN TEXT

Section 1070 of this title, referred to in subsec. (b)(1), was in the original a reference to section 401, meaning section 401 of the Higher Education Act of 1965, Pub. L. 89–329. Sections 401 and 411 of that Act were renumbered as sections 400 and 401, respectively, by Pub. L. 102–325, title IV, § 402(a)(3), July 23, 1992, 106 Stat. 482, and are classified to sections 1070 and 1070a of this title, respectively.

Subtitle D of title V of Public Law 100–690, referred to in subsec. (i), is subtitle D (§§ 5151–5160) of title V of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4304, commonly known as the Drug-Free Workplace Act of 1988, which is classified generally to chapter 10 (§ 701 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 41 and Tables.

PRIOR PROVISIONS

A prior section 1070a, Pub. L. 89–329, title IV, § 411, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 248; amended Pub. L. 94–328, § 2(f), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 121(a), (b)(1), (c)–(i), Oct. 12, 1976, 90 Stat. 2091–2093; Pub. L. 95–43, § 1(a)(5), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, § 2, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, § 5(a)(1), (2)(A), Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, title IV, § 402, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503; Pub. L. 97–301, § 8(a), Oct. 13, 1982, 96 Stat. 1402, related to basic educational opportunity grants, amount and determinations, and applications, prior to the general revision of this part by Pub. L. 99–498.

A prior section 401 of Pub. L. 89–329 was renumbered section 400 by section 402(a)(3) of Pub. L. 102–325 and is classified to section 1070 of this title.

Another prior section 401 of Pub. L. 89–329, title IV, as added and amended Pub. L. 92–318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, § 401, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, which stated purpose of program of grants to students in attendance at institutions of higher education, was classified to section 1070 of this title, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244, § 401(g)(3)(A), substituted ''Federal Pell'' for ''Basic educational opportunity'' in section catchline.

Subsec. (a)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Pub. L. 105–244, § 401(a), substituted ''For each fiscal year through fiscal year 2004, the Secretary shall'' for ''The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998,'' and inserted ''until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner,'' after ''pay eligible students''.

Subsec. (a)(3). Pub. L. 105–244, § 401(g)(3)(B), substituted ''Grants made'' for ''Basic grants made''.

Subsec. (b)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (b)(2)(A). Pub. L. 105–244, § 401(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The amount of the basic grant for a student eligible under this part shall be—

''(i) $3,700 for academic year 1993–1994,

''(ii) $3,900 for academic year 1994–1995,

''(iii) $4,100 for academic year 1995–1996,

''(iv) $4,300 for academic year 1996–1997, and

''(v) $4,500 for academic year 1997–1998,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.''

Subsec. (b)(2)(B). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (b)(3). Pub. L. 105–244, § 401(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

''(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

''(ii) the lesser of—

''(I) the remaining one-half of such excess; or

''(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

''(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 1087*ll*(8) of this title) or disability related expenses (as defined in section 1087*ll*(9) of this title).''

Subsec. (b)(4), (5). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' wherever appearing.

Subsec. (b)(6). Pub. L. 105–244, § 401(d), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (b)(7), (8). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' wherever appearing.

Subsec. (c)(1). Pub. L. 105–244, § 401(g)(3)(D), substituted ''Federal Pell Grants'' for ''basic grants''.

Subsec. (c)(4). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' in introductory provisions.

Pub. L. 105–244, § 401(e), added par. (4).

Subsec. (d)(1). Pub. L. 105–244, § 401(g)(3)(D), substituted ''Federal Pell Grants'' for ''basic grants''.

Subsecs. (d)(2), (f)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (f)(3). Pub. L. 105–244, § 401(g)(4), substituted ''Education and the Workforce'' for ''Education and Labor''.

Subsec. (j). Pub. L. 105–244, § 401(f), added subsec. (j).

1994—Subsec. (b)(8). Pub. L. 103–322 amended par. (8) generally. Prior to amendment, par. (8) read as follows:

''(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

''(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.''

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(b)(1), inserted before period at end of second sentence '', except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment''.

Subsec. (b)(2)(B). Pub. L. 103–208, § 2(k)(1), amended directory language of Pub. L. 102–325, § 401(d)(2)(A). See 1992 Amendment note below.

Subsec. (b)(6). Pub. L. 103–208, § 2(b)(2)–(4), substituted ''single award year'' for ''single 12-month period'' in introductory provisions, ''an associate or baccalaureate'' for ''a baccalaureate'' in subpar. (A), and ''an associate or baccalaureate'' for ''a bachelor's'' in subpar. (B).

Subsec. (i). Pub. L. 103–208, § 2(b)(5), substituted ''subtitle D of title V'' for ''part D of title V''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 401(a), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''subsection (b) of this section'' for ''paragraph (2)''.

Subsec. (a)(3). Pub. L. 102–325, § 401(b), substituted ''Federal Pell Grants'' for ''Pell Grants''.

Subsec. (b)(1). Pub. L. 102–325, § 401(c), struck out ''(A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 1070a–6 of this title); and (B)'' after ''basic grant that'' and substituted ''family and student'' for ''parental or independent student'', ''subparts 3 and 4'' for ''subparts 2 and 3'', and ''will meet at least 75 percent'' for ''will meet 75 percent''.

Subsec. (b)(2)(A)(i) to (v). Pub. L. 102–325, § 401(d)(1), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

''(i) $2,300 for academic year 1987–1988,

''(ii) $2,500 for academic year 1988–1989,

''(iii) $2,700 for academic year 1989–1990,

''(iv) $2,900 for academic year 1990–1991, and

''(v) $3,100 for academic year 1991–1992,''.

Subsec. (b)(2)(B). Pub. L. 102–325, § 401(d)(2)(A), as amended by Pub. L. 103–208, § 2(k)(1), inserted ''(including a student who attends an institution of higher education on less than a half-time basis)'' in first sentence after ''full-time basis'' the first time appearing.

Pub. L. 102–325, § 401(d)(2)(B), inserted '', computed in accordance with this subpart'' before period at end of first sentence.

Subsec. (b)(3). Pub. L. 102–325, § 401(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 1070a–6 of this title) at the institution at which the student is in attendance for that year.''

Subsec. (b)(4). Pub. L. 102–325, § 401(d)(4), substituted ''section 1087*ll*'' for ''section 1070a–6''.

Subsec. (b)(5). Pub. L. 102–325, § 401(d)(5), substituted ''$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400'' for ''$200''.

Subsec. (b)(6) to (8). Pub. L. 102–325, § 401(d)(6), added pars. (6) to (8) and struck out former pars. (6) and (7) which limited or prohibited basic grants from funds appropriated for fiscal years prior to 1992 to students attending on a less than half-time basis.

Subsec. (c)(1). Pub. L. 102–325, § 401(e)(1), substituted ''any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.'' for ''—

''(A) such period may not exceed the full-time equivalent of—

''(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

''(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

''(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

''(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

''(i) the death of a relative of the student;

''(ii) the personal injury or illness of the student; or

''(iii) special circumstances as determined by the institution.''

Subsec. (c)(2). Pub. L. 102–325, § 401(e)(2), inserted at end ''Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.''

Subsec. (f)(1). Pub. L. 102–325, § 401(f)(1), substituted '', as a part of its regular output document, the expected family contribution'' for ''an estimate of the eligibility index'' in introductory provisions and ''expected family contribution'' for ''eligibility index'' in subpars. (A), (B), and (D).

Subsec. (f)(3). Pub. L. 102–325, § 401(f)(2), substituted ''expected family contribution'' for ''eligibility index''.

Subsec. (g). Pub. L. 102–325, § 401(g), struck out ''Adjustments for'' before ''insufficient appropriations'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section, the amount paid with respect to each entitlement shall be—

''(A) the full amount for any student whose expected family contribution is $200 or less, or

''(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

''(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall

contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.''

Subsec. (i). Pub. L. 102–325, §401(h), substituted ''Treatment of institutions and students under other laws'' for ''Noncontractor status of institutions'' in heading and inserted at end of text ''Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100–690.''

1987—Subsec. (g)(2). Pub. L. 100–50 substituted ''paragraph (1)(B)'' for ''paragraph (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 section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 20411(b) of Pub. L. 103–322 provided that: ''The amendment made by this section [amending this section] shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act [Sept. 13, 1994].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(1), (3)–(5), (k)(1) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, and amendment by section 2(b)(2) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 410 of Pub. L. 102–325 provided that: ''The changes made in part A of title IV of the Act [20 U.S.C. 1070 et seq.] by the amendments made by this part [part A (§§ 401–410) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part A;

''(2) that the changes made in section 411 [this section], relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

''(3) that the changes in section 413C(a)(2) [20 U.S.C. 1070b–2(a)(2)], relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.''

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(3), (4) of Pub. L. 99–498 provided that:

''(3) Section 411(c) of the Act [20 U.S.C. 1070a(c)] as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

''(4) Section 411(f) of the Act [20 U.S.C. 1070a(f)] as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.''

STUDY OF PELL GRANT ELIGIBILITY FOR LESS THAN HALF-TIME STUDENTS

Section 1306 of Pub. L. 99–498 directed Secretary to conduct a study and report to Congress not later than Sept. 30, 1988, on the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and of $0–$200 for the appropriate academic years, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

MAXIMUM PELL GRANTS

Provisions limiting the maximum Pell grant that a student may receive were contained in the following appropriation acts:

Pub. L. 107–116, title III, Jan. 10, 2002, 115 Stat. 2205.

Pub. L. 106–554, §1(a)(1) [title III], Dec. 21, 2000, 114 Stat. 2763, 2763A–37.

Pub. L. 106–113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–251.

Pub. L. 105–277, div. A, §101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–369.

Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1501.

Pub. L. 104–208, div. A, title I, §101(e) [title III], Sept. 30, 1996, 110 Stat. 3009–233, 3009–257.

Pub. L. 104–134, title I, §101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–232; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–99, title I, §119, Jan. 26, 1996, 110 Stat. 30, prior to repeal by Pub. L. 104–134, title I, §101(d) [title V, §518], Apr. 26, 1996, 110 Stat. 1321–211, 1321–248; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–333, title III, Sept. 30, 1994, 108 Stat. 2564.

Pub. L. 103–112, title III, Oct. 21, 1993, 107 Stat. 1104.

Pub. L. 102–394, title III, Oct. 6, 1992, 106 Stat. 1816.

Pub. L. 102–170, title III, Nov. 26, 1991, 105 Stat. 1131.

Pub. L. 101–517, title III, Nov. 5, 1990, 104 Stat. 2212.

Pub. L. 101–166, title III, Nov. 21, 1989, 103 Stat. 1182.

Pub. L. 100–436, title III, Sept. 20, 1988, 102 Stat. 1704.

Pub. L. 100–202, §101(h) [title III], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–25, 1090 of this title.

§§ 1070a–1 to 1070a–6. Repealed. Pub. L. 102–325, title IV, § 401(i), July 23, 1992, 106 Stat. 482

Section 1070a–1, Pub. L. 89–329, title IV, §411A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1312; amended Pub. L. 100–50, §3(b)(1), June 3, 1987, 101 Stat. 337; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, related to family contribution schedule for Pell Grants and data elements.

Section 1070a–2, Pub. L. 89–329, title IV, §411B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1313; amended Pub. L. 100–50, §3(b)(2), (c)–(f)(1), (4), (5), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 102–54, §13(g)(1)(B), June 13, 1991, 105 Stat. 275, related to eligibility determination for dependent students.

Section 1070a–3, Pub. L. 89–329, title IV, §411C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1316; amended Pub. L. 100–50, §3(b)(3), (c)(1), (f)(2), (4), (5), (g), (h)(2), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(C), June 13, 1991, 105 Stat. 275, related to eligibility determination for independent students with dependents other than a spouse.

Section 1070a–4, Pub. L. 89–329, title IV, §411D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1319; amended Pub. L. 100–50, §3(b)(4), (c)(1), (f)(3), (4), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(D), June 13, 1991, 105 Stat. 275, related to eligibility determination for single independent students or for married independent students without other dependents.

Section 1070a–5, Pub. L. 89–329, title IV, §411E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1322, related to regulations and updated tables.

Section 1070a–6, Pub. L. 89–329, title IV, §411F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100

Stat. 1323; amended Pub. L. 100–50, § 3(h)(1), (i)–(m), June 3, 1987, 101 Stat. 338, 339; Pub. L. 100–369, § 7(a), (c), July 18, 1988, 102 Stat. 836, 837; Pub. L. 101–610, title I, § 185(1), (2), Nov. 16, 1990, 104 Stat. 3167, related to definitions and determinations.

SUBPART 2—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

CODIFICATION

Pub. L. 102–325, title IV, § 402(a)(2), (4), July 23, 1992, 106 Stat. 482, added subpart 2 and redesignated former subpart 2 comprising sections 1070b to 1070b–3 of this title as subpart 3.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1087kk, 1087mm, 1087*oo*, 1087pp, 1087qq of this title.

Division 1—Federal TRIO Programs

DIVISION REFERRED TO IN OTHER SECTIONS

This division is referred to in sections 1011b, 1070a–25, 6534 of this title.

§ 1070a–11. Program authority; authorization of appropriations

(a) Grants and contracts authorized

The Secretary shall, in accordance with the provisions of this division, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) Recipients, duration, and size

(1) Recipients

For the purposes described in subsection (a) of this section, the Secretary is authorized, without regard to section 5 of title 41, to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies and organizations, and in exceptional circumstances, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this division.

(2) Duration

Grants or contracts made under this division shall be awarded for a period of 4 years, except that—

(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year;

(B) grants made under section 1070a–17 of this title shall be awarded for a period of 2 years; and

(C) grants under section 1070a–18 of this title shall be awarded for a period determined by the Secretary.

(3) Minimum grants

Unless the institution or agency requests a smaller amount, individual grants under this division shall be no less than—

(A) $170,000 for programs authorized by sections 1070a–14 and 1070a–17 of this title;

(B) $180,000 for programs authorized by sections 1070a–12 and 1070a–16 of this title; and

(C) $190,000 for programs authorized by sections 1070a–13 and 1070a–15 of this title.

(c) Procedures for awarding grants and contracts

(1) Application requirements

An eligible entity that desires to receive a grant or contract under this division shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

(2) Prior experience

In making grants under this division, the Secretary shall consider each applicant's prior experience of service delivery under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 1070a–18 of this title shall not be given prior experience consideration.

(3) Order of awards; program fraud

(A) Except with respect to grants made under sections 1070a–17 and 1070a–18 of this title and as provided in subparagraph (B), the Secretary shall award grants and contracts under this division in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this division, if the Secretary has determined that such program has involved the fraudulent use of funds under this division.

(4) Peer review process

(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this division. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this division is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

(5) Number of applications for grants and contracts

The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this division if the additional applications describe programs serving different populations or campuses.

(6) Coordination with other programs for disadvantaged students

The Secretary shall encourage coordination of programs assisted under this division with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this division because such entity sponsors a program similar to the program to be assisted under this division, regardless of the funding source of such program. The Secretary shall permit the Director of a program receiving funds under this division to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs.

(7) Application status

The Secretary shall inform each entity operating programs under this division regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this division, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this division for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(d) Outreach

(1) In general

The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this division submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division.

(2) Notice

In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of this section of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this division and shall consult national, State, and regional organizations about candidates for notification.

(3) Technical assistance

The Secretary shall provide technical training to applicants for projects and programs authorized under this division. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) Special rule

The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) Documentation of status as a low-income individual

(1) Except in the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(f) Authorization of appropriations

For the purpose of making grants and contracts under this division, there are authorized to be appropriated $700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the amount appropriated under this division, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers. The Secretary shall report to Congress by October 1, 1994, on the use of these funds.

(g) Definitions

For the purpose of this division:

(1) First generation college student

The term ''first generation college student'' means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from

only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(2) Low-income individual

The term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(3) Veteran eligibility

No veteran shall be deemed ineligible to participate in any program under this division by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

(4) Waiver

The Secretary may waive the service requirements in subparagraph (A) or (B) of paragraph (3) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this division.

(Pub. L. 89–329, title IV, § 402A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 482; amended Pub. L. 103–208, § 2(b)(6)–(9), Dec. 20, 1993, 107 Stat. 2458; Pub. L. 105–244, title I, § 102(b)(1), title IV, § 402(a), Oct. 7, 1998, 112 Stat. 1622, 1652.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsec. (f), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

REFERENCES TO SUBPART 2, 3, OR 4 OF THIS PART DEEMED TO REFER TO SUBPART 3, 4, OR 2 OF THIS PART

Section 402(b) of Pub. L. 102–325 provided that: ''Reference in any provision of law (other than the Act [20 U.S.C. 1001 et seq.]) to subpart 2, 3, or 4 of part A of title IV of the Act shall, after the date of enactment of this Act [July 23, 1992], be deemed to refer to subpart 3 [20 U.S.C. 1070b et seq.], 4 [20 U.S.C. 1070c et seq.], or 2 [20 U.S.C. 1070a–11 et seq.] of such part, respectively.''

AMENDMENTS

1998—Subsec. (b)(2)(C). Pub. L. 105–244, § 402(a)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 105–244, § 402(a)(2), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''In any year in which the appropriations authorized under this division exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 1070a–14 or 1070a–17 of this title, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 1070a–12 or 1070a–16 of this title shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 1070a–13 or 1070a–15 of this title shall not be less than $190,000 for fiscal year 1995.''

Subsec. (c). Pub. L. 105–244, § 402(a)(3), amended subsec. (c) generally, revising and restating former pars. (1) to (6), relating to procedures for awarding grants and contracts, as pars. (1) to (7).

Subsec. (c)(2). Pub. L. 105–244, § 102(b)(1), substituted ''section 1011g'' for ''section 1145d–1''.

Subsec. (f). Pub. L. 105–244, § 402(a)(4), substituted ''$700,000,000 for fiscal year 1999'' for ''$650,000,000 for fiscal year 1993''.

Subsec. (g)(4). Pub. L. 105–244, § 402(a)(5), added par. (4).

1993—Subsec. (b)(2). Pub. L. 103–208, § 2(b)(6), added par. (2) and struck out former par. (2) which read as follows: ''Grants or contracts made under this division shall be awarded for a period of 4 years, except that the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year.''

Subsec. (c)(1). Pub. L. 103–208, § 2(b)(7), inserted before period at end of second sentence '', except that in the case of the programs authorized in sections 1070a–15 and 1070a–17 of this title, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this division''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(b)(8), inserted ''with respect to grants made under section 1070a–17 of this title, and'' after ''Except''.

Subsec. (e). Pub. L. 103–208, § 2(b)(9), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made—

''(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, or a signed United States or Puerto Rican income tax return; and

''(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, or a signed United States or Puerto Rican income tax return.''

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 section 2(b)(6), (8), (9) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(b)(7) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208 set out as a note under section 1051 of this title.

ADVANCED PLACEMENT FEE PAYMENT PROGRAM

Pub. L. 105–244, title VIII, § 810, Oct. 7, 1998, 112 Stat. 1808, which authorized grants to States to enable States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, required dissemination of information regarding availability of payments, set forth requirements for approval of applications and funding rules, authorized regulations, required annual report, defined terms, and authorized appropriations, was repealed by Pub. L. 107–110, title X, § 1011(2), Jan. 8, 2002, 115 Stat. 1986.

Similar provisions were contained in Pub. L. 102–325, title XV, § 1545, July 23, 1992, 106 Stat. 837, which was re-

pealed by Pub. L. 107–110, title X, § 1011(1), Jan. 8, 2002, 115 Stat. 1986.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–15, 1070d–2 of this title.

§ 1070a–12. Talent search

(a) Program authority

The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) Permissible services

Any talent search project assisted under this division may provide services such as—

(1) academic advice and assistance in secondary school and college course selection;

(2) assistance in completing college admission and financial aid applications;

(3) assistance in preparing for college entrance examinations;

(4) guidance on and assistance in secondary school reentry, entry to general educational development (GED) programs, other alternative education programs for secondary school dropouts, or postsecondary education;

(5) personal and career counseling, or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented;

(6) tutorial services;

(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

(8) workshops and counseling for families of students served;

(9) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for talent search projects under this division for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–16 of this title;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–16 of this title; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(Pub. L. 89–329, title IV, § 402B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 486; amended Pub. L. 105–244, title IV, § 402(b), Oct. 7, 1998, 112 Stat. 1654.)

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–244, § 402(b)(1), added par. (4) and struck out former par. (4) which read as follows: ''guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;''.

Subsec. (b)(5). Pub. L. 105–244, § 402(b)(2), inserted before semicolon '', or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented''.

Subsec. (b)(8). Pub. L. 105–244, § 402(b)(3), substituted ''families'' for ''parents''.

Subsec. (b)(9). Pub. L. 105–244, § 402(b)(4), inserted ''or counselors'' after ''teachers''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–16 of this title.

§ 1070a–13. Upward bound

(a) Program authority

The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) Permissible services

Any upward bound project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) counseling and workshops;

(3) academic advice and assistance in secondary school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in

which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs;

(9) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

(10) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(11) special services to enable veterans to make the transition to postsecondary education; and

(12) programs and activities as described in paragraphs (1) through (11) which are specially designed for students of limited English proficiency.

(c) Required services

Any upward bound project assisted under this division which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) Requirements for approval of applications

In approving applications for upward bound projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school; and

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(e) Maximum stipends

Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, except that youth participating in a work-study position under subsection (b)(10) of this section may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.

(Pub. L. 89–329, title IV, § 402C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 487; amended Pub. L. 103–208, § 2(b)(10), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 402(c), Oct. 7, 1998, 112 Stat. 1654.)

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, § 402(c)(1)(A), substituted ''counseling and workshops'' for ''personal counseling''.

Subsec. (b)(9). Pub. L. 105–244, § 402(c)(1)(B), inserted ''or counselors'' after ''teachers'' and struck out ''and'' after semicolon.

Subsec. (b)(10), (11). Pub. L. 105–244, § 402(c)(1)(D), added pars. (10) and (11). Former par. (10) redesignated (12).

Subsec. (b)(12). Pub. L. 105–244, § 402(c)(1)(E), substituted ''(11)'' for ''(9)''.

Pub. L. 105–244, § 402(c)(1)(C), redesignated par. (10) as (12).

Subsec. (e). Pub. L. 105–244, § 402(c)(2), substituted ''except that youth participating in a work-study position under subsection (b)(10) of this section may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.'' for ''and not in excess of $40 per month during the remaining period of the year.''

1993—Subsec. (c). Pub. L. 103–208 substituted ''foreign'' for ''and foreign''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1070a–14. Student support services

(a) Program authority

The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions; and

(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

(b) Permissible services

A student support services project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services and counseling and peer counseling;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

(9) mentoring programs involving faculty or upper class students, or a combination thereof; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Special rule

(1) Use for student aid

A recipient of a grant that undertakes any of the permissible services identified in subsection (b) of this section may, in addition, use such funds to provide grant aid to students. A grant provided under this paragraph shall not exceed the maximum appropriated Pell Grant or, be less than the minimum appropriated Pell Grant, for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution's financial aid office.

(2) Eligible students

For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter; or

(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter if the institution demonstrates to the satisfaction of the Secretary that—

(i) these students are at high risk of dropping out; and

(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

(3) Determination of need

A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this subchapter, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter exceed that student's cost of attendance, as defined in section 1087*ll* of this title.

(4) Matching required

A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of subchapter III or subchapter V of this chapter.

(5) Reservation

In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

(6) Supplement, not supplant

Funds received by a grant recipient that are used under this subsection shall be used to supplement, and not supplant, non-Federal funds expended for student support services programs.

(d) Requirements for approval of applications

In approving applications for student support services projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

(B) maintaining the loan burden of each such student at a manageable level.

(Pub. L. 89–329, title IV, § 402D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 488; amended Pub. L. 103–208, § 2(b)(11), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 402(d), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 106–554, § 1(a)(1) [title III, § 317(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–48.)

AMENDMENTS

2000—Subsecs. (c), (d). Pub. L. 106–554 added subsec. (c) and redesignated former subsec. (c) as (d).

1998—Subsec. (c)(6). Pub. L. 105–244 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''require an assurance from the institution which is the recipient of the grant or contract that each student en-

rolled in the project will be offered sufficient financial assistance to meet that student's full financial need.''

1993—Subsec. (c)(2). Pub. L. 103–208 struck out ''either'' after ''application''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(1) [title III, § 317(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to student support services grants awarded on or after the date of enactment of this Act [Dec. 21, 2000].''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–24 of this title.

§ 1070a–15. Postbaccalaureate achievement program authority

(a) Program authority

The Secretary shall carry out a program to be known as the ''Ronald E. McNair Postbaccalaureate Achievement Program'' that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) Services

A postbaccalaureate achievement project assisted under this section may provide services such as—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling;

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

(c) Requirements

In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 1094 of this title; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(d) Award considerations

In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(e) Maximum stipends

Students participating in research under a postbaccalaureate achievement project may receive an award that—

(1) shall include a stipend not to exceed $2,800 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(f) Funding

From amounts appropriated pursuant to the authority of section 1070a–11(f) of this title, the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1997.

(Pub. L. 89–329, title IV, § 402E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 489; amended Pub. L. 105–244, title IV, § 402(e), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105–244 substituted ''$2,800'' for ''$2,400''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1070a–16. Educational opportunity centers

(a) Program authority; services provided

The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) Permissible services

An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(6) personal counseling;

(7) tutorial services;

(8) career workshops and counseling;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–12 of this title; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–12 of this title.

(Pub. L. 89–329, title IV, § 402F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 490.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1070a–12 of this title.

§ 1070a–17. Staff development activities

(a) Secretary's authority

For the purpose of improving the operation of the programs and projects authorized by this division, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, participating in, or preparing for employment in, such programs and projects.

(b) Contents of training programs

Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this division as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this division.

(2) Assisting students in receiving adequate financial aid from programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42 and other programs.

(3) The design and operation of model programs for projects funded under this division.

(4) The use of appropriate educational technology in the operation of projects assisted under this division.

(c) Consultation

Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(Pub. L. 89–329, title IV, § 402G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, § 402(f), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 402(f)(1), inserted ''participating in,'' after ''leadership personnel employed in,''.

Subsec. (b)(4). Pub. L. 105–244, § 402(f)(2), added par. (4).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

§ 1070a–18. Evaluations and grants for project improvement and dissemination partnership projects

(a) Evaluations

(1) In general

For the purpose of improving the effectiveness of the programs and projects assisted under this division, the Secretary may make grants to or enter into contracts with institu-

tions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this division.

(2) Practices

The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education. Such evaluations shall also investigate the effectiveness of alternative and innovative methods within Federal TRIO programs of increasing access to, and retention of, students in postsecondary education.

(b) Grants

The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this division prior to October 7, 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this division and are serving low-income students and first generation college students, in order to—

(1) disseminate and replicate best practices of programs or projects assisted under this division; and

(2) provide technical assistance regarding programs and projects assisted under this division.

(c) Results

In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.

(Pub. L. 89–329, title IV, § 402H, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, § 402(g), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Pub. L. 105–244 amended section generally, revising and restating former subsecs. (a) to (c) relating to evaluation for project improvement.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–11 of this title.

Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs

CODIFICATION

Chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Chapter 2 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1656, without reference to those intervening amendments because of the extensive revision of chapter 2 by Pub. L. 105–244.

§ 1070a–21. Early intervention and college awareness program authorized

(a) Program authorized

The Secretary is authorized, in accordance with the requirements of this division, to establish a program that—

(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

(2) supports eligible entities in providing—

(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

(B) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.

(b) Awards

(1) In general

From funds appropriated under section 1070a–28 of this title for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) of this section to enable the entities to carry out the program authorized under subsection (a) of this section.

(2) Priority

In making awards to eligible entities described in paragraph (c)(1) of this section, the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before October 7, 1998, carried out successful educational opportunity programs under this division (as this division was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies;

(B) ensure that students served under this division on the day before October 7, 1998, continue to receive assistance through the completion of secondary school.

(c) "Eligible entity" defined

For the purposes of this division, the term ''eligible entity'' means—

(1) a State; or

(2) a partnership consisting of—

(A) one or more local educational agencies acting on behalf of—

(i) one or more elementary schools or secondary schools; and

(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

(B) one or more degree granting institutions of higher education; and

(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4 of this part, or other public or private agencies or organizations.

(Pub. L. 89–329, title IV, § 404A, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1656.)

PRIOR PROVISIONS

A prior section 1070a–21, Pub. L. 89–329, title IV, § 404A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(12), Dec. 20, 1993, 107 Stat. 2459, authorized establishment of early intervention program, prior to the general amendment of this division by Pub. L. 105–244.

EFFECTIVE DATE

Division 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.

EVALUATION OF TUITION GUARANTY PROGRAMS

Pub. L. 102–325, title XIV, § 1407, July 23, 1992, 106 Stat. 819, directed Secretary of Education to conduct study of effectiveness of programs for disadvantaged children that promise the child financial resources needed to pursue postsecondary education in exchange for child's commitment to achieve satisfactory elementary and secondary education, and to submit reports regarding study by June 30, 1996, and by Jan. 1, 1997, to committees of Congress, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–22, 1070a–23, 1070a–24, 1070a–25 of this title.

§ 1070a–22. Requirements

(a) Funding rules

(1) Continuation awards

From the amount appropriated under section 1070a–28 of this title for a fiscal year, the Secretary shall continue to award grants to States under this division (as this division was in effect on the day before October 7, 1998) in accordance with the terms and conditions of such grants.

(2) Distribution

From the amount appropriated under section 1070a–28 of this title that remains after making continuation awards under paragraph (1) for a fiscal year, the Secretary shall—

(A) make available—

(i) not less than 33 percent of the amount to eligible entities described in section 1070a–21(c)(1) of this title; and

(ii) not less than 33 percent of the amount to eligible entities described in section 1070a–21(c)(2) of this title; and

(B) award the remainder of the amount to eligible entities described in paragraph (1) or (2) of section 1070a–21(c) of this title.

(3) Special rule

The Secretary shall annually reevaluate the distribution of funds described in paragraph (2)(B) based on number, quality, and promise of the applications and adjust the distribution accordingly.

(b) Limitation

Each eligible entity described in section 1070a–21(c)(1) of this title, and each eligible entity described in section 1070a–21(c)(2) of this title that conducts a scholarship component under section 1070a–25 of this title, shall use not less than 25 percent and not more than 50 percent of grant funds received under this division for the early intervention component of an eligible entity's program under this division, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 1070a–23 of this title.

(c) Coordination

Each eligible entity shall ensure that the activities assisted under this division are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this division provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(d) Designation of fiscal agent

An eligible entity described in section 1070a–21(c)(2) of this title shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(e) Coordinators

An eligible entity described in section 1070a–21(c)(2) of this title shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 1070a–23 of this title.

(f) Displacement

An eligible entity described in[1] 1070a–21(c)(2) of this title shall ensure that the activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages or employment benefits.

(g) Cohort approach

(1) In general

The Secretary shall require that eligible entities described in section 1070a–21(c)(2) of this title—

[1] So in original. Probably should be followed by "section".

(A) provide services under this division to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 1437a(b)(1) of title 42); and

(B) ensure that the services are provided through the 12th grade to students in the participating grade level.

(2) Coordination requirement

In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(Pub. L. 89–329, title IV, § 404B, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1657; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (g)(1)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–22, Pub. L. 89–329, title IV, § 404B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459, related to State eligibility and State plan, prior to the general amendment of this division by Pub. L. 105–244.

AMENDMENTS

1999—Subsec. (g)(1)(A). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 1070a–23. Eligible entity plans

(a) Plan required for eligibility

(1) In general

In order for an eligible entity to qualify for a grant under this division, the eligible entity shall submit to the Secretary a plan for carrying out the program under this division. Such plan shall provide for the conduct of a scholarship component if required or undertaken pursuant to section 1070a–25 of this title and an early intervention component required pursuant to section 1070a–24 of this title.

(2) Contents

Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

(A) describe the activities for which assistance under this division is sought; and

(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division.

(b) Matching requirement

(1) In general

The Secretary shall not approve a plan submitted under subsection (a) of this section unless such plan—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this division shall supplement and not supplant funds expended for existing programs.

(2) Special rule

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 1070a–21(c)(2) of this title.

(c) Methods for complying with matching requirement

An eligible entity may count toward the matching requirement described in subsection (b)(1)(A) of this section—

(1) the amount of the financial assistance paid to students from State, local, institutional, or private funds under this division;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this division; and

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

(d) Peer review panels

The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this division.

(Pub. L. 89–329, title IV, § 404C, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1658.)

PRIOR PROVISIONS

A prior section 1070a–23, Pub. L. 89–329, title IV, § 404C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 493; amended Pub. L. 103–208, § 2(b)(15)–(17), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 104–193, title I, § 110(h)(1), Aug. 22, 1996, 110 Stat. 2172, related to early intervention, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–24 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–22, 1070a–24 of this title.

§ 1070a–24. Early intervention

(a) Services

(1) In general

In order to receive a grant under this division, an eligible entity shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 1070a–23 of this title, that the eligible entity will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this division. Such counseling shall include—

(A) financial aid counseling and information regarding the opportunities for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) activities or information regarding—

(i) fostering and improving parent involvement in promoting the advantages of a college education, academic admission requirements, and the need to take college preparation courses;

(ii) college admissions and achievement tests; and

(iii) college application procedures.

(2) Methods

The eligible entity shall demonstrate in such plan, pursuant to regulations of the Secretary, the methods by which the eligible entity will target services on priority students described in subsection (c) of this section, if applicable.

(b) Uses of funds

(1) In general

The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a) of this section.

(2) Permissible activities

Examples of activities that meet the requirements of subsection (a) of this section include the following:

(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

(i) is coordinated with the Federal and State community service initiatives; and

(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory progress described in section 1091(c) of this title, in exchange for receiving tuition assistance for a period of time to be established by each eligible entity.

(C) Activities designed to ensure secondary school completion and college enrollment of at-risk children, such as identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, providing access to rigorous core courses that reflect challenging academic standards, personal counseling, family counseling and home visits, staff development, and programs and activities described in this subparagraph that are specially designed for students of limited English proficiency.

(D) Summer programs for individuals who are in their sophomore or junior years of secondary school or are planning to attend an institution of higher education in the succeeding academic year that—

(i) are carried out at an institution of higher education that has programs of academic year supportive services for disadvantaged students through projects authorized under section 1070a–14 of this title or through comparable projects funded by the State or other sources;

(ii) provide for the participation of the individuals who are eligible for assistance under section 1070a–14 of this title or who are eligible for comparable programs funded by the State;

(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

(II) provide such summer services as counseling, tutoring, or orientation; and

(III) provide financial assistance to the individuals to cover the individuals' summer costs for books, supplies, living costs, and personal expenses; and

(iv) provide the individuals with financial assistance during each academic year the individuals are enrolled at the participating institution after the summer program.

(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

(c) Priority students

For eligible entities not using a cohort approach, the eligible entity shall treat as priority students any student in preschool through grade 12 who is eligible—

(1) to be counted under section 6333(c) of this title;

(2) for free or reduced price meals under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.]; or

(3) for assistance pursuant to part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(d) Allowable providers

In the case of eligible entities described in section 1070a–21(c)(1) of this title, the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs au-

thorized under subpart 4 of this part, and other organizations the State deems appropriate.

(Pub. L. 89–329, title IV, § 404D, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1659; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–24, Pub. L. 89–329, title IV, § 404D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(18), (19), Dec. 20, 1993, 107 Stat. 2459, related to scholarship component, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–25 of this title.

AMENDMENTS

1999—Subsec. (c)(2). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–23, 1070a–25 of this title.

§ 1070a–25. Scholarship component

(a) In general

(1) States

In order to receive a grant under this division, an eligible entity described in section 1070a–21(c)(1) of this title shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

(2) Partnerships

An eligible entity described in section 1070a–21(c)(2) of this title may award scholarships to eligible students in accordance with the requirements of this section.

(b) Grant amounts

The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the lesser of—

(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

(2) the maximum Federal Pell Grant funded under section 1070a of this title for such fiscal year.

(c) Relation to other assistance

Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter and part C of subchapter I of chapter 34 of title 42 exceed such student's total cost of attendance.

(d) Eligible students

A student eligible for assistance under this section is a student who—

(1) is less than 22 years old at time of first scholarship award under this section;

(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the early intervention component required under section 1070a–24 of this title.

(e) Priority

The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.

(f) Special rule

An eligible entity may consider students who have successfully participated in programs funded under division 1 of this subpart to have met the requirements of subsection (d)(4) of this section.

(Pub. L. 89–329, title IV, § 404E, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1661.)

PRIOR PROVISIONS

A prior section 1070a–25, Pub. L. 89–329, title IV, § 404E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(20), Dec. 20, 1993, 107 Stat. 2459, related to distribution of funds, prior to the general amendment of this division by Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–22, 1070a–23 of this title.

§ 1070a–26. 21st Century Scholar Certificates

(a) Authority

The Secretary, using funds appropriated under section 1070a–28 of this title that do not exceed $200,000 for a fiscal year—

(1) shall ensure that certificates, to be known as 21st Century Scholar Certificates,

are provided to all students participating in programs under this division; and

(2) may, as practicable, ensure that such certificates are provided to all students in grades 6 through 12 who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(b) Information required

A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college which a student may be eligible to receive.

(Pub. L. 89–329, title IV, § 404F, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–26, Pub. L. 89–329, title IV, § 404F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(21), (22), Dec. 20, 1993, 107 Stat. 2459, related to evaluation and report, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–27 of this title.

AMENDMENTS

1999—Subsec. (a)(2). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 1070a–27. Evaluation and report

(a) Evaluation

Each eligible entity receiving a grant under this division shall biennially evaluate the activities assisted under this division in accordance with the standards described in subsection (b) of this section and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b) of this section.

(b) Evaluation standards

The Secretary shall prescribe standards for the evaluation described in subsection (a) of this section. Such standards shall—

(1) provide for input from eligible entities and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) Federal evaluation

In order to evaluate and improve the impact of the activities assisted under this division, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 1070a–28 of this title for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

(d) Report

The Secretary shall biennially report to Congress regarding the activities assisted under this division and the evaluations conducted pursuant to this section.

(Pub. L. 89–329, title IV, § 404G, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1662.)

PRIOR PROVISIONS

A prior section 1070a–27, Pub. L. 89–329, title IV, § 404G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(23), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 103–382, title III, § 354, Oct. 20, 1994, 108 Stat. 3967, authorized appropriations for grants under this division, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–28 of this title.

§ 1070a–28. Authorization of appropriations

There are authorized to be appropriated to carry out this division $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 404H, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1663.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–21, 1070a–22, 1070a–26, 1070a–27 of this title.

Division 3—Academic Achievement Incentive Scholarships

CODIFICATION

Chapter 3 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497. Chapter 3 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663, without reference to Pub. L. 102–325 because of the extensive revision of chapter 3 by Pub. L. 105–244.

§ 1070a–31. Scholarships authorized

The Secretary is authorized to award scholarships to students who graduate from secondary school after May 1, 2000, to enable the students to pay the cost of attendance at an institution of higher education during the students first 2 academic years of undergraduate education, if the students—

(1) are eligible to receive Federal Pell Grants for the year in which the scholarships are awarded; and

(2) demonstrate academic achievement by graduating in the top 10 percent of their secondary school graduating class.

(Pub. L. 89–329, title IV, § 406A, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663.)

PRIOR PROVISIONS

A prior section 1070a–31, Pub. L. 89–329, title IV, § 406A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, authorized award of Presidential Access Scholarships, prior to the general amendment of this division by Pub. L. 105–244.

EFFECTIVE DATE

Division 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.

§ 1070a–32. Scholarship program requirements

(a) Amount of award

(1) In general

Except as provided in paragraph (2), the amount of a scholarship awarded under this division for any academic year shall be equal to 100 percent of the amount of the Federal Pell Grant for which the recipient is eligible for the academic year.

(2) Adjustment for insufficient appropriations

If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 1070a–33 of this title, funds available to carry out this division for the academic year are insufficient to fully fund all awards under this division for the academic year, the amount of the scholarship paid to each student under this division shall be reduced proportionately.

(b) Assistance not to exceed cost of attendance

A scholarship awarded under this division to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

(Pub. L. 89–329, title IV, § 406B, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663.)

PRIOR PROVISIONS

A prior section 1070a–32, Pub. L. 89–329, title IV, § 406B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, related to scholarship program requirements, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–33. Eligibility of scholars

(a) Procedures established by regulation

The Secretary shall establish by regulation procedures for the determination of eligibility of students for the scholarships awarded under this division. Such procedures shall include measures to prevent any secondary school from certifying more than 10 percent of the school's students for eligibility under this section.

(b) Coordination

In prescribing procedures under subsection (a) of this section, the Secretary shall ensure that the determination of eligibility and the amount of the scholarship is determined in a timely and accurate manner consistent with the requirements of section 1089 of this title and the submission of the financial aid form required by section 1090 of this title. For such purposes, the Secretary may provide that, for the first academic year of a student's 2 academic years of eligibility under this division, class rank may be determined prior to graduation from secondary school, at such time and in such manner as the Secretary may specify in regulations prescribed under this division.

(Pub. L. 89–329, title IV, § 406C, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070a–33, Pub. L. 89–329, title IV, § 406C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, related to eligibility of scholars, prior to the general amendment of this division by Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070a–32 of this title.

§ 1070a–34. Student requirements

(a) In general

Each eligible student desiring a scholarship under this division shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Continuing eligibility

In order for a student to continue to be eligible to receive a scholarship under this division for the second year of undergraduate education, the eligible student shall maintain eligibility to receive a Federal Pell Grant for that year, including fulfilling the requirements for satisfactory progress described in section 1091(c) of this title.

(Pub. L. 89–329, title IV, § 406D, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070a–34, Pub. L. 89–329, title IV, § 406D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498, related to eligible early intervention programs, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–35. Authorization of appropriations

There are authorized to be appropriated to carry out this division $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 407E [406E], as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

Prior sections 1070a–35 to 1070a–37 were omitted in the general amendment of this division by Pub. L. 105–244.

Section 1070a–35, Pub. L. 89–329, title IV, § 406E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498, related to student eligibility.

Section 1070a–36, Pub. L. 89–329, title IV, § 406F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499, related to early intervention scholarship agreement.

Section 1070a–37, Pub. L. 89–329, title IV, § 406G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499, authorized appropriations to carry out this division.

Division 4—Model Program Community Partnership and Counseling Grants

§§ 1070a–41 to 1070a–43. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–41, Pub. L. 89–329, title IV, § 408A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500, authorized grants to develop model programs.

Section 1070a–42, Pub. L. 89–329, title IV, § 408B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500, related to collection and dissemination of information about programs.

Section 1070a–43, Pub. L. 89–329, title IV, § 408C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501, authorized appropriations to carry out this division.

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.

Division 5—Public Information

§§ 1070a–51 to 1070a–53. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–51, Pub. L. 89–329, title IV, § 409A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501; amended Pub. L. 103–208, § 2(b)(24), Dec. 20, 1993, 107 Stat. 2459, authorized contract to establish and maintain database and information line.

Section 1070a–52, Pub. L. 89–329, title IV, § 409B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501, related to early awareness information program.

Section 1070a–53, Pub. L. 89–329, title IV, § 409C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502, authorized appropriations to carry out this division.

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.

Division 6—National Student Savings Demonstration Program

§ 1070a–61. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502, related to national student savings demonstration program.

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.

Division 7—Preeligibility Form

§ 1070a–71. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 503, related to information on eligibility for assistance.

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.

Division 8—Technical Assistance for Teachers and Counselors

§ 1070a–81. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 504, related to technical assistance grants.

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.

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

CODIFICATION

Pub. L. 102–325, title IV, §§ 402(a)(2), 403(a), July 23, 1992, 106 Stat. 482, 505, redesignated subpart 2 as 3 and inserted ''Federal'' before ''Supplemental'' in heading and redesignated former subpart 3 as 4.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1078, 1087c, 1089, 1091, 1091b, 1096, 1099a–1 of this title.

§ 1070b. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part E of this subchapter.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 1070b–2(a) of this title, for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1999 and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 413A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(b), July 23, 1992, 106 Stat. 505; Pub. L. 105–244, title IV, § 406(a), Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070b, Pub. L. 89–329, title IV, § 413A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 251; amended Pub. L. 94–482, title I, § 122(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(3), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 403(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1404, 1405, 1503, related to program of supplemental educational opportunity grants purpose, authorization of appropriations, and initial year payment provisions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244 substituted ''1999'' for ''1993''.

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally, substituting present provisions for provisions authorizing appropriation of $490,000,000 for fiscal year 1987 and such sums as necessary for 4 succeeding fiscal years.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–3 of this title.

§ 1070b–1. Amount and duration of grants

(a) Amount of grant

(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part E of this subchapter, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) Period for receipt of grants; continuing eligibility

(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 1091 of this title, except as provided in section 1070b–2(c) of this title.

(c) Distribution of grant during academic year

Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(Pub. L. 89–329, title IV, § 413B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(c), July 23, 1992, 106 Stat. 505.)

PRIOR PROVISIONS

A prior section 1070b–1, Pub. L. 89–329, title IV, § 413B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 252; amended Pub. L. 96–374, title IV, § 403(c), Oct. 3, 1980, 94 Stat. 1405, related to amount and duration of supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–325, § 403(c)(1), substituted ''Except as provided in paragraph (3), from'' for ''From'' in introductory provisions and inserted ''or in a program of study abroad that is approved for credit by the institution at which the student is enrolled'' after ''course of study at the institution'' in subpar. (A).

Subsec. (a)(3). Pub. L. 102–325, § 403(c)(2), added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070b–2 of this title.

§ 1070b–2. Agreements with institutions; selection of recipients

(a) Institutional eligibility

Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 1094 of this title, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) Eligibility for selection

Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 1091 of this title; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) Selection of individuals and determination of amount of awards

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 1094 of this title, and within the amount allocated to the institution for that purpose for that year under section 1070b–3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 1070b–1 of this title, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1094 of this title, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term ''students with exceptional need'' means students with the lowest expected family contributions at the institution.

(d) Use of funds for less-than-full-time students

If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.

(e) Use and transfer of funds for administrative expenses

An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 1096 of this title.

(Pub. L. 89–329, title IV, § 413C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1329; amended Pub. L. 102–325, title IV, § 403(d)–(f), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(25), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 406(b), Oct. 7, 1998, 112 Stat. 1665.)

PRIOR PROVISIONS

A prior section 1070b–2, Pub. L. 89–329, title IV, § 413C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 253; amended Pub. L. 94–482, title I, § 122(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 403(d), Oct. 3, 1980, 94 Stat. 1405, related to selection of recipients of supplemental educational opportunity grants and agreements with institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time and if the total financial need of all such students attending the institution exceeds 5 percent of the total financial need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students.''

1993—Subsec. (d). Pub. L. 103–208 substituted ''and'' for '', a reasonable proportion of the institution's allocation shall be made available to such students, except that'' and ''5 percent of the total financial need'' for ''5 percent of the need''.

1992—Subsec. (a)(2). Pub. L. 102–325, § 403(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''agrees that the Federal share of awards under this subpart will not exceed—

''(A) 95 percent of such awards in fiscal year 1989,

''(B) 90 percent of such awards in fiscal year 1990, and

''(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and''.

Subsec. (d). Pub. L. 102–325, § 403(e), inserted ''who are independent students or'' after ''demonstrated by students'' and inserted before period at end '', except that if the total financial need of all such students attending the institution exceeds 5 percent of the need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students''.

Subsec. (e). Pub. L. 102–325, § 403(f), struck out before period at end '', and may transfer such funds in accordance with the provisions of section 1095 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 on and after July 1, 1994, see section 5(b)(6) 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 July 23, 1992, except that changes in subsec. (a)(2) of this section, relating to Federal share for supplemental educational opportunity grant program, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 410 of Pub. L. 102–325, set out as a note under section 1070a of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(5) of Pub. L. 99–498 provided that: ''Section 413C(c)(2) of the Act [20 U.S.C. 1070b–2(c)(2)] as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act [this subpart] for periods of enrollment beginning on or after July 1, 1987.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b, 1070b–1 of this title.

§ 1070b–3. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1070b(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on fair share

(1) From the remainder of the amount appropriated pursuant to section 1070b(b) of this title for each year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c) of this section), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1070b(b) of this title of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section.

(c) Determination of institution's need

(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3[1] of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate stu-

[1] See References in Text note below.

dents, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(d) Reallocation of excess allocations

(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(Pub. L. 89–329, title IV, § 413D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1330; amended Pub. L. 100–50, § 4, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 403(g), (h), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(26), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 406(c)(1), (2), Oct. 7, 1998, 112 Stat. 1665.)

REFERENCES IN TEXT

Subpart 3 of this part, referred to in subsec. (c)(1)(B), was redesignated subpart 4 by Pub. L. 102–325, title IV, § 402(a)(2), July 23, 1992, 106 Stat. 482, and former subpart 2 [this subpart] was redesignated as subpart 3.

PRIOR PROVISIONS

A prior section 1070b–3, Pub. L. 89–329, title IV, § 413D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 254; amended Pub. L. 96–374, title IV, § 403(e), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1405, 1406, 1503, related to apportionment and allocation of funds for supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 406(c)(1)(A), which directed substitution of ''received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)'' for ''received and used under this part for fiscal year 1985'', was executed by making the substitution for ''received and used under this subpart for fiscal year 1985'' to reflect the probable intent of Congress.

Subsec. (a)(2)(A), (B). Pub. L. 105–244, § 406(c)(1)(B)(i), substituted ''1999'' for ''1985'' in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, § 406(c)(1)(B)(ii), substituted ''2000'' for ''1986''.

Subsec. (b). Pub. L. 105–244, § 406(c)(2)(A), (D), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: ''From one-quarter of the remainder of the amount appropriated pursuant to section 1070b(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) of this section bears to the amount all such institutions receive under such subsection (a) of this section.''

Subsec. (c). Pub. L. 105–244, § 406(c)(2)(D), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, § 406(c)(2)(B), substituted ''the remainder'' for ''three-quarters of the remainder''.

Subsec. (c)(2)(A)(i). Pub. L. 105–244, § 406(c)(2)(C), substituted ''subsection (c)'' for ''subsection (d)''.

Subsecs. (d) to (f). Pub. L. 105–244, § 406(c)(2)(D), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

1993—Subsec. (d)(3)(C). Pub. L. 103–208 substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

1992—Subsec. (a)(4). Pub. L. 102–325, § 403(g), added par. (4).

Subsec. (e). Pub. L. 102–325, § 403(h), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (d)(2)(D). Pub. L. 100–50, § 4(a)(1), added subpar. (D) and struck out former subpar. (D) which read as follows: ''multiply the number of eligible dependent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;''.

Subsec. (d)(2)(F). Pub. L. 100–50, § 4(a)(2), added subpar. (F) and struck out former subpar. (F) which read as follows: ''multiply the number of eligible independent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;''.

Subsec. (d)(3)(A). Pub. L. 100–50, § 4(b)(1), struck out ''and for graduate and professional students'' after ''undergraduate students''.

Subsec. (d)(3)(B). Pub. L. 100–50, § 4(b)(2), struck out ''and graduate and professional'' after ''average undergraduate'' and struck out ''and graduate'' after ''from undergraduate''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 406(c)(3), Oct. 7, 1998, 112 Stat. 1665, provided that: ''The amendments made by

this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 [20 U.S.C. 1070b(b)] for fiscal year 2000 or any succeeding fiscal year.''

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 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.

EFFECTIVE DATE

Section 401(b)(6) of Pub. L. 99–498, as added by Pub. L. 100–50, § 22(a)(2), June 3, 1987, 101 Stat. 361, provided that: ''The changes made in section 413D of the Act [this section] shall apply with respect to the allocation of funds for the academic year 1988–1989 and succeeding academic years.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1089, 1095 of this title.

§ 1070b–4. Carryover and carryback authority

(a) Carryover authority

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

(b) Carryback authority

(1) In general

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) Use of carried-back funds

An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

(Pub. L. 89–329, title IV, § 413E, as added Pub. L. 105–244, title IV, § 406(d), Oct. 7, 1998, 112 Stat. 1665.)

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.

SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

CODIFICATION

Pub. L. 105–244, title IV, § 407(a)(1), Oct. 7, 1998, 112 Stat. 1666, amended heading generally.

Pub. L. 102–325, title IV, § 402(a)(1), (2), July 23, 1992, 106 Stat. 482, redesignated former subpart 3 as 4 and repealed former subpart 4, comprising sections 1070d to 1070d–1d, which authorized special programs for students from disadvantaged backgrounds.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 1070a, 1070a–21, 1070a–24, 1087vv, 1090, 1091, 1094 of this title.

§ 1070c. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to make incentive grants available to States to assist States in—

(1) providing grants to—

(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(B) eligible students for campus-based community service work-study; and

(2) carrying out the activities described in section 1070c–3a of this title.

(b) Authorization of appropriations; availability

(1) In general

There are authorized to be appropriated $105,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Reservation

For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess shall be available to carry out section 1070c–3a of this title.

(3) Availability

Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 415A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1332; amended Pub. L. 102–325, title IV, § 404(a), July 23, 1992, 106 Stat. 506; Pub. L. 105–244, title IV, § 407(b), (c)(1), Oct. 7, 1998, 112 Stat. 1666, 1667; Pub. L. 106–554, § 1(a)(1) [title III, § 316(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47.)

PRIOR PROVISIONS

A prior section 1070c, Pub. L. 89–329, title IV, § 415A, as added Pub. L. 92–318, title I § 131(b)(1), June 23, 1972, 86 Stat. 255; amended Pub. L. 94–482, title I, § 123(a), (c)(1), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, § 1(b)(3), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, § 5(a)(4), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 404(a), Oct. 3, 1980, 94 Stat. 1406, related to purpose and authorization of appropriations for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106–554, which directed amendment of section 415 of the Higher Education Act of 1965 in section 415A(a)(2) by substituting ''section 1070c–3a of this title'' for ''section 1070c–4 of this title'', was executed by making the substitution in subsec. (a)(2) of this section, which is section 415A of the Higher Education Act of 1965, to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–244, § 407(c)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

''(1) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

''(2) eligible students for campus-based community service work-study.''

Subsec. (b)(1). Pub. L. 105–244, § 407(b)(1), substituted ''1999'' for ''1993''.

Subsec. (b)(2), (3). Pub. L. 105–244, § 407(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

''(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

''(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c–1, 1070c–3a of this title.

§ 1070c–1. Allotment among States

(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 1070c(b)(1) of this title and not reserved under section 1070c(b)(2) of this title for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 1070c–2(b) of this title.

(Pub. L. 89–329, title IV, § 415B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 105–244, title IV, § 407(a)(2)(A), (c)(2), Oct. 7, 1998, 112 Stat. 1666, 1667.)

PRIOR PROVISIONS

A prior section 1070c–1, Pub. L. 89–329, title IV, § 415B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, § 123(c)(2), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 404(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1407, 1503, related to allotment among States of amounts for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 407(c)(2), inserted ''and not reserved under section 1070c(b)(2) of this title'' after ''1070c(b)(1) of this title''.

Subsec. (b). Pub. L. 105–244, § 407(a)(2)(A), substituted ''leveraging educational assistance partnership'' for ''State student grant incentive''.

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.

§ 1070c–2. Applications for leveraging educational assistance partnership programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $5,000 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 2753(b)(1) of title 42;

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

(c) Reservation and disbursement of allotments and reallotments

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(Pub. L. 89–329, title IV, §415C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 102–325, title IV, §404(b)–(d), July 23, 1992, 106 Stat. 507; Pub. L. 103–208, §2(b)(27), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, §407(a)(2)(B), Oct. 7, 1998, 112 Stat. 1666.)

PRIOR PROVISIONS

A prior section 1070c–2, Pub. L. 89–329, title IV, §415C, as added Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, §123(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, §1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, §3, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §404(c), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1407, 1503, related to payment of grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 substituted ''leveraging educational assistance partnership'' for ''State student incentive grant'' in section catchline.

1993—Subsec. (b)(7). Pub. L. 103–208 substituted a semicolon for period at end.

1992—Subsec. (b)(2). Pub. L. 102–325, §404(b), substituted ''$5,000'' for ''$2,500''.

Subsec. (b)(4). Pub. L. 102–325, §404(c), inserted before semicolon at end '', except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State''.

Subsec. (b)(7). Pub. L. 102–325, §404(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the

institution's allocation shall be made available to such students;''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070c–1, 1070c–3, 1070c–3a of this title.

§ 1070c–3. Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 1070c–2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, section 1254.

(Pub. L. 89–329, title IV, § 415D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1335.)

PRIOR PROVISIONS

A prior section 1070c–3, Pub. L. 89–329, title IV, § 415D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 257; amended Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to administration of State programs and judicial review, prior to the general revision of this part by Pub. L. 99–498.

§ 1070c–3a. Special leveraging educational assistance partnership program

(a) In general

From amounts reserved under section 1070c(b)(2) of this title for each fiscal year, the Secretary shall—

(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 1070c–1 of this title; and

(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c) of this section.

(b) Applicability rule

The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

(c) Authorized activities

Each State receiving a grant under this section may use the grant funds for—

(1) making awards that—

(A) supplement grants received under section 1070c–2(b)(2) of this title by eligible students who demonstrate financial need; or

(B) provide grants under section 1070c–2(b)(2) of this title to additional eligible students who demonstrate financial need;

(2) providing scholarships for eligible students—

(A) who demonstrate financial need; and

(B) who—

(i) desire to enter a program of study leading to a career in—

(I) information technology;

(II) mathematics, computer science, or engineering;

(III) teaching; or

(IV) another field determined by the State to be critical to the State's workforce needs; or

(ii) demonstrate merit or academic achievement; and

(3) making awards that—

(A) supplement community service work-study awards received under section 1070c–2(b)(2) of this title by eligible students who demonstrate financial need; or

(B) provide community service work-study awards under section 1070c–2(b)(2) of this

title to additional eligible students who demonstrate financial need.

(d) Maintenance of effort requirement

Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) of this section for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year.

(e) Federal share

The Federal share of the cost of the authorized activities described in subsection (c) of this section for any fiscal year shall be not more than 33⅓ percent.

(f) Special rule

Notwithstanding subsection (d) of this section, for purposes of determining a State's share of the cost of the authorized activities described in subsection (c) of this section, the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

(g) Use of funds for administrative costs prohibited

A State receiving a grant under this section shall not use any of the grant funds to pay administrative costs associated with any of the authorized activities described in subsection (c) of this section.

(Pub. L. 89–329, title IV, § 415E, as added Pub. L. 105–244, title IV, § 407(c)(2), Oct. 7, 1998, 112 Stat. 1666; amended Pub. L. 106–554, § 1(a)(1) [title III, § 316(2), (3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47.)

PRIOR PROVISIONS

A prior section 415E of Pub. L. 89–329 was renumbered section 415F and is classified to section 1070c–4 of this title.

Another prior section 415E of Pub. L. 89–329 was classified to section 1070c–4 of this title prior to repeal by Pub. L. 96–374.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–554, § 1(a)(1) [title III, § 316(2)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsec. (c) and striking out former subsec. (c), was executed to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress. Prior to amendment, subsec. (c) listed the activities for which States receiving a grant under this section were authorized to use the grant funds.

Subsecs. (f), (g). Pub. L. 106–554, § 1(a)(1) [title III, § 316(3)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsecs. (f) and (g), was executed by adding subsecs. (f) and (g) to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070c of this title.

§ 1070c–4. "Community service" defined

For the purpose of this subpart, the term ''community service'' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(Pub. L. 89–329, title IV, § 415F, formerly § 415E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336; amended Pub. L. 100–50, § 5, June 3, 1987, 101 Stat. 340; renumbered § 415F, Pub. L. 105–244, title IV, § 407(c)(1), Oct. 7, 1998, 112 Stat. 1666.)

PRIOR PROVISIONS

A prior section 1070c–4, Pub. L. 89–329, title IV, § 415E, as added Pub. L. 94–482, title I, § 123(c)(3), Oct. 12, 1976, 90 Stat. 2094; amended Pub. L. 95–43, § 1(a)(7), June 15, 1977, 91 Stat. 213, related to a program of bonus allotments, prior to repeal by Pub. L. 96–374, title IV, § 404(d), Oct. 3, 1980, 94 Stat. 1407, eff. Oct. 1, 1980.

AMENDMENTS

1987—Par. (1). Pub. L. 100–50 substituted ''literacy'' for ''literary''.

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.

§§ 1070d to 1070d–1d. Repealed. Pub. L. 102–325, title IV, § 402(a)(1), July 23, 1992, 106 Stat. 482

Section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336, related to program authority and authorization of appropriations.

A prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1407, authorized a program of grants and contracts to assist students from disadvantaged backgrounds, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 94–482, title I, § 124(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(5), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized the Secretary of Education to carry out special programs for

students from disadvantaged backgrounds and authorized appropriations for such programs, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1337, authorized a talent search program.

A prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1408, authorized a talent search program, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 93–380, title VIII, § 833(a), Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, § 124(b), (c), Oct. 12, 1976, 90 Stat. 2094, 2095; Pub. L. 95–566, § 4, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, specified the authorized activities of the Secretary of Education in carrying out special programs for students from disadvantaged backgrounds, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1338, authorized an upward bound program.

A prior section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1409, authorized an upward bound program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1339; amended Pub. L. 100–50, § 6, June 3, 1987, 101 Stat. 340; Pub. L. 100–418, title VI, § 6271, Aug. 23, 1988, 102 Stat. 1523, related to student support services program.

A prior section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized a special services for disadvantaged students program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1340, authorized an educational opportunity centers program.

A prior section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized an educational opportunity centers program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341, related to staff development activities.

A prior section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1411, authorized grants for staff training, prior to the general revision of this part by Pub. L. 99–498.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1070, 3414 of this title.

§ 1070d–2. Maintenance and expansion of existing programs

(a) Program authority

The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services provided by high school equivalency program

The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose parents, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 2912 of title 29; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) weekly stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

(8) other essential supportive services, as needed to ensure the success of eligible students.

(c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] (or such part's predecessor authority) or section 2912 of title 29, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services which include:

(i) personal, academic, and career counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;
(ii) scholarships;
(iii) student travel;
(iv) career oriented work study;
(v) books and supplies;
(vi) tuition and fees;
(vii) room and board; and
(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

(F) other support services as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.

(d) Management plan required

Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;
(2) training and technical assistance;
(3) staff travel;
(4) student travel;
(5) interagency coordination; and
(6) an evaluation plan.

(e) Five-year grant period; consideration of prior experience

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 1070a–11(c)(1) of this title.

(f) Minimum allocations

The Secretary shall not allocate an amount less than—

(1) $150,000 for each project under the high school equivalency program, and

(2) $150,000 for each project under the college assistance migrant program.

(g) Data collection

The National Center for Education Statistics shall collect postsecondary education data on migrant students.

(h) Authorization of appropriations

(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 418A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341; amended Pub. L. 100–50, § 7, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 405, July 23, 1992, 106 Stat. 507; Pub. L. 103–382, title III, § 391(e)(1), (2), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, § 408, Oct. 7, 1998, 112 Stat. 1667; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(15)(A), (f)(12)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B)(ii) and (c)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 96–374, title IV, § 406, Oct. 3, 1980, 94 Stat. 1411, related to secondary and postsecondary high school equivalency programs and college assistance migrant programs, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; amended Pub. L. 96–49, § 5(a)(6), Aug. 13, 1979, 93 Stat. 352, provided for the Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383. See section 1070d–1c of this title.

A prior section 1070d–3, Pub. L. 89–329, title IV, § 418B, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2097, related to administration by States of Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383, eff. Oct. 1, 1980.

AMENDMENTS

1998—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(12)(A)], struck out ''section 1672 of title 29 or'' before ''section 2912 of title 29''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(15)(A)], substituted ''section 1672 of title 29 or section 2912 of title 29'' for ''section 1672 of title 29''.

Subsec. (d). Pub. L. 105–244, § 408(a), inserted ''that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and'' after ''contains assurances'' in introductory provisions.

Subsec. (e). Pub. L. 105–244, § 408(d), substituted ''in accordance with section 1070a–11(c)(1) of this title'' for

''authorized by subpart 4 of this part in accordance with section 1070d(b)(2) of this title.''

Subsec. (g). Pub. L. 105–244, § 408(c)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 105–244, § 408(b), substituted ''1999'' for ''1993'' in pars. (1) and (2).

Subsec. (h). Pub. L. 105–244, § 408(c)(1), redesignated subsec. (g) as (h).

1994—Subsec. (b)(1)(B)(ii). Pub. L. 103–382, § 391(e)(1), substituted ''part C'' for ''subpart 1 of part D of chapter 1''.

Subsec. (c)(1)(A). Pub. L. 103–382, § 391(e)(2), substituted ''part C'' for ''subpart 1 of part D of chapter 1'' and inserted ''(or such part's predecessor authority)'' after ''1965''.

1992—Subsec. (b)(1). Pub. L. 102–325, § 405(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;''.

Subsec. (b)(4). Pub. L. 102–325, § 405(a)(1)(B), inserted comma after ''concerning'' and after ''obtaining''.

Subsec. (c). Pub. L. 102–325, § 405(a)(2), (b), designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) and amended it generally, redesignated par. (2) and its subpars. (A) to (E) as subpar. (B) and cls. (i) to (v), respectively, redesignated par. (3) and its subpars. (A) to (H) as subpar. (C) and cls. (i) to (viii), respectively, redesignated pars. (4) to (6) as subpars. (D) to (F), respectively, and added par. (2). Prior to amendment, par. (1) read as follows: ''outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;''.

Subsec. (e). Pub. L. 102–325, § 405(c), substituted ''Five-year'' for ''Three-year'' in heading and ''5-year'' for ''3-year'' in text.

Subsec. (g). Pub. L. 102–325, § 405(d), amended subsec. (g) generally, substituting present provisions for former provisions which authorized appropriations for fiscal years 1987 through 1991.

1987—Subsec. (g). Pub. L. 100–50 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, § 405(d)(15)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

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 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.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070 of this title.

§ 1070d–31. Statement of purpose

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(Pub. L. 89–329, title IV, § 419A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343.)

PRIOR PROVISIONS

A prior section 1070d–31, Pub. L. 89–329, title IV, § 419A, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(a), Nov. 8, 1985, 99 Stat. 779, provided statement of purpose for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–32. Repealed. Pub. L. 102–325, title IV, § 406(a), July 23, 1992, 106 Stat. 508

Section, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343, defined terms used in this subpart.

A prior section 1070d–32, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900, defined terms used in this subpart, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–33. Scholarships authorized

(a) Program authority

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of award

Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) Use at any institution permitted

A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars

Individuals awarded scholarships under this subpart shall be known as ''Byrd Scholars''.

(Pub. L. 89–329, title IV, § 419C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(b),

July 23, 1992, 106 Stat. 508; Pub. L. 103–208, § 2(b)(28), Dec. 20, 1993, 107 Stat. 2459.)

PRIOR PROVISIONS

A prior section 1070d–33, Pub. L. 89–329, title IV, § 419C, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''for a period of not less than 1 or more than 4 years during the first 4 years of study'' for ''for a period of not more than 4 years for the first 4 years of study'' and inserted at end ''The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

''(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

''(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.''

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070d–34. Allocation among States

(a) Allocation formula

From the sums appropriated pursuant to the authority of section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 1070d–35 of this title an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b) of this section.

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 1469a of title 48,[1] funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS eligibility

(1) Fiscal years 2000 through 2004

Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) Termination of eligibility

A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.

(Pub. L. 89–329, title IV, § 419D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(c), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(29), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 409(a), Oct. 7, 1998, 112 Stat. 1668.)

REFERENCES IN TEXT

Section 1469a of title 48, referred to in text, was in the original ''section 501 of Public Law 95–1134 (48 U.S.C. 1469a)'' and was translated as reading ''section 501 of Public Law 95–134'' to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1070d–34, Pub. L. 89–329, title IV, § 419D, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to allocation among States of amounts for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–244 added subsec. (e).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''From the sums appropriated pursuant to section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State having an agreement under section 1070d–35 of this title—

''(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 1070d–37(b) of this title, plus

''(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of 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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1051 of this title.

[1] See References in Text note below.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–33 of this title.

§ 1070d–35. Agreements

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

(Pub. L. 89–329, title IV, § 419E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(g)(2), (3), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–35, Pub. L. 89–329, title IV, § 419E, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901; amended Pub. L. 99–145, title XVI, § 1627(c), Nov. 8, 1985, 99 Stat. 779, related to agreements with States for participation in the Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Par. (3). Pub. L. 102–325, § 406(g)(2)(A), inserted ''and'' after semicolon.

Par. (4). Pub. L. 102–325, § 406(g)(2)(B), substituted ''$1,500.'' for ''$1,500 at an awards ceremony in accordance with section 1070d–39 of this title; and''.

Par. (5). Pub. L. 102–325, § 406(g)(3), which directed that par. (5) be struck out without specifying the section to which the amendment applied, was executed by striking out par. (5) of this section to reflect the probable intent of Congress. Prior to amendment, par. (5) read as follows: ''the State educational agency will use the amount of the allocation described in paragraph (2) of section 1070d–34 of this title for administrative expenses, including the conduct of the awards ceremony required by section 1070d–39 of this title.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–34 of this title.

§ 1070d–36. Eligibility of scholars

(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(Pub. L. 89–329, title IV, § 419F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344.)

PRIOR PROVISIONS

A prior section 1070d–36, Pub. L. 89–329, title IV, § 419F, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to eligibility of students for scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–37. Selection of scholars

(a) Establishment of criteria

The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures

The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement

In carrying out its responsibilities under subsections (a) and (b) of this section, the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection

The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(Pub. L. 89–329, title IV, § 419G, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(d), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(30), Dec. 20, 1993, 107 Stat. 2460.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in subsec. (b), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1070d–37, Pub. L. 89–329, title IV, § 419G, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to selection of merit scholars under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''the Federated States of Micronesia, the Republic of the

Marshall Islands,'' for ''the District of Columbia, the Commonwealth of Puerto Rico,''.

1992—Subsec. (b). Pub. L. 102–325, § 406(d)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).''

Subsec. (d). Pub. L. 102–325, § 406(d)(2), added subsec. (d).

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.

§ 1070d–38. Stipends and scholarship conditions

(a) Amount of award

Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) Use of award

The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(Pub. L. 89–329, title IV, § 419H, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(e), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–38, Pub. L. 89–329, title IV, § 419H, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, related to stipends and scholarship conditions for students receiving scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted before period at end '', except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance''.

§ 1070d–39. Repealed. Pub. L. 102–325, title IV, § 406(g)(1), July 23, 1992, 106 Stat. 509

Section, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345, related to awards ceremony.

A prior section 1070d–39, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, related to ceremony for awarding scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–40. Construction of needs provisions

Except as provided in section 1087kk of this title, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this chapter or any other provision of Federal law relating to educational assistance.

(Pub. L. 89–329, title IV, § 419J, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(f), July 23, 1992, 106 Stat. 509.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–40, Pub. L. 89–329, title IV, § 419J, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, provided that receipt of scholarship under Robert C. Byrd Honors Scholarship Program not be counted for needs test for education grant or loan, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 substituted ''Except as provided in section 1087kk of this title, nothing'' for ''Nothing''.

§ 1070d–41. Authorization of appropriations

There are authorized to be appropriated for this subpart $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 419K, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346; amended Pub. L. 102–325, title IV, § 406(h), July 23, 1992, 106 Stat. 509; Pub. L. 105–244, title IV, § 409(b), Oct. 7, 1998, 112 Stat. 1668.)

PRIOR PROVISIONS

A prior section 1070d–41, Pub. L. 89–329, title IV, § 419K, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, authorized appropriations for fiscal years 1986 to 1988 to carry out Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 substituted ''$45,000,000 for fiscal year 1999'' for ''$10,000,000 for fiscal year 1993''.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070d–34 of this title.

SUBPART 7—CHILD CARE ACCESS MEANS PARENTS IN SCHOOL

PRIOR PROVISIONS

A prior subpart 7, consisted of sections 1070e and 1070e–1 and related to assistance to institutions of higher education, prior to the repeal of sections 1070e and 1070e–1 by Pub. L. 102–325, title IV, §§ 407, 408, July 23, 1992, 106 Stat. 510.

§ 1070e. Child care access means parents in school

(a) Purpose

The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

(b) Program authorized

(1) Authority

The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

(2) Amount of grants

(A) In general

The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

(B) Minimum

A grant under this section shall be awarded in an amount that is not less than $10,000.

(3) Duration; renewal; and payments

(A) Duration

The Secretary shall award a grant under this section for a period of 4 years.

(B) Payments

Subject to subsection (e)(2) of this section, the Secretary shall make annual grant payments under this section.

(4) Eligible institutions

An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000.

(5) Use of funds

Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

(6) Construction

Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

(7) Definition of low-income student

For the purpose of this section, the term ''low-income student'' means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

(c) Applications

An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

(1) demonstrate that the institution is an eligible institution described in subsection (b)(4) of this section;

(2) specify the amount of funds requested;

(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

(A) information regarding student demographics;

(B) an assessment of child care capacity on or near campus;

(C) information regarding the existence of waiting lists for existing child care;

(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) other relevant data;

(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

(8) in the case of an institution seeking assistance for a new child care program—

(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

(d) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

(e) Reporting requirements; continuing eligibility

(1) Reporting requirements

(A) Reports

Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months, and 36 months, after receiving the first grant payment under this section.

(B) Contents

The report shall include—

(i) data on the population served under this section;

(ii) information on campus and community resources and funding used to help low-income students access child care services;

(iii) information on progress made toward accreditation of any child care facility; and

(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

(2) Continuing eligibility

The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

(f) Construction

No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 419N, as added Pub. L. 105–244, title IV, § 410, Oct. 7, 1998, 112 Stat. 1668.)

PRIOR PROVISIONS

A prior section 1070e, Pub. L. 89–329, title IV, § 420, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346, related to payments to institutions of higher education, prior to repeal by Pub. L. 102–325, title IV, § 407, July 23, 1992, 106 Stat. 510.

Another prior section 1070e, Pub. L. 89–329, title IV, § 420, formerly § 419, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 375; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; renumbered Pub. L. 98–558, title VIII, § 801(b)(1), Oct. 30, 1984, 98 Stat. 2902, related to payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

A prior section 1070e–1, Pub. L. 89–329, title IV, § 420A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1348; amended Pub. L. 100–50, § 8, June 3, 1987, 101 Stat. 341; Pub. L. 102–54, § 13(g)(2), June 13, 1991, 105 Stat. 275; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to veterans education outreach program, prior to repeal by Pub. L. 102–325, title IV, § 408, July 23, 1992, 106 Stat. 510.

Another prior section 1070e–1, Pub. L. 89–329, title IV, § 420A, formerly § 420, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 378; amended Pub. L. 93–380, title VIII, § 834(a), Aug. 21, 1974, 88 Stat. 604; Pub. L. 94–482, title I, § 126(a)–(c), Oct. 12, 1976, 90 Stat. 2098; Pub. L. 95–336, § 6(a), Aug. 4, 1978, 92 Stat. 453; Pub. L. 96–49, § 5(a)(7), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 407, Oct. 3, 1980, 94 Stat. 1412; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; renumbered § 420A, Pub. L. 98–558, title VIII, § 801(b)(2), Oct. 30, 1984, 98 Stat. 2902, related to veterans' cost-of-instruction payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

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.

SUBPART 8—LEARNING ANYTIME ANYWHERE PARTNERSHIPS

CODIFICATION

Subpart 8 of part A of title IV of the Higher Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1352, and amended by Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448. Subpart 8 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1671, without reference to those intervening amendments because of the extensive revision of subpart 8 by Pub. L. 105–244.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1070 of this title.

§ 1070f. Findings

Congress makes the following findings:

(1) The nature of postsecondary education delivery is changing, and new technology and other related innovations can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with education or training needs.

(2) Individuals, including individuals seeking basic or technical skills or their first postsecondary experience, individuals with disabilities, dislocated workers, individuals making the transition from welfare-to-work, and individuals who are limited by time and place constraints can benefit from nontraditional, noncampus-based postsecondary education opportunities and appropriate support services.

(3) The need for high-quality, nontraditional, technology-based education opportunities is great, as is the need for skill competency credentials and other measures of educational progress and attainment that are valid and widely accepted, but neither need is likely to be adequately addressed by the uncoordinated efforts of agencies and institutions acting independently and without assistance.

(4) Partnerships, consisting of institutions of higher education, community organizations, or other public or private agencies or organizations, can coordinate and combine institutional resources—

(A) to provide the needed variety of education options to students; and

(B) to develop new means of ensuring accountability and quality for innovative education methods.

(Pub. L. 89–329, title IV, § 420D, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1671.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

PRIOR PROVISIONS

A prior section 1070f, Pub. L. 89–329, title IV, § 420B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1352; amended Pub. L. 100–50, § 9, June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 409, July 23, 1992, 106 Stat. 510, related to special child care services for disadvantaged college students, prior to the general amendment of this subpart by Pub. L. 105–244.

EFFECTIVE DATE

Subpart 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.

§ 1070f–1. Purpose; program authorized

(a) Purpose

It is the purpose of this subpart to enhance the delivery, quality, and accountability of postsecondary education and career-oriented lifelong learning through technology and related innovations.

(b) Program authorized

(1) Grants

(A) In general

The Secretary may, from funds appropriated under section 1070f–6 of this title make grants to, or enter into contracts or cooperative agreements with, eligible partnerships to carry out the authorized activities described in section 1070f–3 of this title.

(B) Duration

Grants under this subpart shall be awarded for periods that do not exceed 5 years.

(2) Definition of eligible partnership

For purposes of this subpart, the term ''eligible partnership'' means a partnership consisting of 2 or more independent agencies, organizations, or institutions. The agencies, organizations, or institutions may include institutions of higher education, community organizations, and other public and private institutions, agencies, and organizations.

(Pub. L. 89–329, title IV, § 420E, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–2. Application

(a) Requirement

An eligible partnership desiring to receive a grant under this subpart shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

(b) Contents

Each application shall include—

(1) the name of each partner and a description of the responsibilities of the partner, including the designation of a nonprofit organization as the fiscal agent for the partnership;

(2) a description of the need for the project, including a description of how the project will build on any existing services and activities;

(3) a listing of human, financial (other than funds provided under this subpart), and other resources that each member of the partnership will contribute to the partnership, and a description of the efforts each member of the partnership will make in seeking additional resources; and

(4) a description of how the project will operate, including how funds awarded under this subpart will be used to meet the purpose of this subpart.

(Pub. L. 89–329, title IV, § 420F, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–3. Authorized activities

Funds awarded to an eligible partnership under this subpart shall be used to—

(1) develop and assess model distance learning programs or innovative educational software;

(2) develop methodologies for the identification and measurement of skill competencies;

(3) develop and assess innovative student support services; or

(4) support other activities that are consistent with the purpose of this subpart.

(Pub. L. 89–329, title IV, § 420G, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070f–1 of this title.

§ 1070f–4. Matching requirement

Federal funds shall provide not more than 50 percent of the cost of a project under this subpart. The non-Federal share of project costs may be in cash or in kind, fairly evaluated, including services, supplies, or equipment.

(Pub. L. 89–329, title IV, § 420H, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–5. Peer review

The Secretary shall use a peer review process to review applications under this subpart and to make recommendations for funding under this subpart to the Secretary.

(Pub. L. 89–329, title IV, § 420I, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–6. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 420J, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1070f–1 of this title.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

CODIFICATION

Part B of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1236, and amended by Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066; Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 89–794, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–460, Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–206, Mar. 10, 1970, 84 Stat. 49; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–269, Apr. 18, 1974, 88 Stat. 87; Pub. L. 93–604, Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549; Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3641; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82; Pub. L. 99–320, May 23, 1986, 100 Stat. 491. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1353, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1002, 1070a, 1085, 1087–0, 1087d, 1087e, 1087h, 1087tt, 1088, 1090, 1091, 1091a, 1091b, 1092, 1092b, 1092c, 1094, 1095a, 1097, 1098c, 1099c, 1099c–1, 2373 of this title; title 2 sections 60c–5, 906; title 5 section 5379; title 10 sections 2171, 2174, 16301, 16302; title 11 section 525; title 26 sections 144, 6103; title 38 section 3698; title 42 sections 292a, 653, 4953.

§ 1071. Statement of purpose; nondiscrimination; and appropriations authorized

(a) Purpose; discrimination prohibited

(1) Purpose

The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title,

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(B) of this title.

(2) Discrimination by creditors prohibited

No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) Authorization of appropriations

For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 1081 of this title) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 1078 of this title with respect to interest on student loans and for payments under section 1087 of this title, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 1072(a) and (b) of this title, and (B) such sums as may be necessary for making advances pursuant to section 1072(c) of this title, for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 1078(f) of this title to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) Designation

The program established under this part shall be referred to as the ''Robert T. Stafford Federal Student Loan Program''. Loans made pursuant to sections 1077 and 1078 of this title shall be known as ''Federal Stafford Loans''.

(Pub. L. 89–329, title IV, § 421, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1353; amended Pub. L. 100–297, title II, § 2601(a), Apr. 28, 1988, 102 Stat. 330; Pub. L. 100–369, § 8, July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 411(a)(2), (c), July 23, 1992, 106 Stat. 510, 511; Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

REFERENCES IN TEXT

The Higher Education Amendments of 1986, referred to in subsec. (b), is Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Another section 411 of Pub. L. 105–244 enacted subpart 8 (§ 1070f et seq.) of part A of this subchapter.

PRIOR PROVISIONS

A prior section 1071, Pub. L. 89–329, title IV, § 421, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 90–460, §§ 2(b)(3), 3(a), Aug. 3, 1968, 82 Stat. 635, 636; Pub. L. 90–575, title I, §§ 113(b)(1), 114(a), 119(b), Oct. 16, 1968, 82 Stat. 1021, 1027; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2099; Pub. L. 95–43, § 1(a)(8)–(10), June 15, 1977, 91 Stat. 213; Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 98–79, § 6, Aug. 15, 1983, 97 Stat. 482, related to statement of purpose of, appropriations for, and implementation of programs to provide low-interest insured loans to students in institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 struck out heading and text of subsec. (d). Text read as follows: ''Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations.''

1992—Subsec. (c). Pub. L. 102–325, § 411(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The program established under this part shall be referred to as the 'Robert T. Stafford Student Loan Program'. Loans made under this part shall be known as 'Stafford Loans'.''

Subsec. (d). Pub. L. 102–325, § 411(c), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–369 substituted ''shall be referred'' for ''may be referred'' and inserted provision identifying loans made under this part as ''Stafford Loans''.

Pub. L. 100–297 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes in the designation or names of loans or programs under this part effective with respect to applications or other documents (used in making such loans) that are printed after July 23, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–297, title VI, § 6303, Apr. 28, 1988, 102 Stat. 431, as amended by Pub. L. 100–351, June 27, 1988, 102 Stat. 661; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675, provided that:

''(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act [see Tables for classification] shall take effect July 1, 1988.

''(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act [Apr. 28, 1988].

''(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

''(3) The amendments made by section 3403 [amending sections 1221e and 1221e–1 of this title] shall take effect for assessments made after September 30, 1989, with respect to State data.

''(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2701 et seq., 2911 et seq.] and under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.] from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3801 et seq., 3811 et seq.] and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act [Apr. 28, 1988].

''(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act [Apr. 28, 1988]:

''(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3851 et seq.], except that projects under section 583(c) [formerly 20 U.S.C. 3851(c)] may not be reviewed by a program significance panel.

''(B) National programs under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.].

''(C) Programs under the Indian Education Act [Pub. L. 92–318, title IV, see Tables for classification].

''(D) Programs under title II of the Education for Economic Security Act [formerly 20 U.S.C. 3961 et seq.].

''(E) The program under section 702 of the McKinney-Vento Homeless Assistance Act [formerly 42 U.S.C. 11421].

''(6) The provisions of part A of title II of this Act [§§ 2001 to 2034 of Pub. L. 100–297, amending sections 236 et seq. and 631 et seq. of this title], excluding sections 2014(e) and 2018 [amending section 238 of this title and enacting provisions set out as a note under section 238 of this title], shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

''(7) The amendments made by section 6001 [amending section 11421 of Title 42, The Public Health and Welfare], relating to literacy training of homeless adults, shall take effect on October 1, 1988.

''(8) Any election under section 5209(b)(1) [25 U.S.C. 2508(b)(1)] conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter.''

EFFECTIVE DATE

Section 402(b)–(d) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(b), June 3, 1987, 101 Stat. 361, provided that:

''(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act [Oct. 17, 1986], except—

''(1) as otherwise provided in such part B;

''(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M)] (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

''(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act [20 U.S.C. 1075(a), 1078(b)(1)(A), (B)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act [20 U.S.C. 1083(a), (b), (d)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(5) the changes in section 428(b)(1)(H) [20 U.S.C. 1078(b)(1)(H)] shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

''(6) the changes in sections 435(d)(5) and 438(d) of the Act [20 U.S.C. 1085(d)(5), 1087–1(d)] shall take effect 30 days after the date of enactment of this Act [Oct. 17, 1986]; and

''(7) the changes made in section 438(b) [20 U.S.C. 1087–1(b)] shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act [Oct. 17, 1986] or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

''(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

''(d) NEW BORROWERS.—For the purpose of this section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

STUDY OF ROLE OF GUARANTY AGENCIES

Section 1401 of Pub. L. 102–325 directed Secretary of Education to review role of guaranty agencies within Federal Family Education Loan Program by examining administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments and report to Congress within 1 year of July 23, 1992, on the review, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

GENERAL ACCOUNTING OFFICE REPORTS

Sections 1311 to 1314 of Pub. L. 99–498, as amended by Pub. L. 100–50, § 23(6), June 3, 1987, 101 Stat. 362, directed Comptroller General to conduct studies on practices of State guaranty agencies and multistate guarantors under the student loan program, on the feasibility and efficiency of permitting students to establish multiple year lines of credit with eligible lenders, on the impact of the multiple disbursement system on the ability of students and institutions of higher education to meet expenses, and on the cost, efficiency, and impact of the consolidation loan program established by Pub. L. 99–498, and directed Comptroller General to make and submit a report to Congress on each study not later than two years after Oct. 17, 1986, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1072 of this title.

§ 1072. Advances for reserve funds of State and nonprofit private loan insurance programs

(a) Purpose of and authority for advances to reserve funds

(1) Purpose; eligible recipients

From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 1071(b) of this title, the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 1078(b) of this title for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 1078(b) of this title in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 1078(b)(1) of this title.

(2) Matching requirement

No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion

of a reserve fund. As used in the preceding sentence, the term ''unencumbered non-Federal portion'' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 1078(c)(9)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) Terms and conditions; repayment

Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 1078(b) of this title as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) Limitations on total advances

(1) In general

The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 1071(b) of this title to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) Calculation of population

For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) Advances for insurance obligations

(1) Use for payment of insurance obligations

From sums appropriated pursuant to section 1071(b)(4)(B) of this title, the Secretary shall advance to each State which has an agreement with the Secretary under section 1078(c) of this title with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) Amount of advances

(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section.

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) of this section shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a) of this section, bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 1078(b) of this title.

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) Use of earnings for insurance obligations

The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) Repayment of advances

Advances made by the Secretary under this subsection shall, subject to subsection (d) of this section, be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 1081 of this title.

(5) Limitation on number of advances

Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 1078(b) of this title which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) Payment of advances where no State program

(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 1078 of this title and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written, electronic, and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) Emergency advances

The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 1078(j) of this title, in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 1078(c)(9)(F)(v) of this title, in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) Recovery of advances during fiscal years 1988 and 1989

(1) Amount and use of recovered funds

Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 1081 of this title. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) Determination of guaranty agency obligations

In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on October 17, 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) of this section during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on October 17, 1986.

(e) Correction for errors under reduction of excess cash reserves

(1) In general

The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 1078(c)(1) of this title, filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated

because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) Amount

The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) Refund of cash reserve payments

The Secretary shall, within 30 days after July 23, 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 1078(c)(1) of this title or section 1078(f) of this title previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.

(g) Preservation and recovery of guaranty agency reserves

(1) Authority to recover funds

Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) Termination provisions in contracts

(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) Penalties

Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 1097 of this title.

(4) Availability of funds

Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for

expenses pursuant to section 1087h of this title.

(h) Recall of reserves; limitations on use of reserve funds and assets

(1) In general

Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

(4) Restricted accounts required

(A) In general

Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

(B) Requirement

A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

(C) Installments

In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

(5) Shortage

If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Secretary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

(6) Enforcement

(A) In general

The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

(B) Prohibition

If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

(C) Waiver

The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

(7) Limitation

(A) Restriction on other authority

The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) of this section during the period from August 5, 1997, through September 30, 2002.

(B) Use of termination collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) of this section during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

(C) Use of sanctions collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) of this section during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

(i) shall be used to satisfy the agency's next installment; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

(D) Balance available to Secretary

Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) of this section that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in the Treasury.

(8) Definitions

For the purposes of this subsection:

(A) Default reduction activities

The term ''default reduction activities'' means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

(B) Reserve funds

The term ''reserve funds'' when used with respect to a guaranty agency—

(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(ii) does not include buildings, equipment, or other nonliquid assets.

(i) Additional recall of reserves

(1) In general

Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, from reserve funds held in the Federal Student Loan Reserve Funds established under section 1072a of this title by guaranty agencies—

(A) $85,000,000 in fiscal year 2002;

(B) $82,500,000 in fiscal year 2006; and

(C) $82,500,000 in fiscal year 2007.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) on the basis of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

(A) Equal percentage

The Secretary shall require each guaranty agency to return an amount representing an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

(B) Calculation

The equal percentage reduction shall be the percentage obtained by dividing—

(i) $250,000,000, by

(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996, less any amounts subject to recall under subsection (h) of this section.

(C) Special rule

Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 1078(b)(1)(H) of this title below an amount equal to the amount of lender claim payments paid during the 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

(4) Offset of required shares

If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h) of this section, the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

(5) Definition of reserve funds

The term ''reserve funds'' when used with respect to a guaranty agency—

(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(B) does not include buildings, equipment, or other nonliquid assets.

(Pub. L. 89–329, title IV, § 422, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1354; amended Pub. L. 100–203, title III, §§ 3001(a), 3002(a), Dec. 22, 1987, 101 Stat. 1330–36, 1330–38; Pub. L. 102–325, title IV, §§ 412, 416(p)(8), July 23, 1992, 106 Stat. 511, 527; Pub. L. 103–66, title IV, §§ 4041(a), (2)(A), 4042, Aug. 10, 1993, 107 Stat. 354, 357; Pub. L. 103–208, § 2(c)(1), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105–33, title VI, § 6101(a), Aug. 5, 1997, 111 Stat. 648; Pub. L. 105–244, title IV, § 412, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Amendment by Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1072, Pub. L. 89–329, title IV, § 422, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 89–752, § 11, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title I, § 114(b), (c), Oct. 16, 1968, 82 Stat. 1021, 1022; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2100; Pub. L. 95–43, § 1(a)(11)–(13), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–561, title XIII, § 1322(a), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 99–272, title XVI, § 16011, Apr. 7, 1986, 100 Stat. 339, authorized advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 412(1), substituted ''section 1078(c)(9)(E)'' for ''section 1078(c)(10)(E)'' in concluding provisions.

Subsec. (c)(6)(B)(i). Pub. L. 105–244, § 412(2)(A), substituted ''written, electronic,'' for ''written''.

Subsec. (c)(7)(A). Pub. L. 105–244, § 412(2)(B), struck out ''during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter'' after ''lender-of-last-resort''.

Subsec. (c)(7)(B). Pub. L. 105–244, § 412(2)(C), substituted ''section 1078(c)(9)(F)(v)'' for ''section 1078(c)(10)(F)(v)''.

Subsec. (g)(1). Pub. L. 105–244, § 412(3), struck out ''or the program authorized by part C of this subchapter'' after ''program authorized by this part'' in first and second sentences.

Subsec. (i). Pub. L. 105–244, § 412(4), added subsec. (i).

1997—Subsec. (h). Pub. L. 105–33 added subsec. (h).

1993—Subsec. (c)(7). Pub. L. 103–66, § 4041(a)(2)(A), substituted ''to a guaranty agency—'' and subpars. (A) and (B) for ''to a guaranty agency in accordance with section 1078(c)(10)(F)(v) of this title in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders.''

Subsec. (c)(7)(B). Pub. L. 103–208 substituted a period for semicolon at end. See Codification note above.

Subsec. (g). Pub. L. 103–66, § 4042, added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102–325, § 412(1), inserted at end ''Except as provided in section 1078(c)(10)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.''

Subsec. (c)(5), (7). Pub. L. 102–325, § 416(p)(8), substituted ''Except as provided in paragraph (7), advances'' for ''Advances'' in par. (5) and added par. (7).

Subsecs. (e), (f). Pub. L. 102–325, § 412(2), added subsecs. (e) and (f).

1987—Subsec. (e). Pub. L. 100–203, § 3002(a), struck out subsec. (e) which related to reduction of excess cash reserves.

Pub. L. 100–203, § 3001(a), added subsec. (e).

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 1987 AMENDMENT

Section 3002(a) of Pub. L. 100–203 provided that the amendment made by that section 3002(a) is effective Sept. 30, 1989.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1072a, 1072b, 1073, 1078, 1078–1, 1081 of this title.

§ 1072a. Federal Student Loan Reserve Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, deposit all funds, securities, and other liquid assets contained in the

reserve fund established pursuant to section 1072 of this title into a Federal Student Loan Reserve Fund (in this section and section 1072b of this title referred to as the ''Federal Fund''), which shall be an account of a type selected by the agency, with the approval of the Secretary.

(b) Investment of funds

Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

(c) Additional deposits

After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 1078(c)(1) of this title;

(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made—

(A) with respect to the defaulted loan pursuant to sections 1078(c)(6)(A) and 1078–6(a)(1)(B) of this title; and

(B) with respect to a loan that the Secretary has repaid or discharged under section 1087 of this title;

(3) insurance premiums collected from borrowers pursuant to sections 1078(b)(1)(H) and 1078–8(h) of this title;

(4) all amounts received from the Secretary as payment for supplemental preclaims activity performed prior to October 7, 1998;

(5) 70 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

Subject to subsection (f) of this section, the Federal Fund may only be used by a guaranty agency—

(1) to pay lender claims pursuant to sections 1078(b)(1)(G), 1078(j), 1087, and 1087–2(q) of this title; and

(2) to pay into the Agency Operating Fund established pursuant to section 1072b of this title (in this section and section 1072b of this title referred to as the ''Operating Fund'') a default aversion fee in accordance with section 1078(*l*) of this title.

(e) Ownership of Federal Fund

The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by this part, as provided in subsection (d) of this section. The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of the Federal Fund or the Secretary's share of such asset.

(f) Transition

(1) In general

In order to establish the Operating Fund, each guaranty agency may transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A–87 (Cost Accounting Standards) from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Operating Fund. However, no agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the agency's Federal Fund to the agency's Operating Fund during such 3-year period. In determining the amount that may be transferred, the agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements of this section and subsections (h) and (i) of section 1072 of this title.

(2) Special rule

A limited number of guaranty agencies may transfer interest earned on the Federal Fund to the Operating Fund during the first 3 years after October 7, 1998, if the guaranty agency demonstrates to the Secretary that—

(A) the cash flow in the Operating Fund will be negative without the transfer of such interest; and

(B) the transfer of such interest will substantially improve the financial circumstances of the guaranty agency.

(3) Repayment provisions

Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than the start of the fourth year after the establishment of the Operating Fund, and shall repay all amounts transferred not later than 5 years from the date of the establishment of the Operating Fund. With respect to amounts transferred from the Federal Fund, the guaranty agency shall not be required to repay any interest on the funds transferred and subsequently repaid. The guaranty agency shall provide to the Secretary a reasonable schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

(4) Prohibition

If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

(5) Waiver

The Secretary may—

(A) waive the requirements of paragraph (3), but only with respect to repayment of interest that was transferred in accordance with paragraph (2); and

(B) waive paragraph (4);

for a guaranty agency, if the Secretary determines that there are extenuating circumstances (such as State constitutional prohibitions) beyond the control of the agency that justify such a waiver.

(6) Extension of repayment period for interest

(A) Extension permitted

The Secretary shall extend the period for repayment of interest that was transferred in accordance with paragraph (2) from 2 years to 5 years if the Secretary determines that—

(i) the cash flow of the Operating Fund will be negative as a result of repayment as required by paragraph (3);

(ii) the repayment of the interest transferred will substantially diminish the financial circumstances of the guaranty agency; and

(iii) the guaranty agency has demonstrated—

(I) that the agency is able to repay all transferred funds by the end of the 8th year following the date of establishment of the Operating Fund; and

(II) that the agency will be financially sound on the completion of repayment.

(B) Repayment of income on transferred funds

All repayments made to the Federal Fund during the 6th, 7th, and 8th years following the establishment of the Operating Fund of interest that was transferred shall include the sums transferred plus any income earned from the investment of the sums transferred after the 5th year.

(7) Investment of Federal funds

Funds transferred from the Federal Fund to the Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

(8) Special rule

In calculating the minimum reserve level required by section 1078(c)(9)(A) of this title, the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.

(Pub. L. 89–329, title IV, § 422A, as added Pub. L. 105–244, title IV, § 413(a), Oct. 7, 1998, 112 Stat. 1674.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072, 1072b, 1078, 1087h of this title.

§ 1072b. Agency Operating Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, establish a fund designated as the Operating Fund.

(b) Investment of funds

Funds deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards.

(c) Additional deposits

After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

(1) the loan processing and issuance fee paid by the Secretary pursuant to section 1078(f) of this title;

(2) 30 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998;

(3) the account maintenance fee paid by the Secretary in accordance with section 1087h of this title;

(4) the default aversion fee paid in accordance with section 1078(*l*) of this title;

(5) amounts remaining pursuant to section 1078(c)(6)(B) of this title from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 1072a(c)(2) of this title; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

(1) In general

Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities (including those described in section 1072(h)(8) of this title), default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the guaranty agency.

(2) Special rule

The guaranty agency may, in the agency's discretion, transfer funds from the Operating

Fund to the Federal Fund for use pursuant to section 1072a of this title. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

(3) Definitions

For purposes of this subsection:

(A) Default collection activities

The term ''default collection activities'' means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the due diligence activities required pursuant to regulations of the Secretary.

(B) Default aversion activities

The term ''default aversion activities'' means activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including due diligence activities required pursuant to regulations of the Secretary.

(C) Enrollment and repayment status management

The term ''enrollment and repayment status management'' means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

(e) Ownership and regulation of Operating Fund

(1) Ownership

The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 1072a(f) of this title, shall be considered to be the property of the guaranty agency.

(2) Regulation

Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 1078(b)(2) of this title.

(3) Exception

Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 1072a(f) of this title—

(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.

(Pub. L. 89–329, title IV, § 422B, as added Pub. L. 105–244, title IV, § 413(b), Oct. 7, 1998, 112 Stat. 1677.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072a, 1078, 1087h of this title.

§ 1073. Effects of adequate non-Federal programs

(a) Federal insurance barred to lenders with access to State or private insurance

Except as provided in subsection (b) of this section, the Secretary shall not issue certificates of insurance under section 1079 of this title to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 1078(b) of this title.

(b) Exceptions

The Secretary may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(Pub. L. 89–329, title IV, § 423, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358.)

PRIOR PROVISIONS

A prior section 1073, Pub. L. 89–329, title IV, § 423, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–575, title I, § 119(a), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 95–43, § 1(a)(14), June 15, 1977, 91 Stat. 214; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, limited participation in Federal loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1074. Scope and duration of Federal loan insurance program

(a) Limitations on amounts of loans covered by Federal insurance

The total principal amount of new loans made and installments paid pursuant to lines of credit

(as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 2004. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2008.

(b) Apportionment of amounts

The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(Pub. L. 89–329, title IV, § 424, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358; amended Pub. L. 102–325, title IV, § 411(b)(1), July 23, 1992, 106 Stat. 510; Pub. L. 105–33, title VI, § 6104(1), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 414, Oct. 7, 1998, 112 Stat. 1679.)

PRIOR PROVISIONS

A prior section 1074, Pub. L. 89–329, title IV, § 424, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–460, § 1(a)(1), Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, title I, § 112(a), Oct. 16, 1968, 82 Stat. 1020; Pub. L. 92–318, title I, § 132(a), June 23, 1972, 86 Stat. 261; Pub. L. 94–328, § 2(a), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 96–374, title IV, § 411(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1415, 1503; Pub. L. 99–272, title XVI, § 16018(a)(1), Apr. 7, 1986, 100 Stat. 348, related to new loans under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''October 1, 2004'' for ''October 1, 2002'' and ''September 30, 2008'' for ''September 30, 2006''.

1997—Subsec. (a). Pub. L. 105–33 substituted ''October 1, 2002'' for ''October 1, 1998'' and ''September 30, 2006'' for ''September 30, 2002''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''October 1, 1998'' for ''October 1, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1079 of this title.

§ 1075. Limitations on individual federally insured loans and on Federal loan insurance

(a) Annual and aggregate limits

(1) Annual limits

(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title); and

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500.

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) Aggregate limits

(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[1] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student),[2] but (II) excluding loans made under section 1078–1[1] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) Level of insurance coverage based on default rate

(1) Reduction for defaults in excess of 5 or 9 percent

(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 1080 of this title by the Secretary to any eligible lender as described in section 1085(d)(1)(D) of this title exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 1085(d)(1)(D) of this title for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 1085(d)(1)(D) of this title shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after October 12, 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) Computation of amounts in repayment

For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 1077(a)(2)(B) of this title or such first installment need not be paid pursuant to section 1077(a)(2)(C) of this title; and

(D) the original principal amount of loans repaid by the Secretary under section 1087 of this title.

(3) Payments to assignees

For the purpose of this subsection, payments by the Secretary under section 1080 of this title to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) Pledge of full faith and credit

The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 1080 or 1087 of this title.

(Pub. L. 89–329, title IV, § 425, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1359; amended Pub. L. 100–50, § 10(a), June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 413, July 23, 1992, 106 Stat. 512; Pub. L. 103–208, § 2(c)(2), (3), Dec. 20, 1993, 107 Stat. 2460, 2461; Pub. L. 105–244, title IV, § 415, Oct. 7, 1998, 112 Stat. 1679.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (a)(2)(A), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that sec-

[1] See References in Text note below.

[2] So in original. There is no opening parenthesis.

tion as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1075, Pub. L. 89–329, title IV, § 425, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 90–575, title I, §§ 116(b)(1), 120(a)(2), Oct. 16, 1968, 82 Stat. 1023, 1027; Pub. L. 92–318, title I, §§ 132A(a), 132B(a), June 23, 1972, 86 Stat. 261, 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2104; Pub. L. 95–43, § 1(a)(15)–(17), June 15, 1977, 91 Stat. 214; Pub. L. 95–566, § 5(b)(2), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, § 412(a), (b), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, § 535(a), (b), Aug. 13, 1981, 95 Stat. 455; Pub. L. 99–272, title XVI, § 16013(e)(1), Apr. 7, 1986, 100 Stat. 341, limited Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1)(A)(i)(I). Pub. L. 105–244, § 415(1)(A), inserted ''and'' after semicolon.

Subsec. (a)(1)(A)(i)(II), (III). Pub. L. 105–244, § 415(1)(B), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

''(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (a)(1)(A)(iii)(II). Pub. L. 105–244, § 415(2), inserted ''and'' after semicolon at end.

1993—Subsec. (a)(1)(A)(ii), (iii). Pub. L. 103–208, § 2(c)(2)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (a)(1)(A)(iv). Pub. L. 103–208, § 2(c)(2)(B), substituted a period for semicolon at end.

Subsec. (a)(1)(C). Pub. L. 103–208, § 2(c)(3), added subpar. (C).

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 413(1), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).''

Subsec. (a)(2)(A). Pub. L. 102–325, § 413(2), added cls. (i) and (ii) and concluding provision and struck out former cls. (i) and (ii) which read as follows:

''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title.''

1987—Subsec. (a)(2)(A)(i). Pub. L. 100–50, § 10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (a)(2)(A)(ii). Pub. L. 100–50, § 10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

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 section 2(c)(2) of Pub. L. 103–208 effective on and after July 1, 1994 and amendment by section 2(c)(3) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2), (6) 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 July 23, 1992, with changes made in subsec. (a), relating to annual and aggregate loan limits, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, except that changes made in subsec. (a)(1)(A)(i) applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, and except that changes made in subsec. (a)(1)(A)(iv) applicable with respect to loans to cover costs of instruction for periods of enrollment beginning on or after Oct. 1, 1993, see section 432 of Pub. L. 102–325, set out as a note under section 1078 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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a) of this section applicable only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1080, 1094 of this title.

§ 1076. Sources of funds

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(Pub. L. 89–329, title IV, § 426, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361.)

PRIOR PROVISIONS

A prior section 1076, Pub. L. 89–329, title IV, § 426, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to insurability of loans made from funds owned by lender or held by lender in trust, prior to the general revision of this part by Pub. L. 99–498.

§ 1077. Eligibility of student borrowers and terms of federally insured student loans

(a) List of requirements

Except as provided in section 1078–3 of this title, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 1091 of this title, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c) of this section) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 1077a of this title, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 1087 of this title;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system,[1] of disclosure of information concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this

[1] So in original. The comma probably should not appear.

part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 1078–7 of this title.

(b) Special rules for multiple disbursement

For the purpose of subsection (a)(4) of this section—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 1078–2 or 1078–3 of this title, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special repayment rules

Except as provided in subsection (a)(2)(H) of this section, the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(d) Borrower information

The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.

(Pub. L. 89–329, title IV, §427, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1361; amended Pub. L. 100–50, §10(b), (c), June 3, 1987, 101 Stat. 341; Pub. L. 100–369, §§5(b)(1), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§2002(a)(1), 2004(b)(2), Dec. 19, 1989, 103 Stat. 2111, 2116; Pub. L. 102–164, title VI, §§601(a), 602(a), Nov. 15, 1991, 105 Stat. 1065, 1066; Pub. L. 102–325, title IV, §414, July 23, 1992, 106 Stat. 513; Pub. L. 103–208, §2(c)(4), Dec. 20, 1993, 107 Stat. 2461.)

PRIOR PROVISIONS

A prior section 1077, Pub. L. 89–329, title IV, §427, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 89–794, title XI, §1101(b)(1), Nov. 8, 1966, 80 Stat. 1476; Pub. L. 90–460, §2(a)(1), Aug. 3, 1968, 82 Stat. 635; Pub. L. 90–575, title I, §§113(b)(2), 116(b)(2), 117(c), 120(c)(2), Oct. 16, 1968, 82 Stat. 1021, 1023, 1026, 1027; Pub. L. 92–318, title I, §§132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 95–43, §1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–566, §5(a)(1), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §§413(a), (c), 415(a)(2), (b)(1), 416(a)(2), 423(a)(1), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1417–1421, 1432, 1503; Pub. L. 97–35, title V, §537(b)(1), (d)(2), (e)(1), Aug. 13, 1981, 95 Stat. 456, 457; Pub. L. 98–79, §10[(a)], Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§16012(a), 16013(b), 16017(b)(1), Apr. 7, 1986, 100 Stat. 339, 340, 347, set out conditions for Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208 inserted ''section'' before ''1078–2 or 1078–3''.

1992—Subsec. (a)(2)(A). Pub. L. 102–325, §414(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

''(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

''(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;''.

Subsec. (a)(2)(C). Pub. L. 102–325, §414(b), amended subpar. (C) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, §414(c)(1), struck out ''and'' at end of subpar. (G), added subpar. (H), and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 102–325, §414(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and''.

Subsec. (c). Pub. L. 102–325, §414(c)(2), (e), substituted ''Special repayment rules'' for ''Minimum repayment rate'' in heading and in text ''Except as provided in subsection (a)(2)(H) of this section, the total'' for ''The total'' and ''(but in no instance less than the amount of interest due and payable)'' for '', except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

1991—Subsec. (a)(2)(A). Pub. L. 102–164, § 601(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;''.

Subsec. (d). Pub. L. 102–164, § 602(a), added subsec. (d).

1989—Subsec. (a)(2)(C)(i). Pub. L. 101–239, § 2002(a)(1), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (a)(4). Pub. L. 101–239, § 2004(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b) of this section, be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).''

1988—Subsec. (a)(2)(C)(v). Pub. L. 100–369, § 7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100–369, § 11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(2). Pub. L. 100–369, § 5(b)(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100–50, § 10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (a)(2)(C)(vii). Pub. L. 100–50, § 10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (a)(4). Pub. L. 100–50, § 10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

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 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2002(a)(4) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), 1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989].''

Section 2004(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [enacting section 1078–7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 11(b) of Pub. L. 100–369 provided that: ''The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100–50, amending this section and section 1078 of this title] shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89–329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987].''

Amendment by section 5(b)(1) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note above.

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1075, 1077a, 1078, 1078–2, 1078–8, 1085, 1087–1, 1087e of this title.

§ 1077a. Applicable interest rates

(a) Rates to be consistent for borrower's entire debt

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) of this section in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) of this section for borrowers described in such subsection.

(c) Rates for supplemental loans for students and loans for parents

(1) In general

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078–1[1] or 1078–2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in Treasury bill rates

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in Treasury bill rates

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates

(A) For any loan made pursuant to section 1078–1[1] or 1078–2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078–1(d)[1] or 1078–2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078–1[1] of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(ii) the interest rate shall not exceed 9 percent.

[1] See References in Text note below.

(d) Interest rates for new borrowers after July 1, 1988

Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[1] 1078–2, and 1078–3 of this title) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) Interest rates for new borrowers after October 1, 1992

(1) In general

Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[2] 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 1077, 1078, or 1078–8 of this title, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(f) Interest rates for new loans after July 1, 1994

(1) In general

Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) In school and grace period rules

(1) General rule

Notwithstanding the provisions of subsection (f) of this section, but subject to subsection (h) of this section, with respect to any loan under section 1078 or 1078–8 of this title for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under paragraph (2).

(2) Rate determination

For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) Interest rates for new loans after July 1, 1998

(1) In general

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

[2] See References in Text note below.

(2) Interest rates for new plus loans after July 1, 1998

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting ''2.1 percent'' for ''1.0 percent'' in subparagraph (B); and

(B) by substituting ''9.0 percent'' for ''8.25 percent'' in the matter following such subparagraph.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) Treatment of excess interest payments on new borrower accounts resulting from decline in Treasury bill rates

(1) Excess interest on 10 percent loans

If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) Amount of adjustment for 10 percent loans

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) Excess interest on loans after 1992 amendments, to borrowers with outstanding balances

If, with respect to a loan made on or after July 23, 1992, to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) Amount of adjustment

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) Annual adjustment of interest and borrower eligibility for credit

Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title.

(6) Publication of Treasury bill rate

For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987,

publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) Conversion to variable rate

(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 1083(b) of this title if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) Interest rates for new loans between July 1, 1998 and October 1, 1998

(1) In general

Notwithstanding subsection (h) of this section, but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under paragraph (1) by substituting ''1.7 percent'' for ''2.3 percent''.

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.1 percent; or

(B) 9.0 percent.

(4) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(k) Interest rates for new loans on or after October 1, 1998, and before July 1, 2006

(1) In general

Notwithstanding subsection (h) of this section and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other

than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title,

shall be determined under paragraph (1) by substituting ''1.7 percent'' for ''2.3 percent''.

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under paragraph (1)—

(A) by substituting ''3.1 percent'' for ''2.3 percent''; and

(B) by substituting ''9.0 percent'' for ''8.25 percent''.

(4) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(5) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(*l*) Interest rates for new loans on or after July 1, 2006

(1) In general

Notwithstanding subsection (h) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(2) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(3) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(m) Lesser rates permitted

Nothing in this section or section 1078–3 of this title shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(n) Definitions

For the purpose of subsections (a) and (d) of this section—

(1) the term ''period of instruction'' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term ''period of enrollment'' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(Pub. L. 89–329, title IV, §427A, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1364; amended Pub. L. 100–50, §10(d)(1), June 3, 1987, 101 Stat. 342; Pub. L. 102–325, title IV, §415, July 23, 1992, 106 Stat. 514; Pub. L. 103–66, title IV, §4101, Aug. 10, 1993, 107 Stat. 364; Pub. L. 103–208, §2(c)(5)–(10), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 105–178, title VIII, §8301(a)(1), June 9, 1998, 112 Stat. 496; Pub. L. 105–244, title IV, §416(a)(1), Oct. 7, 1998, 112 Stat. 1679; Pub. L. 106–554, §1(a)(1) [title III, §318(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, §1(a)(1), (c), Feb. 8, 2002, 116 Stat. 8, 9.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (c) to (e)(1), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

CODIFICATION

Amendments by section 2(c)(6)–(10) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1077a, Pub. L. 89–329, title IV, § 427A, as added Pub. L. 96–374, title IV, § 415(a)(1), Oct. 3, 1980, 94 Stat. 1419; amended Pub. L. 97–35, title V, § 534(a)(1), Aug. 13, 1981, 95 Stat. 454; Pub. L. 98–79, § 5(a), (b)(1), Aug. 15, 1983, 97 Stat. 481, 482, prescribed applicable interest rates on loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (k). Pub. L. 107–139, § 1(c), substituted ''2006'' for ''2003'' in heading and ''July 1, 2006,'' for ''July 1, 2003,'' wherever appearing in text.

Subsecs. (*l*) to (n). Pub. L. 107–139, § 1(a)(1), added subsec. (*l*) and redesignated former subsecs. (*l*) and (m) as (m) and (n), respectively.

2000—Subsec. (c)(4)(B). Pub. L. 106–554 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

''(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

''(ii) 3.25 percent.''

1998—Subsec. (j). Pub. L. 105–178, § 8301(a)(1)(B), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 105–244, § 416(a)(1)(B), added subsec. (k). Former subsec. (k) redesignated (*l*).

Pub. L. 105–178, § 8301(a)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 105–244, § 416(a)(1)(A), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Pub. L. 105–178, § 8301(a)(1)(A), redesignated subsec. (k) as (*l*).

Subsec. (m). Pub. L. 105–244, § 416(a)(1)(A), redesignated subsec. (*l*) as (m).

1993—Subsec. (c)(4)(E). Pub. L. 103–66, § 4101(1), added subpar. (E).

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(5), substituted ''under section 1077, 1078, or 1078–8 of this title'' for ''under this part''.

Subsecs. (f) to (h). Pub. L. 103–66, § 4101(3), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 103–66, § 4101(2), redesignated subsec. (f) as (i).

Subsec. (i)(1)(B). Pub. L. 103–208, § 2(c)(6), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection.'' See Codification note above.

Subsec. (i)(2)(B). Pub. L. 103–208, § 2(c)(7), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(4)(B). Pub. L. 103–208, § 2(c)(8), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(5). Pub. L. 103–208, § 2(c)(9)(A)(i), (B), substituted ''paragraphs (2) and (4)'' for ''paragraph (2)'' in first sentence and inserted '', but the excess interest shall be calculated and credited to the Secretary'' after ''required payment on the loan'' in second sentence. See Codification note above.

Pub. L. 103–208, § 2(c)(9)(A)(ii), which directed substitution of ''principal'' for ''principle'' in first sentence, could not be executed because the word ''principle'' does not appear in text.

Subsec. (i)(7). Pub. L. 103–208, § 2(c)(10), added par. (7). See Codification note above.

Subsecs. (j), (k). Pub. L. 103–66, § 4101(2), redesignated subsecs. (g) and (h) as (j) and (k), respectively.

1992—Subsec. (c)(4)(D). Pub. L. 102–325, § 415(a), added subpar. (D).

Subsec. (e). Pub. L. 102–325, § 415(c)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102–325, § 415(b), amended par. (1) heading and substituted ''paragraph (5)'' for ''paragraph (3)'' in par. (1)(B), amended par. (2) heading, added pars. (3) and (4), redesignated former par. (3) as (5), struck out ''or'' before ''by reducing the number'' and inserted '', or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title'' before period at end, redesignated former par. (4) as (6), and struck out former par. (5) which provided for study of treatment of excess interest payments provisions.

Subsecs. (f) to (h). Pub. L. 102–325, § 415(c)(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1987—Subsec. (c)(4)(A). Pub. L. 100–50, § 10(d)(1)(A), (B), substituted ''and disbursed on or after July 1, 1987'' for ''to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987'' and ''any 12-month period beginning on or after July 1 and ending on June 30'' for ''any calendar year''.

Subsec. (c)(4)(B). Pub. L. 100–50, § 10(d)(1)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: ''For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

''(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

''(ii) 3.75 percent.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 416(c), Oct. 7, 1998, 112 Stat. 1682, provided that: ''The amendments made by this section [amending this section and sections 1078–2, 1078–3, and 1087–1 of this title] shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to any loan made under section 428C of such Act [20 U.S.C. 1078–3] for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)–(10) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078, 1078–2, 1078–3, 1078–8, 1087–1 of this title; title 42 section 7274e.

§ 1078. Federal payments to reduce student interest costs

(a) Federal interest subsidies

(1) Types of loans that qualify

Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) of this section and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) of this section) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b) of this section,

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) Additional requirements to receive subsidy

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part E of this subchapter), subject to the provisions of subparagraph (D).

(C) For the purpose of subparagraph (B) and this paragraph—

(i) a student's cost of attendance shall be determined under section 1087*ll* of this title;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter;

(II) any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title, but excluding benefits described in paragraph (2)(E) of such section); plus

(III) other scholarship, grant, or loan assistance, but excluding any national service education award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.]; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078–1[1] or 1078–8 of this title or a parent under section 1078–2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(3) Amount of interest subsidy

(A)(i) Subject to section 1087–1(c) of this title, the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the beginning of the repayment period of the loan, or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 1077(a)(2)(C) of this title.

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which

[1] See References in Text note below.

the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) of this section was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan; or

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b) of this section,

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) of this section does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) Submission of statements by holders on amount of payment

Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) Duration of authority to make interest subsidized loans

The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of September 30, 2004, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2008.

(6) Assessment of borrower's financial condition not prohibited or required

Nothing in this chapter or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) Loans that have not been consummated

Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) Insurance program agreements to qualify loans for interest subsidies

(1) Requirements of insurance program

Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year, as defined in section 1088(a)(2) of this title, or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length; and

(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the

amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree;

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500; and

(vi) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

(II) in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[2] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 1078–1[2] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the student borrower may annually change the selection of a repayment plan under this part, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m) of this section;

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–8 of this title, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

[2] See References in Text note below.

(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 1077a of this title;

(G) insures 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title;

(H) provides for collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2) of this section;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by borrower—

(i) except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A), during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable, notwithstanding any payment plan under paragraph (9)(A)); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under[3] 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 1078–7 of this title;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

[3] So in original. Probably should be followed by ''section''.

(Q) provides for the guarantee of loans made to students and parents under sections 1078–1[4] and 1078–2 of this title;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 1085(d)(1) of this title under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause), at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 1082(*l*) of this title;

(X) provides information to the Secretary in accordance with subsection (c)(9) of this section and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations; and

(Y) provides that—

(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on receipt of—

[4] See References in Text note below.

(I) a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

(II) a newly completed loan application that documents the borrower's eligibility for a deferment; or

(III) student status information received by the lender that the borrower is enrolled on at least a half-time basis; and

(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan.

(2) Contents of insurance program agreement

Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 1087 of this title, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent; and

(IV) the telephone numbers of both the transferor and the transferee; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 1077(a)(2)(B) of this title or subsection (b)(7) of this section or is in repayment status.

(3) Restrictions on inducements, mailings, and advertising

A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 1078–8 of this title or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

(C) conduct unsolicited mailings of student loan application forms to students enrolled in secondary school or a postsecondary institution, or to parents of such students, except that applications may be mailed to bor-

rowers who have previously received loans guaranteed under this part by the guaranty agency; or

(D) conduct fraudulent or misleading advertising concerning loan availability.

It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.

(4) Special rule

For the purpose of paragraph (1)(M)(i)(III) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) Guaranty agency information transfers

(A) Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) State guaranty agency information request of State licensing boards

Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) Repayment period

(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

(B) In the case of a loan made under section 1078–8 of this title, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 1078–1,[5] 1078–2, or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(8) Means of disbursement of loan proceeds

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(9) Repayment plans

(A) Design and selection

In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of[6] a shorter period. The borrower may choose from—

(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due; and

(iv) for new borrowers on or after October 7, 1998, who accumulate (after October

[5] See References in Text note below.

[6] So in original.

7, 1998) outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i).

(B) Lender selection of option if borrower does not select

If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

(c) Guaranty agreements for reimbursing losses

(1) Authority to enter into agreements

(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 95 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 85 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 75 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 1078–9 of this title shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''95 percent'';

(ii) subparagraph (B)(i) by substituting ''100 percent'' for ''85 percent''; and

(iii) subparagraph (B)(ii) by substituting ''100 percent'' for ''75 percent''.

(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''95 percent'';

(ii) subparagraph (B)(i) by substituting ''90 percent'' for ''85 percent''; and

(iii) subparagraph (B)(ii) by substituting ''80 percent'' for ''75 percent''.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) Contents of guaranty agreements

The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that the institution was contacted and other reasonable

attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 1081 of this title) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 1072(c) of this title;

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts, including contact with the institution, have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (*l*) of this section;

(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) Forbearance

A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 1077(a)(2)(C)(vii) of this title or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 1077(a)(2)(C) of this title or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this subchapter and part C of subchapter I of chapter 34 of title 42 that equals or exceeds 20 percent of income;

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993; or

(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (*o*) of this section;

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) or (IV) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

(C) shall contain provisions that specify that—

(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (*o*) of this section; and

(D) shall contain provisions that specify that—

(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower's request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

(ii) during such period interest shall accrue but not be capitalized.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under subsection (b)(1)(M) of this section or section 1077(a)(2)(C) of this title, and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) Definitions

For the purpose of this subsection, the terms ''insurance beneficiary'' and ''default'' have the meanings assigned to them by section 1085 of this title.

(5) Applicability to existing loans

In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) Secretary's equitable share

For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(A) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(B) an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that, beginning on October 1, 2003, this subparagraph shall be applied by substituting ''23 percent'' for ''24 percent''.

(7) New programs eligible for 100 percent reinsurance

(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guar-

anty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) Assignment to protect Federal fiscal interest

If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) Guaranty agency reserve level

(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 85 percent pursuant to paragraph (1)(B)(i), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 45 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; or

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this chapter;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j) of this section;

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing that, if commenced after September 24, 1998, shall be on the record.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system.

(d) Usury laws inapplicable

No provision of any law of the United States (other than this chapter) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Notice of availability of income-sensitive repayment option

At the time of offering a borrower a loan under this part, and at the time of offering the borrower the option of repaying a loan in accordance with this section, the lender shall provide the borrower with a notice that informs the borrower, in a form prescribed by the Secretary by regulation—

(1) that all borrowers are eligible for income-sensitive repayment, including through loan consolidation under section 1078–3 of this title;

(2) the procedures by which the borrower may elect income-sensitive repayment; and

(3) where and how the borrower may obtain additional information concerning income-sensitive repayment.

(f) Payments of certain costs

(1)[7] Payment for certain activities

(A) In general

The Secretary—

(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

(ii) for loans originated during fiscal years beginning on or after October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

(B) Payment

The payment required by subparagraph (A) shall be paid on a quarterly basis. The guar-

[7] So in original. No par. (2) has been enacted.

anty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

(C) Requirement for payment

No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(g) Action on insurance program and guaranty agreements

If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) of this section with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b) of this section, and

(2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title,

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives of his actions.

(h) Lending by guaranty agencies

(1) Lending from Sallie Mae advances

From sums advanced by the Association pursuant to section 1087–2(p) of this title, each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2) Amount of advances

(A) Each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title which has an application approved under section 1087–2(p)(2) of this title may receive advances under section 1087–2(p) of this title for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

(B) Each guaranty agency and each eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title shall repay advances made under section 1087–2(p) of this title in accordance with agreements entered into between the Association and such agency or lender.

(3) Loan term, conditions, and benefits

Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i) Multiple disbursement of loans

(1) Escrow accounts administered by escrow agent

Any guaranty agency or eligible lender (hereafter in this subsection referred to as the ''escrow agent'') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the ''lender'') for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 21 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) Authority of escrow agent

Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-last-resort

(1) General requirement

In each State, the guaranty agency or an eligible lender in the State described in section 1085(d)(1)(D) of this title shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall

not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B) of this section, nor be less than $200. The guaranty agency shall consider the request of any eligible lender, as defined under section 1085(d)(1)(A) of this title, to serve as the lender-of-last-resort pursuant to this subsection.

(2) Rules and operating procedures

The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to receive a loan under this part from an eligible lender, nor be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State;

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation; and

(E) the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 1087–2(q) of this title.

(3) Advances to guaranty agencies for lender-of-last-resort services

(A) In order to ensure the availability of loan capital, the Secretary is authorized to provide a guaranty agency designated for a State with additional advance funds in accordance with subparagraph (C) and section 1072(c)(7) of this title, with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems.

(k) Information on defaults

(1) Provision of information to eligible institutions

Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) Public dissemination not authorized

Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) Borrower location information

Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

(*l*) Default aversion assistance

(1) Assistance required

Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

(2) Reimbursement

(A) In general

A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 1072a of this title to the Agency Operating Fund under section 1072b of this title a default aversion fee. Such fee shall be paid for any loan on which a claim

for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

(B) Amount

The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless—

(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

(ii) during the period between such dates, the borrower was not more than 30 days past due on any payment of principal and interest on the loan.

(C) Definition

For the purpose of earning the default aversion fee, the term ''current repayment status'' means that the borrower is not delinquent in the payment of any principal or interest on the loan.

(m) Income contingent repayment

(1) Authority of Secretary to require

The Secretary may require borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) of this section to repay those loans under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part C of this subchapter.

(2) Loans for which income contingent repayment may be required

A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8) of this section.

(n) Blanket certificate of loan guaranty

(1) In general

Subject to paragraph (3), any guaranty agency that has entered into or enters into any insurance program agreement with the Secretary under this part may—

(A) offer eligible lenders participating in the agency's guaranty program a blanket certificate of loan guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

(2) Limitations on blanket certificate of guaranty

(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

(3) Participation level

During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

(4) Report required

The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the impact of the blanket certificates of guaranty on program efficiency and integrity.

***(o)* Armed Forces student loan interest payment program**

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV) of this section.

(3) Special allowance defined

For the purposes of this subsection, the term ''special allowance'',[8] means a special allowance that is payable with respect to a loan under section 1087–1 of this title.

(Pub. L. 89–329, title IV, § 428, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1367; amended Pub. L. 100–50, § 10(a)–(c), (e)–(m), June 3, 1987, 101 Stat. 341–343; Pub. L. 100–203, title III, §§ 3001(b), 3002(b), 3003, Dec. 22, 1987, 101

[8] So in original. The comma probably should not appear.

Stat. 1330–38, 1330–39; Pub. L. 100–369, §§5(b)(2), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§2002(a)(2), (b)(1), 2004(b)(1), (3), 2006(b), Dec. 19, 1989, 103 Stat. 2111, 2116, 2118; Pub. L. 101–508, title III, §§3002, 3004(b), Nov. 5, 1990, 104 Stat. 1388–25, 1388–27; Pub. L. 102–26, §9, Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §§601(b), 602(b), 604, 605(b)(2), Nov. 15, 1991, 105 Stat. 1065, 1066, 1068; Pub. L. 102–325, title IV, §§411(b)(2), 416(a)–(e)(1), (f)–(p)(7), (q)–(t), July 23, 1992, 106 Stat. 510, 516–525, 527–529; Pub. L. 103–66, title IV, §§4041(a)(1), (2)(B), (b), 4043(a), 4044, 4045, 4102(c), 4107(a), (b), 4108(a), (b), 4110(a), 4112(a), 4201(a), Aug. 10, 1993, 107 Stat. 354, 355, 358, 359, 367–370; Pub. L. 103–82, title I, §102(c)(1), Sept. 21, 1993, 107 Stat. 823; Pub. L. 103–208, §2(c)(11)–(28), Dec. 20, 1993, 107 Stat. 2462–2465; Pub. L. 103–382, title III, §355(a), Oct. 20, 1994, 108 Stat. 3967; Pub. L. 105–33, title VI, §§6101(b), 6104(2), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, §417(a)–(c)(1)(A), (2)–(k), Oct. 7, 1998, 112 Stat. 1682–1690; Pub. L. 107–314, div. A, title VI, §651(b), Dec. 2, 2002, 116 Stat. 2579.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a)(2)(C)(ii)(III), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Title I of the Act enacted subchapter I (§12511 et seq.) of chapter 129 of Title 42, The Public Health and Welfare, and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(2)(E) and (b)(1)(B), (Q), (7)(C), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

This chapter, referred to in subsecs. (a)(6), (c)(9)(F)(iii), and (d), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (c)(3)(A)(i)(I), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448, as amended. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The National and Community Service Trust Act of 1993, referred to in subsec. (c)(3)(A)(i)(III), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Amendments by section 2(c)(17), (26), (27) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325, Pub. L. 103–66, and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078, Pub. L. 89–329, title IV, §428, Nov. 8, 1965, 79 Stat. 1240; Pub. L. 90–460, §§1(a)(2), 2(a)(2), (b)(1), (2), 3(b), Aug. 3, 1968, 82 Stat. 634–636; Pub. L. 90–575, title I, §§111(a), (b)(1), 112(b), 113(b)(3), (4), 115(a)(1)–(3), (b), 116(b)(3), 117(a), (b), 120(a)(1), (b), (c)(1), Oct. 16, 1968, 82 Stat. 1020–1027; Pub. L. 92–318, title I, §§132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§2–4, Apr. 18, 1974, 88 Stat. 87, 89; Pub. L. 94–328, §2(b), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2108; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, §1(a)(19)–(29), June 15, 1977, 91 Stat. 214–216; Pub. L. 95–566, §5(a)(2), (b)(1), (3)–(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, §5(b), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§411(b), 412(c), (d), (f), 413(b), (d), 414, 415(a)(3)–(5), (b)(2), 417, 423(a)(2), (b)–(d), title XIII, §1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1416–1420, 1422, 1432, 1503; Pub. L. 97–35, title V, §§532(a), (b)(1), 535(c), (d), 536(b), 537(a)(1), (b)(2), (c), (d)(1), (e)(2), Aug. 13, 1981, 95 Stat. 451, 452, 455–457; Pub. L. 98–79, §10(b), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b)(1), (2) formerly (1), (3) formerly (2), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), Apr. 7, 1986, 100 Stat. 340–343, 348, 349, 355, renumbered and amended, Pub. L. 99–320, §2(a), (b), May 23, 1986, 100 Stat. 491, related to Federal interest subsidy payments, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1078a, Pub. L. 91–95, §2, Oct. 22, 1969, 83 Stat. 141; Pub. L. 92–318, title I, §134(a), June 23, 1972, 86 Stat. 270; Pub. L. 93–269, §5, Apr. 18, 1974, 88 Stat. 89; Pub. L. 94–328, §2(c), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, §127(c)(1), Oct. 12, 1976, 90 Stat. 2142, related to special allowances for insured student loans, prior to repeal by Pub. L. 94–482, title I, §127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

AMENDMENTS

2002—Subsec. (c)(3)(A)(i)(IV). Pub. L. 107–314, §651(b)(1)(A), added subcl. (IV).

Subsec. (c)(3)(A)(ii)(II). Pub. L. 107–314, §651(b)(1)(B), inserted ''or (IV)'' after ''(i)(II)''.

Subsec. (c)(3)(C). Pub. L. 107–314, §651(b)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: ''shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and''.

Subsec. (*o*). Pub. L. 107–314, §651(b)(2), added subsec. (*o*).

1998—Subsec. (a)(2)(A)(i). Pub. L. 105–244, §417(a)(1)(A), added subcls. (I) and (II) and struck out former subcls. (I) to (III) which read as follows:

''(I) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

''(II) sets forth such student's estimated financial assistance; and

''(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title;''.

Subsec. (a)(2)(B). Pub. L. 105–244, §417(a)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part E of this subchapter) and the amount of such need, subject to the provisions of subparagraph (D).''

Subsec. (a)(2)(C). Pub. L. 105–244, §417(a)(1)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''For the purpose of paragraph (1) and this paragraph—

''(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter, and any veterans' education bene-

fits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title), plus other scholarship, grant, or loan assistance; and

''(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.''

Subsec. (a)(2)(F). Pub. L. 105–244, §417(a)(1)(D), struck out subpar. (F) which read as follows: ''Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to each student so affected.''

Subsec. (a)(5). Pub. L. 105–244, §417(a)(2), substituted ''September 30, 2004'' for ''September 30, 2002'' and ''September 30, 2008'' for ''September 30, 2006''.

Subsec. (b)(1)(A). Pub. L. 105–244, §417(b)(1)(A), inserted '', as defined in section 1088(a)(2) of this title,'' after ''academic year'' in introductory provisions.

Subsec. (b)(1)(A)(i)(I). Pub. L. 105–244, §417(b)(1)(B)(i), substituted ''length; and'' for ''length (as determined under section 1088 of this title);''.

Subsec. (b)(1)(A)(i)(II), (III). Pub. L. 105–244, §417(b)(1)(B)(ii), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

''(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (b)(1)(A)(vi). Pub. L. 105–244, §417(b)(1)(C)–(E), added cl. (vi).

Subsec. (b)(1)(D)(ii). Pub. L. 105–244, §417(b)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the repayment period of any insured loan may not exceed 10 years, and''.

Subsec. (b)(1)(E). Pub. L. 105–244, §417(b)(3), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

''(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–1 of this title, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

''(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;''.

Subsec. (b)(1)(G). Pub. L. 105–244, §417(b)(4), struck out ''not less than'' after ''insures''.

Subsec. (b)(1)(L)(i). Pub. L. 105–244, §417(b)(5), inserted ''except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A),'' before ''during any'' and '', notwithstanding any payment plan under paragraph (9)(A)'' after ''due and payable''.

Subsec. (b)(1)(M)(i)(I). Pub. L. 105–244, §417(b)(6)(A), inserted before semicolon '', except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause''.

Subsec. (b)(1)(M)(ii). Pub. L. 105–244, §417(b)(6)(B), inserted before semicolon '', except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause''.

Subsec. (b)(1)(U)(i)(I), (ii). Pub. L. 105–244, §417(b)(7)(A), substituted ''emergency action,'' for ''emergency action,,''.

Subsec. (b)(1)(U)(iii)(I). Pub. L. 105–244, §417(b)(7)(B), inserted ''that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause),'' before ''at least once a year''.

Subsec. (b)(1)(X). Pub. L. 105–244, §417(b)(8)(B)(i), substituted ''subsection (c)(9)'' for ''subsection (c)(10)''.

Subsec. (b)(1)(Y). Pub. L. 105–244, §417(b)(8)(A), (B)(ii), (C), added subpar. (Y).

Subsec. (b)(3). Pub. L. 105–244, §417(b)(9)(B), inserted concluding provisions.

Subsec. (b)(3)(C). Pub. L. 105–244, §417(b)(9)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: ''conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or''.

Subsec. (b)(7)(D). Pub. L. 105–244, §417(b)(10), added subpar. (D).

Subsec. (b)(9). Pub. L. 105–244, §417(b)(11), added par. (9).

Subsec. (c)(1)(A). Pub. L. 105–244, §417(c)(1)(A)(i), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(B)(i). Pub. L. 105–244, §417(c)(1)(A)(ii), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(B)(ii). Pub. L. 105–244, §417(c)(1)(A)(iii), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(1)(E)(i). Pub. L. 105–244, §417(c)(1)(A)(iv)(I), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(E)(ii). Pub. L. 105–244, §417(c)(1)(A)(iv)(II), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(E)(iii). Pub. L. 105–244, §417(c)(1)(A)(iv)(III), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(1)(F)(i). Pub. L. 105–244, §417(c)(1)(A)(v)(I), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(F)(ii). Pub. L. 105–244, §417(c)(1)(A)(v)(II), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(F)(iii). Pub. L. 105–244, §417(c)(1)(A)(v)(III), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(2)(A). Pub. L. 105–244, §417(c)(2)(A), substituted ''proof that the institution was contacted and other reasonable attempts were made'' for ''proof that reasonable attempts were made''.

Subsec. (c)(2)(G). Pub. L. 105–244, §417(c)(2)(B), substituted ''certifies to the Secretary that diligent attempts, including contact with the institution, have been made'' for ''certifies to the Secretary that diligent attempts have been made''.

Subsec. (c)(2)(H)(ii). Pub. L. 105–244, §417(c)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and''.

Subsec. (c)(3)(A)(i). Pub. L. 105–244, §417(c)(4)(A), struck out ''written'' before ''request'' in introductory provisions.

Subsec. (c)(3)(D). Pub. L. 105–244, §417(c)(4)(B)–(D), added subpar. (D).

Subsec. (c)(6). Pub. L. 105–244, §417(c)(5), amended heading and text of par. (6) generally, revising and restating provisions relating to Secretary's equitable share.

Subsec. (c)(8). Pub. L. 105–244, §417(c)(6), redesignated subpar. (A) as entire par. and struck out subpar. (B) which read as follows: ''An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program

under part C of this subchapter shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.''

Subsec. (c)(9)(A). Pub. L. 105–244, § 417(c)(7)(A), substituted ''maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent'' for ''maintain a current minimum reserve level of at least .5 percent''.

Subsec. (c)(9)(C). Pub. L. 105–244, § 417(c)(7)(B), substituted ''85 percent pursuant to paragraph (1)(B)(i)'' for ''80 percent pursuant to subsection (c)(1)(B)(ii) of this section'', struck out '', as appropriate,'' after ''Secretary shall require'', and substituted ''45 working days'' for ''30 working days''.

Subsec. (c)(9)(E)(iv). Pub. L. 105–244, § 417(c)(7)(C)(i), inserted ''or'' at end.

Subsec. (c)(9)(E)(v). Pub. L. 105–244, § 417(c)(7)(C)(ii), substituted a period for ''; or'' at end.

Subsec. (c)(9)(E)(vi). Pub. L. 105–244, § 417(c)(7)(C)(iii), struck out cl. (vi) which read as follows: ''the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.''

Subsec. (c)(9)(F)(vii). Pub. L. 105–244, § 417(c)(7)(D), substituted ''and to avoid disruption of the student loan program.'' for ''to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.''

Subsec. (c)(9)(I). Pub. L. 105–244, § 417(c)(7)(E), inserted ''that, if commenced after September 24, 1998, shall be on the record'' after ''for a hearing''.

Subsec. (c)(9)(K). Pub. L. 105–244, § 417(c)(7)(F), substituted ''and the Workforce'' for ''and Labor'' and struck out ''and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter'' after ''guaranty agency system''.

Subsec. (e). Pub. L. 105–244, § 417(d), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to payments for lender referral services.

Subsec. (f). Pub. L. 105–244, § 417(e), amended heading and text of subsec. (f) generally. Prior to amendment, subsec. (f) authorized the Secretary to make payments to guaranty agencies for fiscal years prior to fiscal year 1994 for certain administrative and other costs and provided for applications for such payments.

Subsec. (g). Pub. L. 105–244, § 417(f), substituted ''and the Workforce'' for ''and Labor'' in concluding provisions.

Subsec. (j)(3). Pub. L. 105–244, § 417(g)(1), struck out ''during transition to direct lending'' after ''services'' in heading.

Subsec. (j)(3)(A). Pub. L. 105–244, § 417(g)(2), struck out ''during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter'' after ''loan capital'' and inserted ''designated for a State'' after ''a guaranty agency'' and ''subparagraph (C) and'' after ''funds in accordance with''.

Subsec. (j)(3)(C). Pub. L. 105–244, § 417(g)(3), added subpar. (C).

Subsec. (*l*). Pub. L. 105–244, § 417(h), amended heading and text of subsec. (*l*) generally. Prior to amendment, text read as follows:

''(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I) of this section) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C) of this section) with respect to each loan covered by such agreement.

''(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C) of this section) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan.''

Subsec. (m)(1). Pub. L. 105–244, § 417(i), substituted ''may require borrowers'' for ''shall require at least 10 percent of the borrowers''.

Subsec. (n). Pub. L. 105–244, § 417(k), added subsec. (n).

Pub. L. 105–244, § 417(j), struck out heading and text of subsec. (n) which related to State share of default costs.

1997—Subsec. (a)(5). Pub. L. 105–33, § 6104(2), substituted ''September 30, 2002,'' for ''September 30, 1998,'' and ''September 30, 2006.'' for ''September 30, 2002.''

Subsec. (c)(9)(A). Pub. L. 105–33, § 6101(b), struck out ''for the fiscal year of the agency that begins in 1993'' after ''loans guaranteed by such agency'' and struck out at end ''The minimum reserve level shall increase to—

''(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

''(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

''(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.''

1994—Subsec. (c)(1)(G). Pub. L. 103–382 added subpar. (G).

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208, § 2(c)(11), substituted ''; and'' for period at end.

Subsec. (a)(2)(E). Pub. L. 103–208, § 2(c)(12), inserted ''or 1078–8'' after ''1078–1''.

Subsec. (b)(1)(A)(ii), (iii). Pub. L. 103–208, § 2(c)(13)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (b)(1)(A)(iv), (v). Pub. L. 103–208, § 2(c)(13)(B), (C), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(1)(B). Pub. L. 103–208, § 2(c)(14), substituted a semicolon for period at end of closing provisions.

Subsec. (b)(1)(D). Pub. L. 103–66, § 4043(a)(1), substituted ''be subject to income contingent repayment in accordance with subsection (m) of this section;'' for ''be subject to repayment in accordance with the regulations required by subsection (m) of this section if the Secretary has published the finding required by paragraph (2) of such subsection;''.

Subsec. (b)(1)(G). Pub. L. 103–66, § 4108(b), substituted ''98 percent'' for ''100 percent'' and inserted before semi-

colon at end ‘‘, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title’’.

Subsec. (b)(1)(H). Pub. L. 103–66, § 4102(c), substituted ‘‘1.0 percent’’ for ‘‘3 percent’’.

Subsec. (b)(1)(N). Pub. L. 103–208, § 2(c)(15), amended subpar. (N) generally. Prior to amendment, subpar. (N) read as follows: ‘‘provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check and except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;’’.

Subsec. (b)(1)(U). Pub. L. 103–208, § 2(c)(16), inserted a comma after ‘‘emergency action’’ in two places and substituted ‘‘this clause’’ for ‘‘this clause;’’ at end.

Subsec. (b)(1)(V). Pub. L. 103–208, § 2(c)(17), redesignated subpar. (X) as (V) and struck out former subpar. (V) which related to procedure and requirements for granting a forbearance while a borrower is enrolled in a medical or dental internship or residency program. See Codification note above.

Subsec. (b)(1)(W). Pub. L. 103–208, § 2(c)(17), redesignated subpar. (Y) as (W) and struck out former subpar. (W) which read as follows:

‘‘(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

‘‘(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

‘‘(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;’’. See Codification note above.

Pub. L. 103–82, § 102(c)(1)(A), added subpar. (W) and redesignated former subpar. (W) as (X).

Subsec. (b)(1)(X). Pub. L. 103–208, § 2(c)(17)(B), redesignated subpar. (Z) as (X). Former subpar. (X) redesignated (V). See Codification note above.

Pub. L. 103–82, § 102(c)(1)(A)(i), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (b)(1)(Y). Pub. L. 103–208, § 2(c)(17)(B), redesignated subpar. (Y) as (W). See Codification note above.

Pub. L. 103–82, § 102(c)(1)(A)(i), redesignated subpar. (X) as (Y). Former subpar. (Y) redesignated (Z).

Subsec. (b)(1)(Z). Pub. L. 103–208, § 2(c)(17)(B), redesignated subpar. (Z) as (X). See Codification note above.

Pub. L. 103–82, § 102(c)(1)(A)(i), redesignated subpar. (Y) as (Z).

Subsec. (b)(2)(F)(i). Pub. L. 103–208, § 2(c)(18), substituted ‘‘either jointly or separately to provide a notice’’ for ‘‘each to provide a separate notice’’.

Subsec. (b)(2)(F)(ii). Pub. L. 103–208, § 2(c)(19)–(21), substituted ‘‘transferee’’ for ‘‘transferor’’ in introductory provisions, struck out ‘‘to another holder’’ after ‘‘the loan’’ in subcl. (I), and substituted ‘‘the new’’ for ‘‘such other’’ in subcl. (II).

Subsec. (b)(7). Pub. L. 103–208, § 2(c)(22), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

‘‘(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

‘‘(B) In the case of a loan made under section 1078–1 or 1078–8 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

‘‘(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.’’

Subsec. (b)(8). Pub. L. 103–208, § 2(c)(23), added par. (8).

Subsec. (c)(1)(A). Pub. L. 103–208, § 2(c)(24), substituted last sentence for former last sentence which read as follows: ‘‘In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.’’

Pub. L. 103–66, § 4108(a)(1), substituted ‘‘98 percent’’ for ‘‘100 percent’’ in fourth sentence.

Subsec. (c)(1)(B), (E), (F). Pub. L. 103–66, § 4108(a)(2)–(4), in subpar. (B), substituted ‘‘88 percent’’ for ‘‘90 percent’’ in cl. (i) and ‘‘78 percent’’ for ‘‘80 percent’’ in cl. (ii), and added subpars. (E) and (F).

Subsec. (c)(2)(G). Pub. L. 103–208, § 2(c)(25), substituted ‘‘certifies’’ for ‘‘demonstrates’’ before ‘‘to the Secretary’’.

Subsec. (c)(3)(A). Pub. L. 103–208, § 2(c)(26), added subpar. (A) and struck out former subpar. (A) which read as follows: ‘‘shall contain provisions providing for forbearance in accordance with subparagraphs (V) and (W) of subsection (b)(1) of this section for the benefit of the student borrower serving in a medical or dental internship or residency program;’’. See Codification note above.

Pub. L. 103–82, § 102(c)(1)(B), substituted ‘‘subparagraphs (V) and (W) of subsection (b)(1)’’ for ‘‘subsection (b)(1)(V)’’.

Subsec. (c)(6)(A)(ii). Pub. L. 103–66, § 4110(a), substituted ‘‘27 percent’’ for ‘‘30 percent’’.

Subsec. (c)(8). Pub. L. 103–66, § 4044, designated existing provisions as subpar. (A), struck out second and third sentences, and added subpar. (B). Prior to amendment, second and third sentences read as follows: ‘‘Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency’s collection efforts have met such criteria, the Secretary shall consider the agency’s record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.’’

Subsec. (c)(9). Pub. L. 103–66, § 4107(a), redesignated par. (10) as (9) and struck out former par. (9) which required guaranty agencies to pay reinsurance fees to the Secretary.

Subsec. (c)(10). Pub. L. 103–66, § 4107(a)(2), redesignated par. (10) as (9).

Subsec. (c)(10)(C). Pub. L. 103–66, § 4045(1), inserted ‘‘, as appropriate,’’ after ‘‘the Secretary shall require’’.

Subsec. (c)(10)(D). Pub. L. 103–66, § 4045(2), designated existing provisions as cl. (i), substituted ‘‘If the Secretary is not seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a’’ for ‘‘Each’’, and added cl. (ii).

Subsec. (c)(10)(E)(iv) to (vi). Pub. L. 103–66, § 4045(3), added cls. (iv) to (vi).

Subsec. (c)(10)(F). Pub. L. 103–66, § 4045(4)(A), substituted ‘‘If a guaranty’’ for ‘‘Except as provided in subparagraph (G), if a guaranty’’.

Subsec. (c)(10)(F)(v). Pub. L. 103–66, § 4045(4)(B), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or''.

Subsec. (c)(10)(F)(vi), (vii). Pub. L. 103–66, § 4045(4)(C), (D), in cl. (vi), substituted ''to avoid'' for ''and to avoid'' before ''disruption of the student'' and inserted before period at end '', and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter'', redesignated cl. (vi) as (vii), and added new cl. (vi).

Subsec. (c)(10)(G). Pub. L. 103–66, § 4045(5), (7), added subpar. (G) and struck out former subpar. (G) which read as follows: ''The Secretary may not take any action under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.''

Subsec. (c)(10)(H) to (J). Pub. L. 103–66, § 4045(6), (7), added subpar. (H) and redesignated former subpars. (H) and (I) as (I) and (J), respectively. Former subpar. (J) redesignated (K).

Subsec. (c)(10)(K). Pub. L. 103–66, § 4045(6), (8), redesignated subpar. (J) as (K) and substituted ''system and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.'' for ''system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.''

Subsec. (e)(1). Pub. L. 103–66, § 4041(b)(1), amended heading, designated existing provisions as subpar. (A) and substituted ''with which the Secretary has an agreement under subparagraph (B)'' for ''in any State'', and added subpar. (B).

Subsec. (e)(2). Pub. L. 103–66, § 4041(b)(2)(A), in introductory provisions, substituted ''with which the Secretary has an agreement under paragraph (1)(B)'' for ''in a State''.

Subsec. (e)(2)(A). Pub. L. 103–208, § 2(c)(27), redesignated former cl. (i), subcl. (I) as (i) and former cl. (i), subcl. (II) as (ii) and struck out cl. (i) designation following subpar. (A) designation. See Codification note above.

Pub. L. 103–66, § 4041(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and''.

Subsec. (e)(3). Pub. L. 103–66, § 4041(b)(3), substituted ''From funds available for costs of transition under section 1087h of this title, the'' for ''The''.

Subsec. (e)(5). Pub. L. 103–66, § 4041(b)(4), struck out par. (5) which related to authorization of appropriations.

Subsec. (f)(1)(A). Pub. L. 103–66, § 4107(b)(1), substituted ''For a fiscal year prior to fiscal year 1994, the Secretary'' for ''The Secretary''.

Subsec. (f)(1)(B). Pub. L. 103–66, § 4107(b)(2), inserted ''prior to fiscal year 1994'' after ''any fiscal year''.

Subsec. (j)(2). Pub. L. 103–208, § 2(c)(28), substituted ''lender-of-last-resort'' for ''lender of last resort'' in introductory provisions.

Subsec. (j)(2)(A) to (E). Pub. L. 103–66, § 4041(a)(2)(B), in subpar. (A) inserted before semicolon ''and ensure a response within 60 days after the student's original complete application is filed under this subsection'', added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (j)(3). Pub. L. 103–66, § 4041(a)(1), added par. (3) consisting of subpars. (A) and (B), and struck out former par. (3) relating to limitation on lender-of-last-resort program, consisting of subpars. (A) to (C).

Subsec. (*l*)(2). Pub. L. 103–66, § 4112(a), inserted second sentence and struck out former second sentence which read as follows: ''Such payments shall be equal to $50.00 for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent.''

Subsec. (m). Pub. L. 103–66, § 4043(a)(2), amended par. (1) generally, added par. (2), and struck out former pars. (2) to (4). Prior to amendment, former pars. (1) to (4) related to establishment of terms and conditions, collection mechanism, loans for which income contingent repayment is required, and additional authority, respectively.

Subsec. (n). Pub. L. 103–66, § 4201(a), added subsec. (n).

1992—Subsec. (a)(2)(C). Pub. L. 102–325, § 416(a)(1), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

''(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 2 of part A of this subchapter, part D of this subchapter, and part C of subchapter I of chapter 34 of title 42, and any amount paid the student under chapters 32, 34, and 35 of title 38, plus other scholarship, grant, or loan assistance; and

''(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.''

Subsec. (a)(3)(A)(v). Pub. L. 102–325, § 416(a)(2), added cl. (v).

Subsec. (a)(5). Pub. L. 102–325, § 411(b)(2), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

Subsec. (a)(7). Pub. L. 102–325, § 416(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 102–325, § 416(b)(1)(A), inserted ''or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled'' in introductory provisions.

Subsec. (b)(1)(A)(i) to (iv). Pub. L. 102–325, § 416(b)(1)(B), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);''.

Subsec. (b)(1)(B). Pub. L. 102–325, § 416(b)(2), which directed the amendment of subpar. (B) by striking clauses (i) and (ii) and inserting language which contained new cls. (i) and (ii) followed by concluding provisions, was executed by substituting the new cls. (i) and (ii) and concluding provisions for former cls. (i) and (ii) and former concluding provisions to reflect the probable intent of Congress. Prior to amendment, cls. (i) and (ii) and concluding provisions read as follows:

''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title;

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;''.

Subsec. (b)(1)(D), (E). Pub. L. 102–325, § 416(c)(1), amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

''(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

''(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;''.

Subsec. (b)(1)(L)(i). Pub. L. 102–325, § 416(d), substituted ''(but in no instance less than the amount of interest due and payable)'' for '', except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

Subsec. (b)(1)(M). Pub. L. 102–325, § 416(e)(1), amended subpar. (M) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (b)(1)(N). Pub. L. 102–325, § 416(f), substituted ''except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;'' for ''except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;''.

Subsec. (b)(1)(T). Pub. L. 102–325, § 416(g), amended subpar. (T) generally. Prior to amendment, subpar. (T) read as follows: ''provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

''(i) that institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

''(ii) there is a State constitutional prohibition affecting the eligibility of such an institution;''.

Subsec. (b)(1)(U)(iii). Pub. L. 102–325, § 416(h), added cl. (iii).

Subsec. (b)(1)(V). Pub. L. 102–325, § 416(i)(4), (5), added cls. (ii) and (iii) and redesignated former cl. (ii) as (iv).

Pub. L. 102–325, § 416(i)(3), which directed the amendment of cl. (ii) by substituting a semicolon for a period at end, could not be executed because the period had been stricken by Pub. L. 102–164, § 601(b)(2).

Pub. L. 102–325, § 416(i)(1), (2), struck out ''and'' at end of cl. (i) and inserted ''or (ii)'' after ''clause (i)'' in two places in cl. (ii).

Subsec. (b)(1)(W) to (Y). Pub. L. 102–325, § 416(j), added subpars. (W) to (Y) and struck out former subpars. (W) and (X) which related to credit reports, credit worthy cosigners, and authorizations for entry of judgments against borrowers in the event of default.

Subsec. (b)(2)(C). Pub. L. 102–325, § 416(k)(1), substituted '', including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,'' for '', as the Secretary may reasonably require to carry out the Secretary's functions under this part,''.

Subsec. (b)(2)(D)(i). Pub. L. 102–325, § 416(k)(2)(A), substituted ''on at least an annual basis'' for ''at least once every 2 years''.

Subsec. (b)(2)(E). Pub. L. 102–325, § 416(k)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(F). Pub. L. 102–325, § 416(k)(2)(B), (4), added subpar. (F).

Subsec. (b)(3)(B) to (D). Pub. L. 102–325, § 416(*l*), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(4). Pub. L. 102–325, § 416(n), inserted at end sentence relating to requests for deferment of repayment by students engaged in fellowship-supported study outside the United States.

Pub. L. 102–325, § 416(m), redesignated par. (5) as (4) and struck out former par. (4) which related to targeted teacher deferment rule.

Subsec. (b)(5). Pub. L. 102–325, § 416(m)(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 102–325, § 416(*o*), added par. (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 102–325, § 416(c)(2), added par. (7).

Subsec. (c)(1)(A). Pub. L. 102–325, § 416(p)(1), substituted '', or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.'' for period at end.

Subsec. (c)(1)(D). Pub. L. 102–325, § 416(p)(2), added subpar. (D).

Subsec. (c)(2). Pub. L. 102–325, § 416(p)(3), struck out ''and'' at end of subpar. (F), added subpars. (G) and (H), and redesignated former subpar. (G) as (I).

Subsec. (c)(3). Pub. L. 102–325, § 416(p)(4), added subpar. (C) and concluding provisions and struck out former last sentence which read as follows: ''Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

Subsec. (c)(7)(A). Pub. L. 102–325, § 416(p)(5)(A), substituted ''(1)(C)'' for ''(1)(B)'' in introductory provisions and inserted ''and ends before October 1, 1991'' in cl. (i).

Subsec. (c)(7)(B). Pub. L. 102–325, § 416(p)(5)(D), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(7)(C). Pub. L. 102–325, § 416(p)(5)(B), (C), redesignated subpar. (B) as (C) and inserted ''or (B)'' after ''(A)''.

Subsec. (c)(8). Pub. L. 102–325, § 416(p)(6), inserted provisions at end directing Secretary to develop criteria to determine whether agency has made adequate collection efforts and directing Secretary to consider certain factors in making determination.

Subsec. (c)(10). Pub. L. 102–325, § 416(p)(7), added par. (10).

Subsec. (f)(1)(A)(i). Pub. L. 102–325, § 416(q)(1), substituted ''eligible lender'' for ''commercial lender''.

Subsec. (f)(1)(C). Pub. L. 102–325, § 416(q)(2), added subpar. (C).

Subsec. (j). Pub. L. 102–325, § 416(r), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

Subsec. (k)(3). Pub. L. 102–325, § 416(s), added par. (3).

Subsec. (m). Pub. L. 102–325, § 416(t), added subsec. (m).

1991—Subsec. (a)(2)(A)(iii). Pub. L. 102–164, § 602(b)(1), added cl. (iii).

Subsec. (a)(2)(F). Pub. L. 102–26 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part, except that, in in-

dividual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement.''

Subsec. (b)(1)(W). Pub. L. 102–164, §601(b), added subpar. (W).

Subsec. (b)(1)(X). Pub. L. 102–164, §604, added subpar. (X).

Subsec. (c)(6)(D). Pub. L. 102–164, §605(b)(2), struck out subpar. (D) which read as follows: ''In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 1078–5 of this title, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'.''

1990—Subsec. (a)(2)(F). Pub. L. 101–508, §3004(b), inserted before period at end '', except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement''.

Subsec. (c)(1)(A). Pub. L. 101–508, §3002(a)(1), struck out before period at end of first sentence '', including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)''.

Subsec. (c)(6)(C). Pub. L. 101–508, §3002(a)(2)–(5), in introductory provisions of cl. (i), substituted ''subsection (*l*) of this section'' for ''this paragraph'', in cl. (i)(I), substituted ''generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990'' for ''required or permitted under paragraph (2)(A) of this subsection and subsection (f) of this section'', in cl. (ii), substituted ''payment under subsection (*l*) of this section'' for ''reimbursement'' and ''described in division (i)(I) of this subparagraph'' for ''which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f) of this section'', and in cl. (iv), struck out first sentence which read as follows: ''The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.''

Subsec. (*l*). Pub. L. 101–508, §3002(b), added subsec. (*l*).

1989—Subsec. (a)(2)(A)(i)(III). Pub. L. 101–239, §2004(b)(1), added subcl. (III).

Subsec. (b)(1)(M)(i). Pub. L. 101–239, §2002(a)(2), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (b)(1)(O). Pub. L. 101–239, §2004(b)(3), amended subpar. (O) generally, substituting requirement that student loans be disbursed in accordance with section 1078–7 of this title for provisions requiring that certain loans be disbursed directly by lender in 2 or more installments, none exceeding more than one-half of the loan, or in installments pursuant to escrow provisions in subsec. (i).

Subsec. (b)(1)(T)(i). Pub. L. 101–239, §2006(b)(1), inserted ''emergency action,'' after ''regulations for the''.

Subsec. (b)(1)(U). Pub. L. 101–239, §2006(b), in cl. (i) inserted ''emergency action,'' after ''regulations for the'', and in cl. (ii) inserted ''take emergency action,'' after ''such program to''.

Subsec. (b)(1)(V). Pub. L. 101–239, §2002(b)(1)(A), added subpar. (V).

Subsec. (c)(3). Pub. L. 101–239, §2002(b)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

1988—Subsec. (b)(1)(M)(v). Pub. L. 100–369, §7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(M)(vii). Pub. L. 100–369, §11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(1)(O). Pub. L. 100–369, §5(b)(2), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(D). Pub. L. 100–50, §10(e), substituted ''certifies the eligibility of any student'' for ''permits the student''.

Subsec. (b)(1)(A)(i). Pub. L. 100–50, §10(f)(1), substituted ''first and'' for ''first or''.

Subsec. (b)(1)(B)(i). Pub. L. 100–50, §10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (b)(1)(B)(ii). Pub. L. 100–50, §10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

Subsec. (b)(1)(M)(vi). Pub. L. 100–50, §10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (b)(1)(M)(vii). Pub. L. 100–50, §10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (b)(1)(N). Pub. L. 100–50, §10(f)(2), inserted ''and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student'' before semicolon at end.

Subsec. (b)(1)(O). Pub. L. 100–50, §10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

Subsec. (b)(1)(O)(i). Pub. L. 100–50, §10(f)(3), substituted ''being disbursed'' for ''being dispensed''.

Subsec. (b)(1)(P). Pub. L. 100–50, §10(f)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: ''requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;''.

Subsec. (b)(1)(T). Pub. L. 100–50, §10(f)(5), inserted ''(other than nonresidential correspondence schools)'' after ''eligible institutions''.

Subsec. (b)(5). Pub. L. 100–50, §10(g), substituted ''paragraph (1)(M)(i)(III)'' for ''paragraph (1)(M)''.

Subsec. (b)(6)(A). Pub. L. 100–50, §10(h)(1), substituted ''Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section'' for ''Prior to the implementation of section 1092b of this title''.

Subsec. (b)(6)(B)(ii). Pub. L. 100–50, §10(h)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: ''the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.''

Subsec. (c)(1)(A). Pub. L. 100–203, §3002(b)(1), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, §3001(b)(1), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (c)(6)(C)(iv). Pub. L. 100–50, §10(i), inserted at end ''In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.''

Subsec. (c)(6)(D). Pub. L. 100–50, §10(j), inserted ''and enforces'' after ''enacts''.

Subsec. (c)(9)(A). Pub. L. 100–203, §3002(b)(2), substituted ''an amount equal to'' for ''an amount, subject to section 1072(e) of this title, equal to'' in introductory provisions.

Pub. L. 100–203, §3001(b)(2), substituted ''an amount, subject to section 1072(e) of this title, equal to'' for ''an amount equal to'' in introductory provisions.

Subsec. (c)(9)(A)(i), (ii). Pub. L. 100–50, §10(k)(1), inserted ''covered'' before ''loans''.

Subsec. (c)(9)(D). Pub. L. 100–50, §10(k)(2), added subpar. (D).

Subsec. (f)(1)(B). Pub. L. 100–203, §3002(b)(3), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, §3001(b)(3), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (i)(1). Pub. L. 100–50, §10(*l*), struck out ''multiple'' after ''authorizing'' and substituted ''21 days'' for ''45 days''.

Subsec. (j). Pub. L. 100–50, §10(m), inserted provision at end that the guaranty agency consider the request of an eligible lender to serve as the lender-of-last-resort pursuant to this subsection.

Subsec. (k)(1). Pub. L. 100–203, §3003, substituted ''Notwithstanding any other provision of law, in'' for ''In'', ''guaranty agency shall'' for ''guaranty agency may'', and ''subsection shall include'' for ''subsection may include''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 417(a), (b), (c)(2)–(k) of 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.

Pub. L. 105–244, title IV, §417(c)(1)(B), Oct. 7, 1998, 112 Stat. 1687, provided that: ''The amendments made by subparagraph (A) of this paragraph [amending this section] apply to loans for which the first disbursement is made on or after October 1, 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 355(b) of Pub. L. 103–382 provided that: ''Subsection (a) [amending this section] and the amendment made by subsection (a) shall take effect on August 10, 1993.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(11), (12), (14)–(17), (22)–(28) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, amendment by section 2(c)(13)(A) of Pub. L. 103–208 effective on and after July 1, 1994, amendment by section 2(c)(13)(B), (C) and (18) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(19)–(21) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, see section 5(a), (b)(2), (3), (6) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Section 4043(b) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on July 1, 1994.''

Section 4102(d) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and sections 1078–8 and 1087–1 of this title] shall take effect on July 1, 1994.''

Section 4107(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4108(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to any loan for which the first disbursement is made on or after October 1, 1993.''

Section 4110(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993.''

Section 4112(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4201(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1994.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 432 of Pub. L. 102–325, as amended by Pub. L. 103–208, §2(k)(5), Dec. 20, 1993, 107 Stat. 2486, provided that:

''(a) IN GENERAL.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendments made by this part [part B (§§411–432) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part B;

''(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b) [20 U.S.C. 1075(a), 1078(b)(1)(A), (B), 1078–1(b), 1078–2(b)], relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

''(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

''(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

''(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1) [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M), 1078–2(d)(1)], relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

''(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

''(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

''(9) that the changes made in section 428B(a) [20 U.S.C. 1078–2(a)] with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(11) that the changes made in section 428C [20 U.S.C. 1078–3], relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

''(12) that section 428H [20 U.S.C. 1078–8] as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

''(13) that the changes made in section 438 [20 U.S.C. 1087–1] shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(14) that the changes in section 439(d)(1) [20 U.S.C. 1087–2(d)(1)], relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

''(15) that the changes in the designation or names of loans or programs under part B is [sic] effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

''(b) NEW BORROWERS.—For purposes of the section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 2002(a)(2) of Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part D of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

Section 2002(b)(2) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to loans made before, on, or after the date of enactment of this Act [Dec. 19, 1989].''

Amendment by section 2004(b)(1), (3) of Pub. L. 101–239 applicable with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 11(a) of Pub. L. 100–369 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as a note under section 1077 of this title.

Amendment by section 5(b)(2) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 3002(b)(1)–(3) of Pub. L. 100–203 provided in part that the amendments by section 3002(b)(1)–(3) of Pub. L. 100–203 are effective Sept. 30, 1989.

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note under section 1077 of this title.

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.

EFFECTIVE DATE

Section effective Oct. 17, 1987, with subsection (b)(1)(M) (except cls. (viii), (ix), and (x)) applicable only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, subsection (b)(1)(A) and (B) applicable with respect only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, and subsection (b)(1)(H) applicable with respect only to loans for which the borrower files an application on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIODS OF INSTRUCTION BEGINNING AFTER JUNE 30, 1983

Pub. L. 97–301, § 9, Oct. 13, 1982, 96 Stat. 1403, as amended by Pub. L. 98–79, § 4(b), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–511, title VII, § 707(7), (8), Oct. 19, 1984, 98 Stat. 2407, 2408; Pub. L. 99–272, title XVI, § 16018(b), Apr. 7, 1986, 100 Stat. 348; Pub. L. 99–498, title IV, § 408(a)(6), (7), Oct. 17, 1986, 100 Stat. 1495, specified that the family contribution schedule for specific periods of instruction through June 30, 1988, for loans made, insured, or guaranteed under this part be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983, and required the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, to be modified by the Secretary of Education for use for each of the specific periods of instruction to reflect the most recent and relevant data, prior to repeal by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, effective with respect to any academic year beginning on or after July 1, 1988, Pub. L. 97–301.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1015, 1058, 1071, 1072, 1072a, 1072b, 1073, 1077a, 1078–1, 1078–2, 1078–3, 1078–6, 1078–7, 1078–8, 1078–10, 1080, 1080a, 1081, 1082, 1084, 1085, 1087, 1087–1, 1087–2, 1087a, 1087c, 1087e, 1087f, 1087j, 1091, 1091a, 1091b, 1092, 1094, 1095a, 1101a of this title; title 10 section 2174; title 16 section 1727; title 42 section 12656.

§ 1078–1. Voluntary flexible agreements with guaranty agencies

(a) Voluntary agreements

(1) Authority

Subject to paragraph (2), the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 1078 of this title. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

(A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders; or

(B) the prohibitions on inducements contained in section 1078(b)(3) of this title unless the Secretary determines that such a waiver is consistent with the purposes of this section and is limited to activities of the guaranty agency within the State or States for which the guaranty agency serves as the designated guarantor.

(2) Special rule

If the Secretary grants a waiver pursuant to paragraph (1)(B), any guaranty agency doing

business within the affected State or States may request, and the Secretary shall grant, an identical waiver to such guaranty agency under the same terms and conditions (including service area limitations) as govern the original waiver.

(3) Eligibility

During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 1078 of this title as of the day before October 7, 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

(4) Report required

Not later than September 30, 2001, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives regarding the impact that the voluntary flexible agreements have had upon program integrity, program and cost efficiencies, and the availability and delivery of student financial aid. Such report shall include—

(A) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency and any waivers provided to other guaranty agencies under paragraph (2);

(C) a description of the standards by which each agency's performance under the agency's voluntary flexible agreement was assessed and the degree to which each agency achieved the performance standards; and

(D) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary agreement.

(b) Terms of agreement

An agreement between the Secretary and a guaranty agency under this section—

(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;

(2) may only include provisions—

(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

(ii) monitoring insurance commitments made under this part;

(iii) default aversion activities;

(iv) review of default claims made by lenders;

(v) payment of default claims;

(vi) collection of defaulted loans;

(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ix) monitoring of institutions and lenders participating in the program under this part; and

(x) informational outreach to schools and students in support of access to higher education;

(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty agency's failure to achieve a specified level of performance on 1 or more performance standards;

(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

(3) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

(4) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this chapter.

(c) Public notice

(1) In general

The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

(A) an invitation for the guaranty agencies to enter into agreements under this section; and

(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

(2) Agreement notice

The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to concluding an agreement under this section. The notice shall contain—

(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

(D) a description of the fees that will be paid to each participating guaranty agency.

(3) Waiver notice

The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to the granting of a waiver pursuant to subsection (a)(2) of this section to a guaranty agency that is not a party to a voluntary flexible agreement.

(4) Public availability

The text of any voluntary flexible agreement, and any subsequent revisions, and any waivers related to section 1078(b)(3) of this title that are not part of such an agreement, shall be readily available to the public.

(5) Modification notice

The Secretary shall notify the Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives 30 days prior to any modifications to an agreement under this section.

(d) Termination

At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 1078 of this title, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 1078 of this title, and including the guaranty agency's compliance with reserve requirements under sections 1072 and 1078 of this title.

(Pub. L. 89–329, title IV, § 428A, as added Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1078–1, Pub. L. 89–329, title IV, § 428A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1384; amended Pub. L. 100–50, § 10(n), (*o*)(1), (p)(1), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 100–369, §§ 3–5(a), (b)(3), July 18, 1988, 102 Stat. 835, 836; Pub. L. 101–239, title II, § 2003(a)(1), (b)(1), (c)(1), Dec. 19, 1989, 103 Stat. 2112, 2114; Pub. L. 101–508, title III, § 3006(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, § 2(c)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, § 417, July 23, 1992, 106 Stat. 529; Pub. L. 103–208, § 2(c)(29)–(32), Dec. 20, 1993, 107 Stat. 2465, 2466, related to Federal supplemental loans for students, prior to repeal by Pub. L. 103–66, title IV, § 4047(b), (d), Aug. 10, 1993, 107 Stat. 364, effective July 1, 1994.

Another prior section 1078–1, Pub. L. 89–329, title IV, § 428A, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2120; amended Pub. L. 95–43, § 1(a)(30)–(32), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, § 412(e), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, § 535(e), Aug. 13, 1981, 95 Stat. 455, related to student loan insurance programs, prior to the general amendment of this part by Pub. L. 99–498.

EFFECTIVE DATE

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

§ 1078–2. Federal PLUS loans

(a) Authority to borrow

(1) Authority and eligibility

Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, if—

(A) the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary; and

(B) the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

(2) Terms, conditions, and benefits

Except as provided in subsections (c), (d), and (e) of this section, loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

(3) Special rule

Whenever necessary to carry out the provisions of this section, the terms ''student'' and ''borrower'' as used in this part shall include a parent borrower under this section.

(b) Limitation based on need

Any loan under this section may be counted as part of the expected family contribution in the determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 1078(a)(2)(A) of this title. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual pay-

ments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS loan disbursement

All loans made under this section shall be disbursed in accordance with the requirements of section 1078–7 of this title and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the parent borrower.

(d) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 1077(a)(2)(C) or 1078(b)(1)(M) of this title.

(2) Capitalization of interest

Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(e) Refinancing

(1) Refinancing to secure combined payment

An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under this section as in effect prior to October 17, 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) Refinancing to secure variable interest rate

An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under this section as in effect prior to October 17, 1986, in order to permit the borrower to obtain the interest rate provided under section 1077a(c)(4) of this title. A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan

A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 1077a(c)(4) of this title;

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B) of this section);

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation

Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) Notification to borrowers of availability of refinancing options

Each holder of a loan made under this section or under this section as in effect prior to October 17, 1986, shall, not later than October 1, 1987, in the case of loans made before October 17, 1986, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(f) Verification of immigration status and social security number

A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

(1) immigration status in the same manner as immigration status is verified for students under section 1091(g) of this title; and

(2) social security number in the same manner as social security numbers are verified for students under section 1091(p) of this title.

(Pub. L. 89–329, title IV, § 428B, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1386; amended Pub. L. 100–50, § 10(*o*), (p)(2), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 102–325, title IV, § 418, July 23, 1992, 106 Stat. 531; Pub. L. 103–66, title IV, § 4109(a), Aug. 10, 1993, 107 Stat. 369; Pub. L. 105–178, title VIII, § 8301(a)(2), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§ 416(a)(2), 419, Oct. 7, 1998, 112 Stat. 1680, 1694.)

CODIFICATION

October 17, 1986, referred to in subsec. (e)(5), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 99–498 which enacted this section in the general revision of this part, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–2, Pub. L. 89–329, title IV, § 428B, as added Pub. L. 96–374, title IV, § 419, Oct. 3, 1980, 94 Stat. 1424; amended Pub. L. 97–35, title V, §§ 532(b)(3), 534(a)(2), (c)(1), (2), Aug. 13, 1981, 95 Stat. 452, 454; Pub. L. 98–79, § 12, Aug. 15, 1983, 97 Stat. 484, related to auxiliary loans to assist students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 419(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, and unless otherwise specified in subsections (c), (d), and (e) of this section, such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section.''

Subsec. (d)(4). Pub. L. 105–244, § 416(a)(2), substituted ''section 1077a'' for ''section 1077a(c)''.

Pub. L. 105–178 which directed substitution of ''section 1077a of this title for loans made under this section'' for ''section 1077a(c) of this title'' in ''section 428B(d)(4) (20 U.S.C. 1078–2(d)(4))'' could not be executed because it did not indicate what act was to be amended.

Subsec. (f). Pub. L. 105–244, § 419(2), added subsec. (f).

1993—Subsec. (c). Pub. L. 103–66 inserted ''shall be disbursed in accordance with the requirements of section 1078–7 of this title and'' after ''under this section''.

1992—Pub. L. 102–325, § 418(a), substituted ''Federal PLUS'' for ''PLUS'' in section catchline.

Subsec. (a). Pub. L. 102–325, § 418(b)(1), substituted ''subsections (c), (d), and (e)'' for ''subsections (c) and (d)'' and inserted '', who do not have an adverse credit history as determined pursuant to regulations of the Secretary,'' after ''a dependent student''.

Subsec. (b). Pub. L. 102–325, § 418(b)(2), struck out subsec. (b) designation and heading, redesignated par. (3) as subsec. (b), and struck out pars. (1) and (2) which set the annual limit on the amount parents may borrow for one student in any academic year at $4,000 and set the aggregate insured principal amount for insured loans at not to exceed $20,000.

Subsec. (c). Pub. L. 102–325, § 418(b)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–325, § 418(c), (d), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

''(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.''

Pub. L. 102–325, § 418(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–325, § 418(b)(3), redesignated subsec. (d) as (e).

1987—Subsec. (a). Pub. L. 100–50, § 10(*o*)(2)(A), struck out '', but such a parent borrower shall not be eligible for any deferment pursuant to section 1077(a)(2)(C) or 1078(b)(1)(M) of this title except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections'' after ''borrower under this section''.

Subsec. (b)(3). Pub. L. 100–50, § 10(p)(2), amended first sentence generally, substituting ''for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid'' for ''which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance''.

Subsec. (c)(1). Pub. L. 100–50, § 10(*o*)(2)(B), struck out ''pursuant to sections 1077(a)(2)(C)(i), (viii), and (ix) and 1078(b)(1)(M)(i), (viii), and (ix) of this title'' after ''subject to deferral'' and inserted in lieu cls. (A) and (B).

Subsec. (c)(2). Pub. L. 100–50, § 10(*o*)(1), (2)(C), (q), in introductory provisions, struck out ''and interest'' after first reference to ''principal'', and substituted ''pursuant to paragraph (1) of this subsection'' for

''under sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title'', and, in subpar. (A), inserted ''monthly or'' before ''quarterly''.

Subsec. (d)(1). Pub. L. 100–50, § 10(r)(1)(A), inserted ''at any time'' after ''eligible lender may'' in first sentence, substituted ''the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3)'' for ''the borrower complies with the requirements of paragraph (2)'' in second sentence, and inserted ''(if required by them)'' after ''shall be reported'' in third sentence.

Subsec. (d)(2). Pub. L. 100–50, § 10(r)(1)(B), inserted ''under this section before July 1, 1987, or'' before ''under this section'' and substituted ''to reissue a loan or loans'' for ''to reissue a loan'' and ''reissuing such loan or loans'' for ''reissuing such loan''.

Subsec. (d)(5). Pub. L. 100–50, § 10(r)(1)(C), substituted ''October 1, 1987'' for ''January 1, 1987'' and, in subpar. (B), inserted ''and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples'' before semicolon at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(a)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 419 of 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

Section 4109(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1078–7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub. L. 102–325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 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.

AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Section 10(r)(2) of Pub. L. 100–50 provided that: ''An eligible lender who has refinanced a loan or loans under section 428A(d) [former 20 U.S.C. 1078–1(d)] or 428B(d) [20 U.S.C. 1078–2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1077, 1077a, 1078, 1078–8, 1078–11, 1082, 1083, 1085, 1087, 1087–1, 1087d, 1087e, 1091, 1091b, 1092 of this title; title 26 section 144; title 42 section 12604.

§ 1078–3. Federal consolidation loans

(a) Agreements with eligible lenders

(1) Agreement required for insurance coverage

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) of this section with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2) of this section. Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

(3) Definition of eligible borrower

(A) For the purpose of this section, the term ''eligible borrower'' means a borrower who—

(i) is not subject to a judgment secured through litigation with respect to a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 or to an order for wage garnishment under section 1095a of this title; and

(ii) at the time of application for a consolidation loan—

(I) is in repayment status;

(II) is in a grace period preceding repayment; or

(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i)[1] An individual's status as an eligible borrower under this section terminates upon

[1] So in original. No cl. (ii) has been enacted.

receipt of a consolidation loan under this section, except that—

(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan; and

(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan.

(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A) of this section; and

(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4) of this section.

(4) "Eligible student loans" defined

For the purpose of paragraph (1), the term ''eligible student loans'' means loans—

(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part D of this subchapter;

(C) made under part C of this subchapter;

(D) made under subpart II of part A of title VII of the Public Health Service Act [42 U.S.C. 292q et seq.]; or

(E) made under subpart II of part B of title VIII of the Public Health Service Act [42 U.S.C. 297a et seq.].

(b) Contents of agreements, certificates of insurance, and loan notes

(1) Agreements with lenders

Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) of this section who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1) of this section, the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c) of this section;

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3) of this section, and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and

(F) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) Issuance of certificate of comprehensive insurance coverage

The Secretary shall issue a certificate of comprehensive insurance coverage under section 1079(b) of this title to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) of this section unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) Contents of certificate

A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the require-

ments of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) Terms and conditions of loans

A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid during any such period—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before November 13, 1997, that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 1087e of this title; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(5) Direct loans

In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) of this section, or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part C of this subchapter or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) Nondiscrimination in loan consolidation

An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section;

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) Payment of principal and interest

(1) Interest rate

(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 1077a(k)(4) of this title; or

(ii) on or after July 1, 2006, the applicable interest rate shall be determined under section 1077a(*l*)(3) of this title.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 1077a(f) of this title, except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) Repayment schedules

(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) of this section and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated or income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements

Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest; and

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

(4) Commencement of repayment

Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D) of this section, discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited

No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Special program authorized

(1) General rule and definition of eligible student loan

(A) In general

Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) of this section for the consolidation of eligible student loans.

(B) Applicability rule

Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection

shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) "Eligible student loans" defined

For the purpose of this subsection, the term ''eligible student loans'' means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4) of this section; and

(ii) made under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(2) Interest rate rule

(A) In general

The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) Determination of the maximum interest rate

For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) Publication of maximum interest rate

The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) Special rules

(A) No special allowance rule

No special allowance under section 1087–1 of this title shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) No interest subsidy rule

No interest subsidy under section 1078(a) of this title shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) Additional reserve rule

Notwithstanding any other provision of this chapter, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) Insurance rule

Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.] with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act [42 U.S.C. 292i].

(4) Regulations

The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) Termination of authority

The authority to make loans under this section expires at the close of September 30, 2004. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b) of this section. Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 1074(a) of this title.

(f) Interest payment rebate fee

(1) In general

For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) Special rule

For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.

(3) Deposit

The Secretary shall deposit all fees collected pursuant to subsection (a) of this section into the insurance fund established in section 1081 of this title.

(Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1388; amended Pub. L. 100–50, § 10(s), June 3, 1987, 101 Stat. 345; Pub. L. 102–325, title IV, § 419, July 23, 1992, 106 Stat. 532; Pub. L. 102–408, title III, § 306(a), (b), Oct. 13, 1992, 106 Stat. 2084, 2086; Pub. L. 103–66, title IV, §§ 4046(a), (b)(2), 4106(a), Aug. 10, 1993, 107 Stat. 360, 363, 368; Pub. L. 103–208, § 2(c)(33)–(37), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 103–382, title III, § 356, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)(ii)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–33, title VI, § 6104(3), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(b)–(e), Nov. 13, 1997, 111 Stat. 1522, 1523; Pub. L. 105–244, title IV, §§ 416(b)(2), 420, Oct. 7, 1998, 112 Stat. 1682, 1695; Pub. L. 107–139, § 1(a)(2), Feb. 8, 2002, 116 Stat. 8.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a)(4)(D), (E) and (d)(1)(C)(ii), (3)(D), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subparts I and II of part A of title VII of the Act are classified generally to subpart I (§ 292 et seq.) and subpart II (§ 292q et seq.), re-

spectively, of part A of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Subpart II of part B of title VIII of the Act, which was classified generally to subpart II (§ 297a et seq.) of part B of subchapter VI of chapter 6A of Title 42, was redesignated as part E of subchapter VI of chapter 6A of Title 42, by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

This chapter, referred to in subsec. (d)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Amendments by section 2(c)(33), (36) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–3, Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–272, title XVI, § 16017(a), Apr. 7, 1986, 100 Stat. 343, related to consolidation loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (c)(1)(A). Pub. L. 107–139 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable interest rate shall be determined under section 1077a(k)(4) of this title.''

1998—Subsec. (a)(3). Pub. L. 105–244, § 420(a), amended heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which defined the term ''eligible borrower'', provided for termination of individual's status as an eligible borrower, and provided for counting loans against certain limitations on aggregate indebtedness.

Subsec. (a)(4)(C). Pub. L. 105–244, § 420(b), added subpar. (C) and struck out former subpar. (C) which read as follows: ''made under part C of this subchapter, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on November 13, 1997, and ending on October 1, 1998;''.

Subsec. (b)(1)(A)(i). Pub. L. 105–244, § 420(c)(1), inserted ''except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part,'' after ''under this section,''.

Subsec. (b)(4)(C)(ii). Pub. L. 105–244, § 420(c)(2), inserted ''during any such period'' after ''and be paid'' in introductory provisions and struck out '', or on or after October 1, 1998,'' before ''that consolidated'' in subcl. (I) and ''and before October 1, 1998,'' before ''except that'' in subcl. (II).

Subsec. (b)(6)(A). Pub. L. 105–244, § 420(c)(3), inserted before semicolon at end '', except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section''.

Subsec. (c)(1). Pub. L. 105–244, § 420(b)(2), amended heading, added subpar. (A), and struck out former subpar. (A) which read as follows: ''Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B), (C), or (D). For the purposes of payment of special allowances under section 1087–1(b)(2) of this title, the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.''

Subsec. (e). Pub. L. 105–244, § 420(d), substituted ''September 30, 2004'' for ''September 30, 2002''.

Subsec. (f)(2), (3). Pub. L. 105–244, § 420(e), added par. (2) and redesignated former par. (2) as (3).

1997—Subsec. (a)(4)(C) to (E). Pub. L. 105–78, § 609(b), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(4)(C)(ii)(I). Pub. L. 105–78, § 609(c)(1), (2), inserted ''for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998,'' after ''consolidation loan'' and struck out ''or'' at end.

Subsec. (b)(4)(C)(ii)(II), (III). Pub. L. 105–78, § 609(c)(3)–(5), added subcl. (II) and redesignated former subcl. (II) as (III) and inserted ''or (II)'' before semicolon at end.

Subsec. (b)(6). Pub. L. 105–78, § 609(d), added par. (6).

Subsec. (c)(1)(A). Pub. L. 105–78, § 609(e)(1), substituted ''subparagraph (B), (C), or (D)'' for ''subparagraph (B) or (D)''.

Subsec. (c)(1)(D). Pub. L. 105–78, § 609(e)(2), added subpar. (D).

Subsec. (e). Pub. L. 105–33 substituted ''September 30, 2002.'' for ''September 30, 1998.''

1996—Subsec. (a)(1)(A). Pub. L. 104–208 inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(4)(D). Pub. L. 103–382 added subpar. (D).

1993—Subsec. (a)(3). Pub. L. 103–66, § 4046(a)(1), amended heading.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(c)(33), substituted ''defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans'' for ''delinquent or defaulted borrower who will reenter repayment through loan consolidation''. See Codification note above.

Pub. L. 103–66, § 4046(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

''(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $7,500; and

''(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.''

Subsec. (a)(3)(B)(ii). Pub. L. 103–66, § 4046(b)(2), struck out at end ''Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(4)(A). Pub. L. 103–208, § 2(c)(34), struck out before semicolon at end '', except for loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986''.

Subsec. (a)(4)(C). Pub. L. 103–208, § 2(c)(35), substituted ''part A'' for ''part C'' before ''of title VII of the Public Health Service Act''.

Subsec. (b)(1)(A), (E), (F). Pub. L. 103–66, § 4046(a)(2)(A), inserted ''with income-sensitive repayment terms'' after ''obtain a consolidation loan'' in subpar. (A)(ii), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(C). Pub. L. 103–66, § 4046(a)(2)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (b)(5). Pub. L. 103–66, § 4046(a)(2)(C), added par. (5).

Subsec. (c)(1)(B), (C). Pub. L. 103–66, § 4046(a)(3)(A), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

''(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.''

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(c)(36), inserted period at end of cl. (vi). See Codification note above.

Pub. L. 103–66, § 4046(a)(3)(B)(i), in introductory provisions substituted ''income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms'' for ''income sensitive repayment schedules. Such repayment terms'', added cl. (i), and redesignated former cls. (i) to (v) as (ii) to (vi), respectively.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, § 4046(a)(3)(B)(ii), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).''

Subsec. (c)(3)(A). Pub. L. 103–208, § 2(c)(37), inserted ''be an amount'' before ''equal to''.

Subsec. (c)(3)(B). Pub. L. 103–66, § 4046(a)(3)(C), inserted ''except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section,'' before ''the lender''.

Subsec. (f). Pub. L. 103–66, § 4106(a), added subsec. (f).

1992—Pub. L. 102–325, § 419(a), substituted ''Federal consolidation'' for ''Consolidation'' in section catchline.

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 419(b)(1)(A), substituted ''$7,500'' for ''$5,000''.

Subsec. (a)(3)(A)(ii). Pub. L. 102–325, § 419(b)(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.''

Subsec. (a)(3)(B). Pub. L. 102–325, § 419(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, be counted against the applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title. Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under subsection (a)(4) of this section) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(3)(C). Pub. L. 102–325, § 419(d), added subpar. (C).

Subsec. (a)(4)(A). Pub. L. 102–325, § 419(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''made, insured, or guaranteed under this part, except for loans made to parent borrowers under section 1078–2 of this title, including loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986;''.

Subsec. (b)(4)(C). Pub. L. 102–325, § 419(e), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (c)(2)(A). Pub. L. 102–325, § 419(f), substituted ''which shall include'' for ''which may include'' in first sentence, inserted second sentence, and struck out former second sentence which read as follows: ''Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

''(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

''(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

''(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

''(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

''(v) is equal to or greater than $45,000, then such consolidation loan shall be repaid in not more than 25 years.''

Subsec. (d). Pub. L. 102–408, § 306(a), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 102–325, § 419(g), substituted ''September 30, 1998'' for ''September 30, 1992''.

Subsec. (e). Pub. L. 102–408, § 306(b), which directed the substitution of ''1997'' for ''1992'', could not be executed because ''1992'' did not appear in text subsequent to the amendment by Pub. L. 102–325, § 419(g). See above.

Pub. L. 102–408, § 306(a)(1), redesignated subsec. (d) as subsec. (e).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 10(s)(1), which directed the amendment of subpar. (C) by substituting ''(C), (E), and (J)'' for ''(C) and (E)'', was executed by substituting the new language for ''(C), and (E)'', as the probable intent of Congress.

Subsec. (a)(3)(A). Pub. L. 100–50, § 10(s)(2), struck out cl. (iii) which read as follows: ''is not a parent borrower under section 1078–2 of this title.''

Subsec. (a)(3)(B). Pub. L. 100–50, § 10(s)(3), substituted ''eligible student loans received'' for ''loans received under this subchapter and part C of subchapter I of chapter 34 of title 42'', ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part'', and '', 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title'' for ''and 1078(b)(1)(B) of this title'', and inserted provision that nothing in subpar. (B) should be interpreted to authorize Secretary to require lenders, holders, or guarantors of consolidation loans to make reports with respect to pre-existing records relating to eligible student loans discharged by a borrower in receiving a consolidation loan.

Subsec. (a)(4)(A). Pub. L. 100–50, § 10(s)(4), inserted exception for loans made to parent borrowers under section 1078–2 of this title.

Subsec. (b)(1)(C). Pub. L. 100–50, § 10(s)(5), in cl. (i), substituted ''subsection (a)(3) of this section'' for ''subsection (a)(2) of this section'' and, in cl. (ii), substituted ''all eligible student loans received by the eligible borrower'' for ''all loans received by the eligible borrower under this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (c)(2)(A)(v). Pub. L. 100–50, § 10(s)(6), substituted ''equal to or greater'' for ''more'' the first time appearing, as the probable intent of Congress.

Subsec. (c)(5). Pub. L. 100–50, § 10(s)(7), inserted '', but a fee may be payable by the lender to the guaranty

agency to cover the costs of increased or extended liability with respect to such loan'' before period at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under this section for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 420 of 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 1996 AMENDMENT

Section 101(e) [title VI, § 602(b)(1)(B)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by this paragraph [amending this section and section 1085 of this title] shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(h)] (as added by subsection (a)).''

EFFECTIVE DATE OF 1993 AMENDMENTS

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.

Section 4046(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1085 of this title] shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) [amending this section] shall take effect upon enactment [Aug. 10, 1993].''

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 306(c) of Pub. L. 102–408 provided that: ''The amendments made by this section [amending this section] take effect 60 days after the date of enactment of this Act [Oct. 13, 1992].''

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in this section, relating to consolidation loans, applicable with respect to loans for which the application is received by an eligible lender on or after Jan. 1, 1993, see section 432, set out as a note under section 1078 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.

PENDING APPLICANTS

Section 609(f) of Pub. L. 105–78 provided that: ''The consolidation loans authorized by the amendments made by this section [amending this section] shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan.''

COST EVALUATION REPORT

Pub. L. 99–272, title XVI, § 16017(d), Apr. 7, 1986, 100 Stat. 348, provided that: ''The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section [enacting former section 1078–3 of this title and amending former sections 1077, 1085, 1087–1, and 1087–2 of this title] and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1077a, 1078, 1078–7, 1078–10, 1078–11, 1082, 1083, 1085, 1087, 1087–1, 1087–2, 1087e, 1091, 1092a of this title; title 42 section 292e.

§ 1078–4. Commingling of funds

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(Pub. L. 89–329, title IV, § 428D, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1393.)

§ 1078–5. Repealed. Pub. L. 102–164, title VI, § 605(b)(1), Nov. 15, 1991, 105 Stat. 1068

Section, Pub. L. 89–329, title IV, § 428E, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1393; amended Pub. L. 100–50, § 10(t), June 3, 1987, 101 Stat. 345, related to State garnishment law requirements.

§ 1078–6. Default reduction program

(a) Other repayment incentives

(1) Sale of loan

(A) Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 1078(c) of this title, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.

(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agen-

cy for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 1087–1 of this title.

(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) Use of proceeds of sales

Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1) of this subsection shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this subsection for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) Borrower eligibility

Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 1091 of this title from receiving additional loans or grants under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

(4) Applicability of general loan conditions

A loan which is sold under paragraph (1) of this subsection shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(b) Satisfactory repayment arrangements to renew eligibility

Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(Pub. L. 89–329, title IV, § 428F, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1394; amended Pub. L. 100–50, § 10(u), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, § 2005(a), Dec. 19, 1989, 103 Stat. 2116; Pub. L. 102–325, title IV, § 420, July 23, 1992, 106 Stat. 534; Pub. L. 103–208, § 2(c)(38)–(40), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, § 421, Oct. 7, 1998, 112 Stat. 1696.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244 substituted ''Satisfactory repayment arrangements to renew eligibility'' for ''Special rule'' in heading.

1993—Subsec. (a)(2). Pub. L. 103–208, § 2(c)(38), substituted ''paragraph (1) of this subsection'' for ''this paragraph'' and ''this subsection'' for ''this section''.

Subsec. (a)(4). Pub. L. 103–208, § 2(c)(39), substituted ''paragraph (1) of this subsection'' for ''this paragraph''.

Subsec. (b). Pub. L. 103–208, § 2(c)(40), inserted at end ''A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.''

1992—Subsec. (a). Pub. L. 102–325, § 420(1)–(3), redesignated subsec. (b) as (a), in par. (1)(A) substituted ''Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon'' for ''Upon'' and inserted provision at end that neither the guaranty agency nor the Secretary demand from the borrower as monthly payments more than is reasonable and affordable based upon the borrower's total financial circumstances, in par. (3) inserted ''or grants'' after ''loans'', and struck out former subsec. (a) which related to program requirements for the default reduction program.

Subsec. (b). Pub. L. 102–325, § 420(4), added subsec. (b). Former subsec. (b) redesignated (a).

1989—Pub. L. 101–239 amended section generally, substituting provisions relating to default reduction program for former provisions relating to rehabilitation of defaulted loans.

1987—Subsecs. (b), (c). Pub. L. 100–50 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.''

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 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.

PUBLICITY THROUGH COMMUNICATIONS MEDIA OF AVAILABILITY OF DEFAULT REDUCTION PROGRAM

Section 2005(b) of Pub. L. 101–239 provided that: ''The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section [amending this section], and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072a, 1085 of this title.

§ 1078–7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required

The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required

The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(b) Disbursement and endorsement requirements

(1) First year students

The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

(2) Other students

The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(c) Method of multiple disbursement

Disbursements under subsection (a) of this section—

(1) shall be made in accordance with a schedule provided by the institution (under section 1078(a)(2)(A)(i)(III)[1] of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078–1[1] of this title, may be disbursed pursuant to the escrow provisions of section 1078(i) of this title; and

(3) notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement

(1) Withdrawing students

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078–3 of this title, made to a student to cover the cost of attendance at an eligible institution outside the United States, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(Pub. L. 89–329, title IV, § 428G, as added Pub. L. 101–239, title II, § 2004(a), Dec. 19, 1989, 103 Stat. 2115; amended Pub. L. 101–508, title III, § 3003(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 102–325, title IV, § 421, July 23, 1992, 106 Stat. 534; Pub. L. 103–66, title IV, § 4109(b), Aug. 10, 1993, 107 Stat. 369; Pub. L. 103–208, § 2(c)(41), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, § 422(a)–(c), Oct. 7, 1998, 112 Stat. 1696.)

REFERENCES IN TEXT

Section 1078(a)(2)(A)(i)(III) of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 105–244, title IV, § 417(a)(1)(A), Oct. 7, 1998, 112 Stat. 1682. Provisions similar to those contained in section 1078(a)(2)(A)(i)(III) are now contained in section 1078(a)(2)(A)(i)(II).

Section 1078–1 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994,

[1] See References in Text note below.

except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–244, § 422(a), (d), temporarily added par. (3) which read as follows: ''An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.'' See Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 105–244, § 422(b), (d), temporarily inserted at end ''An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.'' See Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 105–244, § 422(c), substituted '', made to a student'' for ''or made to a student'' and inserted before the period at end '', or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent''.

1993—Subsec. (c)(3). Pub. L. 103–208 directed the substitution of ''disbursed by the lender'' for ''disbursed'' and was executed by making the substitution the first place ''disbursed'' appeared, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 103–66 substituted ''consolidation'' for ''PLUS, consolidation,'' in heading and ''section 1078–3'' for ''section 1078–2 or 1078–3'' in text.

1992—Subsec. (c)(3). Pub. L. 102–325, § 421(a), added par. (3).

Subsec. (d)(2). Pub. L. 102–325, § 421(b), inserted '', except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph'' before period at end of first sentence.

Subsec. (g). Pub. L. 102–325, § 421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101–508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The first installment of the proceeds of any loan made under section 1078–1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

''(A) 30 days after the borrower begins a course of study; and

''(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.''

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by section 422(c) of 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.

Pub. L. 105–244, title IV, § 422(d), Oct. 7, 1998, 112 Stat. 1696, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.''

EFFECTIVE DATE OF 1993 AMENDMENTS

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.

Amendment by Pub. L. 103–66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103–66, set out as a note under section 1078–2 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3003(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.''

EFFECTIVE DATE

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078, 1078–2, 1078–8, 1087d of this title.

§ 1078–8. Unsubsidized Stafford loans for middle-income borrowers

(a) In general

It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 1078 of this title. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 1078 of this title shall apply to loans made pursuant to this section.

(b) Eligible borrowers

Any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 1087*ll* of this title) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 1078 of this title; and

(2) provided the lender a statement—

(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section; and

(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title.

(c) Determination of amount of loan

The determination of the amount of a loan by an eligible institution under subsection (b) of

this section shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) Loan limits

(1) In general

Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.

(2) Annual limits for independent, graduate, and professional students

The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the amount determined under paragraph (1), plus—

(A) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length; and

(ii) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in clause (i) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(i) $5,000; or

(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(C) in the case of such a student who is a graduate or professional student attending an eligible institution, $10,000; and

(D) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(i) $4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,000 for coursework necessary for enrollment in a graduate or professional program; and

(ii) in the case of a student who has obtained a baccalaureate degree, $5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;

except in cases where the Secretary determines,[1] that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(3) Aggregate limits for independent, graduate, and professional students

The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Secretary by regulation. Interest capitalized shall not be deemed to exceed such maximum aggregate amount.

(e) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title. Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.

(2) Capitalization of interest

(A) Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan by the lender only—

(I) when the loan enters repayment;

(II) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

(III) at the expiration of a period of deferment or forbearance; or

(IV) when the borrower defaults.

(B) The capitalization of interest described in subparagraph (A) shall not be deemed to ex-

[1] So in original. The comma probably should not appear.

ceed the annual insurable limit on account of the student.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(6) Repayment period

For purposes of calculating the repayment period under section 1078(b)(9) of this title, such period shall commence at the time the first payment of principal is due from the borrower.

(7) Qualification for forbearance

A lender may grant the borrower of a loan under this section a forbearance for a period not to exceed 60 days if the lender reasonably determines that such a forbearance from collection activity is warranted following a borrower's request for forbearance, deferment, or a change in repayment plan, or a request to consolidate loans in order to collect or process appropriate supporting documentation related to the request. During any such period, interest on the loan shall accrue but not be capitalized.

(f) Repealed. Pub. L. 105–244, title IV, § 423(f), Oct. 7, 1998, 112 Stat. 1698

(g) Single application form and loan repayment schedule

A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 1078 of this title and for unsubsidized Federal Stafford loans made pursuant to this section.

(h) Insurance premium

Each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders.

(Pub. L. 89–329, title IV, § 428H, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 535; amended Pub. L. 103–66, title IV, §§ 4047(a), 4102(b), Aug. 10, 1993, 107 Stat. 363, 366; Pub. L. 103–208, § 2(c)(42)–(45), Dec. 20, 1993, 107 Stat. 2466, 2467; Pub. L. 104–134, title I, § 101(d) [title V, § 514(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–244, title IV, § 423, Oct. 7, 1998, 112 Stat. 1696.)

CODIFICATION

Amendments by section 2(c)(42), (45) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 423(a), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

''(1) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

''(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 1078 of this title; and

''(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section.''

Subsec. (d)(2). Pub. L. 105–244, § 423(b)(1)(A), in introductory provisions, inserted ''(as defined in section 1088(a)(2) of this title)'' after ''academic year'' and struck out ''or in any period of 7 consecutive months, whichever is longer,'' after ''or its equivalent''.

Subsec. (d)(2)(A). Pub. L. 105–244, § 423(b)(1)(B), substituted ''length; and'' for ''length (as determined under section 1088 of this title);'' in cl. (i), added cl. (ii), and struck out former cls. (ii) and (iii) which read as follows:

''(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (d)(2)(D). Pub. L. 105–244, § 423(b)(1)(C), (D), added subpar. (D).

Subsec. (d)(3). Pub. L. 105–244, § 423(b)(2), inserted at end ''Interest capitalized shall not be deemed to exceed such maximum aggregate amount.''

Subsec. (e)(2). Pub. L. 105–244, § 423(c), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.''

Subsec. (e)(6). Pub. L. 105–244, § 423(d), which directed substitution of ''repayment period under section 1078(b)(9) of this title'' for ''10 year repayment period under section 1078(b)(1)(D) of this title'', was executed

by making the substitution for ''10-year repayment period under section 1078(b)(1)(D) of this title'' to reflect the probable intent of Congress.

Subsec. (e)(7). Pub. L. 105–244, § 423(e), added par. (7).

Subsec. (f). Pub. L. 105–244, § 423(f), struck out heading and text of subsec. (f) which provided for lenders to charge borrowers origination fees on loans.

1996—Subsec. (d)(2). Pub. L. 104–134 substituted semicolon for period at end of subpar. (C) and inserted concluding provisions.

1993—Subsec. (b). Pub. L. 103–66, § 4047(a)(1), inserted ''(including graduate and professional students as defined in regulations promulgated by the Secretary)'' in introductory provisions.

Subsec. (d). Pub. L. 103–66, § 4047(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.''

Subsec. (d)(2)(B). Pub. L. 103–208, § 2(c)(42), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''in the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study—

''(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this section);

''(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''. See Codification note above.

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(43), substituted ''shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title.'' for ''shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.'' and inserted at end ''Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.''

Subsec. (e)(4). Pub. L. 103–208, § 2(c)(44), substituted ''section 1077a'' for ''section 1077a(e)''.

Subsec. (e)(5), (6). Pub. L. 103–66, § 4047(a)(3), added pars. (5) and (6).

Subsec. (f). Pub. L. 103–66, § 4102(b)(1)(A), substituted ''Origination fee'' for ''Insurance premium'' in section catchline.

Subsec. (f)(1). Pub. L. 103–66, § 4102(b)(1)(B), (C), struck out reference to insurance premium in heading and in text substituted ''an origination fee in the amount of 3.0 percent'' for ''a combined origination fee and insurance premium in the amount of 6.5 percent'' and struck out second sentence which read as follows: ''A guaranty agency may not charge an insurance premium on any loan made under this section.''

Subsec. (f)(2). Pub. L. 103–66, § 4102(b)(1)(D), substituted ''origination fee'' for ''combined fee and premium''.

Subsec. (f)(3). Pub. L. 103–66, § 4102(b)(1)(E), substituted ''origination fee'' for ''combined origination fee and insurance premium''.

Subsec. (f)(4). Pub. L. 103–66, § 4102(b)(1)(F), in heading substituted ''origination fee'' for ''insurance premium'' and in text substituted ''origination fees'' for ''combined origination fee and insurance premiums'' and ''to pay'' for ''and premiums to pay''.

Subsec. (f)(5). Pub. L. 103–66, § 4102(b)(1)(G), inserted ''origination fee and'' in heading and in text substituted ''do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h) of this section, the Secretary is directed to lower the origination fee and insurance premium accordingly'' for ''do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly''.

Subsec. (h). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Subsec. (*l*). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Pub. L. 103–66, § 4102(b)(2), added subsec. (*l*).

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 1996 AMENDMENT

Section 101(d) [title V, § 514(b)] of Pub. L. 104–134 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(42)–(43)(A), (44), (45) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(c)(43)(B) of Pub. L. 103–208 effective on and after Apr. 1, 1994, see section 5(a), (b)(5) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Section 4047(d) of Pub. L. 103–66 provided that: ''Except as otherwise provided herein [see section 4047(c) of Pub. L. 103–66, set out below], the amendments made by this section [amending this section and repealing section 1078–1 of this title] shall take effect on July 1, 1994.''

Amendment by section 4102(b) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE

Section effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Oct. 1, 1992, see section 432(a)(12) of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1078 of this title.

CONTINUING APPLICABILITY OF TERMS, CONDITIONS, AND BENEFITS OF LOANS

Section 4047(c) of Pub. L. 103–66 provided that: ''Notwithstanding the amendments made by this section [amending this section and repealing section 1078–1 of this section], with respect to loans provided under sections 428A [former 20 U.S.C. 1078–1] and 428H of the Act [20 U.S.C. 1078–8] (as such sections existed on the date preceding the date of enactment of this Act [Aug. 10, 1993]) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072a, 1077a, 1078, 1078–10, 1083, 1085, 1087, 1087–1, 1087d, 1087e, 1087j, 1091, 1091b of this title.

§ 1078–9. Special insurance and reinsurance rules

(a) Designation of lenders, servicers, and guaranty agencies

(1) Authority

Whenever the Secretary determines that an eligible lender, servicer, or guaranty agency has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate the eligible lender, servicer, or

guaranty agency, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

(2) Compliance performance rating

For purposes of paragraph (1), a compliance performance rating is determined with respect to compliance with due diligence in the collection of loans under this part for each year for which the determination is made. Such rating is equal to the percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary by regulation, with respect to—

(A) loans serviced during the period by the eligible lender or servicer; or

(B) loans on which loan collection was attempted by the guaranty agency.

(b) Payment to lenders and servicers

(1) 100 percent payment rule

Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) of this section 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) of this section has been revoked.

(2) Revocation authority

The Secretary shall revoke the designation of a lender or servicer under subsection (a) of this section if any quarterly audit required under subsection (c)(5) of this section is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender or servicer failed to maintain 97 percent or higher compliance with program regulations, as reflected in the performance of not less than 97 percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary for the purpose of this section, for 2 consecutive months or 90 percent for 1 month.

(3) Documentation

Nothing in this section shall restrict or limit the authority of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a) of this section.

(4) Payments to guaranty agencies

The Secretary shall pay to each guaranty agency designated under subsection (a) of this section the appropriate percentage under this subsection for the 1-year period following the receipt by the guaranty agency of the notification of designation under subsection (a) of this section.

(c) Supervision of designated lenders and servicers

(1) Audits for lenders and servicers

Each eligible lender or servicer desiring a designation under subsection (a) of this section shall have a financial and compliance audit of the loan portfolio of such eligible lender or servicer conducted annually by a qualified independent organization from a list of qualified organizations promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall measure the lender's or servicer's compliance with the due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or servicer for the purpose of this section. Each eligible lender or servicer shall submit the audit required by this section to the Secretary and to each appropriate guaranty agency.

(2) Additional information on lenders and servicers

Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under subsection (a) of this section, including but not limited to any information suggesting that the application of a lender or servicer for designation under subsection (a) of this section should not be approved.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section, such other information as provided by any guaranty agency under paragraph (2), and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional lender or servicer has been approved.

(4) Cost of audit

Each eligible lender or servicer shall pay for all the costs of the audits required under this section.

(5) Compliance audit

In order to maintain its status as an exceptional eligible lender or servicer, the lender or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional lender or servicer is established through a financial and compliance audit, as described in subsection (c)(1) of this section), and submit the results of such audit to the Secretary and such appropriate guaranty agency. The compliance audit will review compliance with due diligence requirements for the period since the last audit.

(6) Loss of designation

If the audit performed pursuant to paragraph (5) fails to meet the standards for designation as an exceptional lender or servicer under subsection (a)(1) of this section, the lender or servicer shall lose its designation as an exceptional lender or servicer. A lender or servicer receiving a compliance audit not meeting the standard for designation as an exceptional lender or servicer may reapply for designation under subsection (a) of this section at any time.

(7) Due diligence standards

Due diligence standards used for determining compliance under paragraph (5) shall be promulgated by the Secretary after consultation with lenders, guaranty agencies and servicers and shall consist of a list of specific elements for the Federal regulations selected to provide an indication of systems degradation.

(8) Additional revocation authority

Notwithstanding any other provision of this section, designation under subsection (a) of this section may be revoked at any time by the Secretary if the Secretary determines that the eligible lender or servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or servicer under this section or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a) of this section or is failing to service loans in accordance with program regulations.

(d) Supervision of designated guaranty agencies

(1) Audit of guaranty agencies

Each guaranty agency desiring a designation under subsection (a) of this section shall have a financial and compliance audit of the defaulted loan portfolio of such guaranty agency conducted annually by a qualified independent organization or person from a list of qualified organizations or persons promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this section. Each guaranty agency shall submit the audit required by this paragraph to the Secretary.

(2) Quarterly sample audits

The Secretary may require quarterly sample audits as a means of determining continued qualification of the guaranty agency for designation as an exceptional guaranty agency.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

(4) Costs of audits

Each guaranty agency shall pay for all of the costs of the audits regulated by this section.

(5) Revocation for fraud

The Secretary may revoke the designation of a guaranty agency under subsection (a) of this section at any time if the Secretary has reason to believe the guaranty agency secured its designation under subsection (a) of this section through fraud or fails to comply with applicable regulations.

(6) Revocation based on performance

Designation as an exceptional guaranty agency may be revoked at any time by the Secretary upon 30 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an acceptable overall level of regulatory compliance.

(e) Special rule

Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(f) Limitation

Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this paragraph.

(g) Claims

A lender, servicer, or guaranty agency designated under subsection (a) of this section failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of section 3729 of title 31.

(h) Evaluation

Not later than 3 years after July 23, 1992, the Comptroller General shall submit to the Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor, an evaluation of the provisions of this section including, but not limited to, the following:

(1) The effectiveness of due diligence performed by lenders and servicers receiving designation as exceptional lenders or servicers from the perspective of securing maximum collections from borrowers.

(2) A quantification of the dollar volume of claims that were paid to exceptional lenders and servicers that would not have been paid under applicable program provisions prior to the enactment of this section.

(3) An assessment of the impact of this section on the financial condition of guaranty agencies.

(4) An assessment of the savings to lenders, servicers, and guaranty agencies resulting from designation as exceptional performance.

(5) An identification of specific administration steps that lenders, servicers, and guar-

anty agencies do not have to perform as a result of designation as exceptional lenders, servicers, or guaranty agencies.

(6) A recommendation for program modifications applicable to all program participants based on the findings of the evaluation.

(7) A recommendation for modifications to this section and whether the program should be continued.

(i) Termination

After receipt of the study authorized in subsection (h) of this section, the Secretary may terminate such program if he determines such termination to be in the fiscal interest of the United States.

(j) Definitions

For the purpose of this section—

(1) the term ''due diligence requirements'' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

(2) the term ''eligible loan'' means a loan made, insured or guaranteed under this part;

(3) the term ''servicer'' means an entity servicing and collecting student loans which—

(A) has substantial experience in servicing and collecting consumer loans or student loans;

(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

(C) has business systems which are capable of meeting the requirements of this part;

(D) has adequate personnel who are knowledgeable about the student loan programs authorized by this part; and

(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

(Pub. L. 89–329, title IV, § 428I, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 536; amended Pub. L. 103–208, § 2(c)(46), Dec. 20, 1993, 107 Stat. 2467.)

CODIFICATION

July 23, 1992, referred to in subsec. (h), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–325 which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1993—Subsec. (g). Pub. L. 103–208 substituted ''section 3729 of title 31'' for ''the Federal False Claims Act''.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1087–1 of this title.

§ 1078–10. Loan forgiveness for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 1078 or 1078–8 of this title, in accordance with subsection (c) of this section, for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools;

(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

(C) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) Qualified loans amount

(1) In general

The Secretary shall repay not more than $5,000 in the aggregate of the loan obligation on a loan made under section 1078 or 1078–8 of this title that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1) of this section. No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.

(2) Treatment of consolidation loans

A loan amount for a loan made under section 1078–3 of this title may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(h) "Year" defined

For purposes of this section, the term ''year'', where applied to service as a teacher, means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, § 428J, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 541; amended Pub. L. 103–82, title I, § 102(c)(2), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, § 2(c)(47)–(51), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 105–244, title IV, § 424, Oct. 7, 1998, 112 Stat. 1698.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to carry out demonstration program for loan forgiveness for teachers, individuals performing national community service, and nurses.

1993—Subsec. (b)(1). Pub. L. 103–208, § 2(c)(47), substituted ''section'' for ''sections'' in introductory provisions.

Pub. L. 103–82, § 102(c)(2)(A), substituted ''October 1, 1989'' for ''October 1, 1992'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 103–208, § 2(c)(48), substituted ''serves as a full-time volunteer'' for ''agrees in writing to volunteer for service''.

Subsec. (c)(1). Pub. L. 103–208, § 2(c)(49), substituted ''year of service'' for ''academic year'' wherever appearing.

Subsec. (c)(5). Pub. L. 103–82, § 102(c)(2)(B), added par. (5).

Subsec. (d). Pub. L. 103–208, § 2(c)(50), substituted ''to eligible'' for ''of eligibility'' in heading.

Subsec. (e). Pub. L. 103–208, § 2(c)(51), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.''

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 AMENDMENTS

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.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104–299, set out as a note under section 254b of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087j of this title.

§ 1078–11. Loan forgiveness for child care providers

(a) Purpose

It is the purpose of this section—

(1) to bring more highly trained individuals into the early child care profession; and

(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

(b) Definitions

In this section:

(1) Child care facility

The term ''child care facility'' means a facility, including a home, that—

(A) provides child care services; and

(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

(2) Child care services

The term ''child care services'' means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education.

(3) Degree

The term ''degree'' means an associate's or bachelor's degree awarded by an institution of higher education.

(4) Early childhood education

The term ''early childhood education'' means education in the areas of early child education, child care, or any other educational area related to child care that the Secretary determines appropriate.

(5) Institution of higher education

Notwithstanding section 1002 of this title, the term ''institution of higher education'' has the meaning given the term in section 1001 of this title.

(c) Demonstration program

(1) In general

The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d) of this section, a loan made, insured, or guaranteed under this part or part C of this subchapter (excluding loans made under sections 1078–2 and 1078–3 of this title or comparable loans made under part C of this subchapter) for any new borrower after October 7, 1998, who—

(A) completes a degree in early childhood education;

(B) obtains employment in a child care facility; and

(C) has worked full time for the 2 consecutive years preceding the year for which the determination is made as a child care provider in a low-income community.

(2) Low-income community

For the purposes of this subsection, the term ''low-income community'' means a community in which 70 percent of households within the community earn less than 85 percent of the State median household income.

(3) Award basis; priority

(A) Award basis

Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

(B) Priority

The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

(4) Regulations

The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(d) Loan repayment

(1) In general

The Secretary shall assume the obligation to repay—

(A) after the second consecutive year of employment described in subparagraphs (B) and (C) of subsection (c)(1) of this section, 20 percent of the total amount of all loans made after October 7, 1998, to a student under this part or part C of this subchapter;

(B) after the third consecutive year of such employment, 20 percent of the total amount of all such loans; and

(C) after each of the fourth and fifth consecutive years of such employment, 30 percent of the total amount of all such loans.

(2) Construction

Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part C of this subchapter.

(3) Interest

If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

(4) Special rule

In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part C of this subchapter incurred for a maximum of two academic years in returning to an institution of higher education for the purpose of obtaining a degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

(5) Ineligibility of national service award recipients

No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(e) Repayment to eligible lenders

The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

(f) Application for repayment

(1) In general

Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Conditions

An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

(g) Evaluation

(1) In general

The Secretary shall conduct, by grant or contract, an independent national evaluation

of the impact of the demonstration program assisted under this section on the field of early childhood education.

(2) Competitive basis

The grant or contract described in subsection (b)[1] of this section shall be awarded on a competitive basis.

(3) Contents

The evaluation described in this subsection shall—

(A) determine the number of individuals who were encouraged by the demonstration program assisted under this section to pursue early childhood education;

(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

(C) identify the barriers to the effectiveness of the program;

(D) assess the cost-effectiveness of the program in improving the quality of—

(i) early childhood education; and

(ii) child care services;

(E) identify the reasons why participants in the program have chosen to take part in the program;

(F) identify the number of individuals participating in the program who received an associate's degree and the number of such individuals who received a bachelor's degree; and

(G) identify the number of years each individual participates in the program.

(4) Interim and final evaluation reports

The Secretary shall prepare and submit to the President and the Congress such interim reports regarding the evaluation described in this subsection as the Secretary deems appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2002.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 428K, as added Pub. L. 105–244, title IV, § 425, Oct. 7, 1998, 112 Stat. 1699.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (d)(5), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

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.

[1] So in original. Probably should be a reference to paragraph (1).

§ 1079. Certificate of Federal loan insurance—effective date of insurance

(a) Loan-by-loan insurance

(1) Authority to issue certificates on application

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

(3) Contents of applications

An application submitted pursuant to subsection (a)(1) of this section shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c) of this section, and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive insurance coverage certificate

(1) Establishment of system by regulation

In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 1074 of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such

regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) Uncovered loans

If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 1074 of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) Charges for Federal insurance

The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 1080(a) of this title.

(d) Assignability of insurance

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) Consolidation not to affect insurance

The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(Pub. L. 89–329, title IV, § 429, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1395.)

PRIOR PROVISIONS

A prior section 1079, Pub. L. 89–329, title IV, § 429, Nov. 8, 1965, 79 Stat. 1243; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2123; Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to certificates of Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1073, 1078–3, 1080, 1082, 1085, 1087–2 of this title.

§ 1080. Default of student under Federal loan insurance program

(a) Notice to Secretary and payment of loss

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The ''amount of the loss'' on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) Effect of payment of loss

Upon payment of the amount of the loss pursuant to subsection (a) of this section, the

United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Forbearance not precluded

Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Care and diligence required of holders

Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 1078(a)(4) of this title and section 1079(a)(3) of this title, or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) Default rate of lenders, holders, and guaranty agencies

(1) In general

The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 1085(m) of this title) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) Regulations

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) Rate establishment and correction

The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 1085(m) of this title), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 1078(j) of this title. The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

(Pub. L. 89–329, title IV, § 430, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1397; amended Pub. L. 102–325, title IV, § 423, July 23, 1992, 106 Stat. 543; Pub. L. 105–244, title IV, § 426, Oct. 7, 1998, 112 Stat. 1702.)

PRIOR PROVISIONS

A prior section 1080, Pub. L. 89–329, title IV, § 430, Nov. 8, 1965, 79 Stat. 1244; Pub. L. 90–575, title I, § 113(b)(5), Oct. 16, 1968, 82 Stat. 1021; Pub. L. 92–318, title I, § 132B(c), June 23, 1972, 86 Stat. 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2125; Pub. L. 95–43, § 1(a)(33), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§ 416(a)(1), (b), 422, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1420, 1421, 1432, 1503; Pub. L. 99–272, title XVI, §§ 16014(a)(2), 16022, Apr. 7, 1986, 100 Stat. 341, 349, related to default of student borrowers under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 inserted ''the institution was contacted and other'' after ''submit proof that'' in third sentence.

1992—Subsec. (e). Pub. L. 102–325 added subsec. (e).

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.

STUDY OF FRAUD-BASED DEFENSES

Pub. L. 102–325, title XIV, § 1403, July 23, 1992, 106 Stat. 817, directed Secretary of Education to conduct a study of impact of fraud-based defenses on Federal Family Education Loan Program and to submit a report to Congress on the study not later than 19 months after July 23, 1992, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1079, 1080a, 1082, 1092b of this title.

§ 1080a. Reports to credit bureaus and institutions of higher education

(a) Agreements to exchange information

For the purpose of promoting responsible repayment of loans covered by Federal loan insur-

ance pursuant to this part or covered by a guaranty agreement pursuant to section 1078 of this title, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c) of this section, such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) of this section that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) Contents of agreements

Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) Contractor status of participants

A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5.

(e) Disclosure to institutions

The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) of this section concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) Duration of authority

Notwithstanding paragraphs (4) and (6)[1] of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years

[1] See References in Text note below.

from the date the loan entered default such subsequent time.

(Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1398; amended Pub. L. 100–50, § 10(v), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, § 424, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, § 2(c)(52), Dec. 20, 1993, 107 Stat. 2467.)

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (a), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Paragraph (6) of subsection (a) of section 605 of the Fair Credit Reporting Act, referred to in subsec. (f), was redesignated paragraph (5) of subsection (a) of section 605 of the Act by Pub. L. 105–347, § 5(4), Nov. 2, 1998, 112 Stat. 3211.

PRIOR PROVISIONS

A prior section 1080a, Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–272, title XVI, § 16023, Apr. 7, 1986, 100 Stat. 349; amended Pub. L. 99–320, § 2(c), May 23, 1986, 100 Stat. 491, related to reports to credit bureaus and institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (f)(1). Pub. L. 103–208 substituted a semicolon for the comma at end.

1992—Subsec. (f). Pub. L. 102–325 struck out ''or'' at end of par. (1), added pars. (2) and (3), and struck out former par. (2) which read as follows: ''with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.''

1987—Subsec. (e). Pub. L. 100–50 inserted sentence at end permitting an eligible institution to enter into arrangements with holders of delinquent loans made to borrowers for purpose of providing current information on borrower's location or employment or to assist holder in contacting and influencing borrower to avoid default.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1077, 1078–3, 1087cc of this title.

§ 1081. Insurance fund

(a) Establishment

There is hereby established a student loan insurance fund (hereinafter in this section called the ''fund'') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 1078(c) of this title. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 1072 of this title, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) Borrowing authority

If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 1078(c) of this title, the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(Pub. L. 89–329, title IV, § 431, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1400; amended Pub. L. 100–50, § 10(w), June 3, 1987, 101 Stat. 346.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''that Act, as amended'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1081, Pub. L. 89–329, title IV, § 431, Nov. 8, 1965, 79 Stat. 1245; Pub. L. 90–460, § 3(c), Aug. 3, 1968, 82 Stat. 638; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2126; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a student loan insurance fund, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1072 of this title'' for ''section 1072(a)(4)(C) 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.

FEDERAL FAMILY EDUCATION LOAN INSURANCE FUND

Pub. L. 105–244, title IV, § 434, Oct. 7, 1998, 112 Stat. 1711, provided that: ''Any funds in the insurance fund, as established under section 431 of the Higher Education Act of 1965 (20 U.S.C. 1081), on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury. All funds received by the Secretary of Education under subsection (a) of such section after the date of enactment of this Act shall be deposited into the fund in accordance with such subsection.''

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

All assets and liabilities of the vocational student loan insurance fund transferred to the student loan insurance fund, see section 116(c)(2) of Pub. L. 90–575, set out as a note under former section 981 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1072, 1078, 1078–3, 1087–1, 1087–2 of this title.

§ 1082. Legal powers and responsibilities

(a) General powers

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

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) 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 action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 1078(c) of this title; and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) Financial operations responsibilities

The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c) Data collection

(1) Collection by category of loan

(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) com-

mercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) Collection and reporting requirements

(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) Institutional, public, or nonprofit lenders

For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) Delegation

(1) Regional offices

The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) Delegable functions

The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 1079 of this title and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 1080(a) of this title, examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under subsection (a) of this section), and recommending litigation with respect to any such claim.

(e) Use of information on borrowers

Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 1078(c)(1) of this title, any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) Audit of financial transactions

(1) Comptroller General and Inspector General authority

The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 1078(b) of this title;

(B) any eligible lender as defined in section 1085(d)(1) of this title;

(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 1087–1 of this title in order to evaluate the program authorized by this part.

(2) Access to records

For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D)[1] of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) "Record" defined

For the purpose of this subsection, the term ''record'' includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) Audit procedures

In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

[1] See References in Text note below.

(g) Civil penalties

(1) Authority to impose penalties

Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) Limitations

No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) Correction of failure

A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) Consideration as single violation

For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others

If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise

Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) Authority of the Secretary to impose and enforce limitations, suspensions, and terminations

(1) Imposition of sanctions

(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 1078(a)(4) of this title, or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 1078 of this title,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) Review of sanctions on lenders

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(U) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such

limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(U) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(U) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) Review of sanctions on eligible institutions

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(T) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(T) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(T) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) Authority to sell defaulted loans

In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) Authority of Secretary to take emergency actions against lenders

(1) Imposition of sanctions

If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h) of this section;

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) Length of emergency action

An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) of this section before the expiration of that period.

(3) Opportunity to show cause

The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) Program of assistance for borrowers

(1) In general

The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this subchapter and part C of subchapter I of chapter 34 of title 42, including

providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) Publication

The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) Recommendation

The Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

(*l*) Uniform administrative and claims procedures

(1) In general

The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;
(B) electronic funds transfer;
(C) guaranty of loans;
(D) deferments;
(E) forbearance;
(F) servicing;
(G) claims filing;
(H) borrower status change; and
(I) cures.

(2) Special rules

(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) Simplification requirements

Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this chapter; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) Additional recommendations

The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) Common forms and formats

(1) Common guaranteed student loan application form and promissory note

(A) In general

The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe common application forms and promissory notes, or master promissory notes, to be used for applying for loans under this part.

(B) Requirements

The forms prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants;

(ii) be formatted to require the applicant to clearly indicate a choice of lender; and[2]

(C) Free application form

For academic year 1999–2000 and succeeding academic years, the Secretary shall prescribe the form developed under section 1090 of this title as the application form under this part, other than for loans under sections 1078–2 and 1078–3 of this title.

(D) Master promissory note

(i) In general

The Secretary shall develop and require the use of master promissory note forms for loans made under this part and part C of this subchapter. Such forms shall be available for periods of enrollment beginning not later than July 1, 2000. Each form shall allow eligible borrowers to receive, in addition to initial loans, additional loans for the same or subsequent periods of enrollment through a student confirmation process approved by the Secretary. Such forms shall be used for loans made under this part or part C of this subchapter as directed by the Secretary.

[2] So in original. The ''; and'' probably should be a period.

(ii) Consultation

In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

(iii) Sale; assignment; enforceability

Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.

(E) Perfection of security interests in student loans

(i) In general

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part, on behalf of any eligible lender (as defined in section 1085(d) of this title) shall attach, be perfected, and be assigned priority in the manner provided by the applicable State's law for perfection of security interests in accounts, as such law may be amended from time to time (including applicable transition provisions). If any such State's law provides for a statutory lien to be created in such loans, such statutory lien may be created by the entity or entities governed by such State law in accordance with the applicable statutory provisions that created such a statutory lien.

(ii) Collateral description

In addition to any other method for describing collateral in a legally sufficient manner permitted under the laws of the State, the description of collateral in any financing statement filed pursuant to this subparagraph shall be deemed legally sufficient if it lists such loans, or refers to records (identifying such loans) retained by the secured party or any designee of the secured party identified in such financing statement, including the debtor or any loan servicer.

(iii) Sales

Notwithstanding clauses (i) and (ii) and any provisions of any State law to the contrary, other than any such State's law providing for creation of a statutory lien, an outright sale of loans made under this part shall be effective and perfected automatically upon attachment as defined in the Uniform Commercial Code of such State.

(2) Common deferment form

The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under this part, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Common reporting formats

The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(4) Electronic forms

Nothing in this section shall be construed to limit the development and use of electronic forms and procedures.

(n) Default reduction management

(1) Authorization

There are authorized to be appropriated $25,000,000 for fiscal year 1999 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) Allowable activities

Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

(3) Plan for use required

The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Rep-

resentatives and the Senate and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(*o*) Consequences of guaranty agency insolvency

In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) Reporting requirement

All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or as to the eligibility of any entity or individual to participate under this subchapter and part C of subchapter I of chapter 34 of title 42, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, § 432, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1401; amended Pub. L. 100–50, § 10(x), (y), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, § 2006(a), Dec. 19, 1989, 103 Stat. 2118; Pub. L. 102–325, title IV, § 425, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, § 2(k)(2), (3), Dec. 20, 1993, 107 Stat. 2485; Pub. L. 104–66, title I, § 1042(e), Dec. 21, 1995, 109 Stat. 716; Pub. L. 105–244, title IV, § 427, Oct. 7, 1998, 112 Stat. 1702; Pub. L. 106–554, § 1(a)(1) [title III, § 311], Dec. 21, 2000, 114 Stat. 2763, 2763A–46.)

REFERENCES IN TEXT

Subparagraph (D) of paragraph (1) of subsec. (f), referred to in subsec. (f)(2), was repealed by Pub. L. 105–244, title IV, § 427(a)(3), Oct. 7, 1998, 112 Stat. 1702.

The Inspector General Act of 1978, referred to in subsec. (f)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (*l*)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1082, Pub. L. 89–329, title IV, § 432, Nov. 8, 1965, 79 Stat. 1246; Pub. L. 90–460, § 3(d), Aug. 3, 1968, 82 Stat. 638; Pub. L. 93–604, title VII, § 705(a), Jan. 2, 1975, 88 Stat. 1964; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2127; Pub. L. 96–88, title III, § 301(b)(2), Oct. 17, 1979, 93 Stat. 678; Pub. L. 96–374, title IV, § 416(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1421, 1503; Pub. L. 99–272, title XVI, § 16024, Apr. 7, 1986, 100 Stat. 351, related to functions, powers, and duties of Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (m)(1)(D)(iv). Pub. L. 106–554, § 1(a)(1) [title III, § 311(1)], struck out heading and text of cl. (iv). Text read as follows: ''Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part created on behalf of any eligible lender as defined in section 1085(d) of this title may be perfected either through the taking of possession of such loans (which can be through taking possession of an original or copy of the master promissory note) or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.''

Subsec. (m)(1)(E). Pub. L. 106–554, § 1(a)(1) [title III, § 311(2)], added subpar. (E).

1998—Subsec. (f)(1)(B). Pub. L. 105–244, § 427(a)(1), substituted ''section 1085(d)(1)'' for ''section 1085(d)(1)(D), (F), or (H)''.

Subsec. (f)(1)(C). Pub. L. 105–244, § 427(a)(2), substituted ''and the Workforce'' for ''and Labor'' and a period for ''; and'' at end.

Subsec. (f)(1)(D). Pub. L. 105–244, § 427(a)(3), struck out subpar. (D) which read as follows: ''any Authority required to file a plan for doing business under section 1087–1(d) of this title.''

Subsec. (k)(3). Pub. L. 105–244, § 427(b), substituted ''The Secretary'' for ''Within 1 year after July 23, 1992, the Secretary''.

Subsec. (m)(1)(A). Pub. L. 105–244, § 427(c)(1)(A), substituted ''common application forms and promissory notes, or master promissory notes,'' for ''a common application form and promissory note''.

Subsec. (m)(1)(B). Pub. L. 105–244, § 427(c)(1)(B), substituted ''The forms'' for ''The form'' in introductory provisions and struck out cl. (iii) which read as follows: ''permit, to the maximum extent practicable, application for any loan under this part.''

Subsec. (m)(1)(C). Pub. L. 105–244, § 427(c)(1)(C), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: ''The Secretary shall approve a form for use not later than 360 days after July 23, 1992.''

Subsec. (m)(1)(D). Pub. L. 105–244, § 427(c)(1)(D), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: ''Nothing in this section shall be construed to limit the development of electronic forms and procedures.''

Subsec. (m)(4). Pub. L. 105–244, § 427(c)(2), added par. (4).

Subsec. (n)(1). Pub. L. 105–244, § 427(d)(1), substituted ''1999'' for ''1993''.

Subsec. (n)(3). Pub. L. 105–244, § 427(d)(2), substituted ''and the Workforce'' for ''and Labor'' in concluding provisions.

Subsec. (p). Pub. L. 105–244, § 427(e), struck out ''State postsecondary reviewing entities designated under subpart 1 of part G of this subchapter,'' after ''agencies or boards,''.

1995—Subsec. (b). Pub. L. 104–66 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary shall, with respect to the financial operations arising by reason of this part—

''(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

''(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted ac-

counting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.''

1993—Subsec. (h)(2)(A), (3)(A). Pub. L. 103–208 amended directory language of Pub. L. 102–325, § 425(d)(1). See 1992 Amendment notes below.

1992—Subsec. (a)(1). Pub. L. 102–325, § 425(a), inserted before semicolon at end '', including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers''.

Subsecs. (a)(3), (g)(1). Pub. L. 102–325, § 425(b)(1), (2), struck out ''on the record'' after ''for a hearing''.

Subsec. (g)(2). Pub. L. 102–325, § 425(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

''(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial misrepresentation;

''(ii) gross negligence; or

''(iii) willful actions on the part of the lender or guaranty agency; and

''(B) the violation, failure, or substantial misrepresentation is material.''

Subsec. (g)(3). Pub. L. 102–325, § 425(c)(2), substituted ''notification by the Secretary under that paragraph'' for ''the institution of an action under that paragraph''.

Subsec. (g)(4). Pub. L. 102–325, § 425(c)(3), inserted '', and occurring prior to notification by the Secretary under that paragraph,'' after ''guaranty agency'' and substituted ''or both. The'' for ''or both, and the''.

Subsec. (h)(2)(A). Pub. L. 102–325, § 425(d)(1), as amended by Pub. L. 103–208, § 2(k)(2), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction'' for ''The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(3), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(2)(B), (C). Pub. L. 102–325, § 425(d)(2), (3), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsec. (h)(3)(A). Pub. L. 102–325, § 425(d)(4), as amended by Pub. L. 103–208, § 2(k)(3), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions'' for ''The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(4), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(3)(B), (C). Pub. L. 102–325, § 425(d)(5), (6), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsecs. (k) to (p). Pub. L. 102–325, § 425(e), added subsecs. (k) to (p).

1989—Subsec. (j). Pub. L. 101–239 added subsec. (j).

1987—Subsec. (f)(4). Pub. L. 100–50, § 10(x), added par. (4).

Subsec. (g)(2)(A)(i), (B). Pub. L. 100–50, § 10(y), substituted ''misrepresentation'' for ''representation''.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1087c, 1087hh, 1094, 1099c–1 of this title.

§ 1083. Student loan information by eligible lenders

(a) Required disclosure before disbursement

Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(5) the stated interest rate on the loan;

(6) the yearly and cumulative maximum amounts that may be borrowed;

(7) an explanation of when repayment of the loan will be required and when the borrower

will be obligated to pay interest that accrues on the loan;

(8) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(9) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(11) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);[1]

(12) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

(13) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(14) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Required disclosure before repayment

Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options, except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title;

(8) except as provided in subsection (e) of this section, the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Cost of disclosure and consequences of nondisclosure

Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act [15 U.S.C. 1601 et seq.] with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

(d) Separate statement

Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(e) Special disclosure rules on SLS loans and PLUS loans and unsubsidized loans

Loans made under sections 1078–1,[2] 1078–2, and 1078–8 of this title shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8) of this section if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels

[1] See References in Text note below.

[2] See References in Text note below.

of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

(1) principal and interest; and

(2) interest only.

(Pub. L. 89–329, title IV, § 433, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1406; amended Pub. L. 100–50, § 10(z), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, § 426, July 23, 1992, 106 Stat. 548; Pub. L. 103–208, § 2(c)(53), (54), (k)(4), Dec. 20, 1993, 107 Stat. 2468, 2485; Pub. L. 105–244, title IV, § 428, Oct. 7, 1998, 112 Stat. 1704.)

REFERENCES IN TEXT

Section 902 of the Department of Defense Authorization Act, 1981, referred to in subsec. (a)(11), is section 902 of Pub. L. 96–342, title IX, Sept. 8, 1980, 94 Stat. 1115, as amended, which was set out as a note under section 2141 of Title 10, Armed Forces, and was repealed by Pub. L. 99–145, title VI, § 671(a)(3), Nov. 8, 1985, 99 Stat. 663. See section 16302 of Title 10.

Truth in Lending Act, referred to in subsec. (c), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (§ 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Section 1078–1 of this title, referred to in subsec. (e), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1083, Pub. L. 89–329, title IV, § 433, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, § 116(d), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 92–318, title I, § 132(c), June 23, 1972, 86 Stat. 261; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–43, § 1(a)(34), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to requirements for institutional lenders, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1083a, Pub. L. 89–329, title IV, § 433A, as added Pub. L. 96–374, title IV, § 418, Oct. 3, 1980, 94 Stat. 1423; amended Pub. L. 97–301, § 13(a), Oct. 13, 1982, 96 Stat. 1404; Pub. L. 98–79, § 3(a), Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, title XVI, § 16012(c), Apr. 7, 1986, 100 Stat. 340, related to student loan information to be provided by eligible lenders, prior to the general revision of this part by Pub. L. 99–498. See section 1083 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 428(a), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—''.

Subsec. (b). Pub. L. 105–244, § 428(b), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—''.

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(53), substituted ''30 days'' for ''60 days'' in introductory provisions.

Subsec. (e). Pub. L. 103–208, § 2(k)(4), amended directory language of Pub. L. 102–325, § 426(c). See 1992 Amendment note below.

Pub. L. 103–208, § 2(c)(54), substituted ''sections'' for ''section'' before ''1078–1''.

1992—Subsec. (a). Pub. L. 102–325, § 426(a), added par. (1) and redesignated former pars. (1) to (13) as (2) to (14), respectively.

Subsec. (b). Pub. L. 102–325, § 426(b)(1), in introductory provisions, inserted second sentence and struck out former second sentence which read as follows: ''Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower.''

Subsec. (b)(8). Pub. L. 102–325, § 426(b)(2), inserted ''except as provided in subsection (e) of this section,'' before ''the projected''.

Subsec. (e). Pub. L. 102–325, § 426(c), as amended by Pub. L. 103–208, § 2(k)(4), added subsec. (e).

1987—Subsec. (a). Pub. L. 100–50, § 10(z)(1), inserted ''(other than a loan made under section 1078–3 of this title)'' after ''this part'' in first sentence.

Subsec. (a)(8). Pub. L. 100–50, § 10(z)(2), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;''.

Subsec. (b)(7). Pub. L. 100–50, § 10(z)(3), inserted '', except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title'' before semicolon at end.

Subsec. (d). Pub. L. 100–50, § 10(z)(4), substituted ''notifies a borrower of approval of a loan'' for ''makes the first disbursement of a loan with respect to a borrower''.

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 section 2(c)(53) of Pub. L. 103–208 effective on and after 60 days after Dec. 20, 1993 and amendments by section 2(c)(54), (k)(4) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(4) of Pub. L. 103–208, set out as a note under section 1051 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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsecs. (a), (b), and (d) of this section applicable only with respect to loans disbursed on or after Jan. 1, 1987, or made to

cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1077a of this title.

§ 1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(B) of this title.

(Pub. L. 89–329, title IV, § 434, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408.)

PRIOR PROVISIONS

A prior section 1084, Pub. L. 89–329, title IV, § 434, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, § 116(b)(4), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 91–206, § 6, Mar. 10, 1970, 84 Stat. 51; Pub. L. 92–318, title I, § 132D(e), June 23, 1972, 86 Stat. 264; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–630, title V, § 502(a), Nov. 10, 1978, 92 Stat. 3681, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1085. Definitions for student loan insurance program

As used in this part:

(a) Eligible institution

(1) In general

Except as provided in paragraph (2), the term ''eligible institution'' means an institution of higher education, as defined in section 1002 of this title, except that, for the purposes of sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title, an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) Ineligibility based on high default rates

(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B);

(ii) there are exceptional mitigating circumstances within the meaning of paragraph (4); or

(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part. If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993; and

(iii) 25 percent for any succeeding fiscal year.

(C) Until July 1, 1999, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 1061(2) of this title;

(ii) a tribally controlled community college within the meaning of section 1801(a)(4)[1] of title 25; or

(iii) a Navajo Community College under the Navajo Community College Act [25 U.S.C. 640a et seq.].

(D) Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part D of this subchapter of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution's failure to appeal was substantially justified under the circumstances, and that—

(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution's cohort default rate;

(ii) the guaranty agency did not correct the erroneous data in a timely fashion; and

(iii) the institution would have been eligible if the erroneous data had been corrected by the guaranty agency.

[1] See References in Text note below.

(3) Appeals based upon allegations of improper loan servicing

An institution that—

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 1078–1(a)(2)[1] of this title; or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access for a reasonable period of time, not to exceed 30 days, to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B) of this section.

(4) Definition of mitigating circumstances

(A) For purposes of paragraph (2)(A)(ii), an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of that paragraph inequitable if such institution, in the opinion of an independent auditor, meets the following criteria:

(i) For a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined, at least two-thirds of the students enrolled on at least a half-time basis at the institution—

(I) are eligible to receive a Federal Pell Grant award that is at least equal to one-half the maximum Federal Pell Grant award for which a student would be eligible based on the student's enrollment status; or

(II) have an adjusted gross income that when added with the adjusted gross income of the student's parents (unless the student is an independent student), of less than the poverty level, as determined by the Department of Health and Human Services.

(ii) In the case of an institution of higher education that offers an associate, baccalaureate, graduate or professional degree, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period described in clause (i)—

(I) completed the educational programs in which the students were enrolled;

(II) transferred from the institution to a higher level educational program;

(III) at the end of the 12-month period, remained enrolled and making satisfactory progress toward completion of the student's educational programs; or

(IV) entered active duty in the Armed Forces of the United States.

(iii)(I) In the case of an institution of higher education that does not award a degree described in clause (ii), had a placement rate of 44 percent or more with respect to the institution's former regular students who—

(aa) remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution;

(bb) were initially enrolled on at least a half-time basis; and

(cc) were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period described in clause (i).

(II) The placement rate shall not include students who are still enrolled and making satisfactory progress in the educational programs in which the students were originally enrolled on the date following 12 months after the date of the student's last date of attendance at the institution.

(III) The placement rate is calculated by determining the percentage of all those former regular students who—

(aa) are employed, in an occupation for which the institution provided training, on the date following 12 months after the date of their last day of attendance at the institution;

(bb) were employed, in an occupation for which the institution provided training, for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution; or

(cc) entered active duty in the Armed Forces of the United States.

(IV) The placement rate shall not include as placements a student or former student for whom the institution is the employer.

(B) For purposes of determining a rate of completion and a placement rate under this paragraph, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The amount of time normally required to complete the program for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student. For a student who is initially enrolled less than full-time, the period is the amount of time it would take the student to complete the program if the student remained enrolled at that level of enrollment throughout the program.

(5) Reduction of default rates at certain minority institutions

(A) Beneficiaries of exception required to establish management plan

After July 1, 1999, any institution that has a cohort default rate that equals or exceeds 25 percent for each of the three most recent fiscal years for which data are available and that relies on the exception in subparagraph (B) to continue to be an eligible institution shall—

(i) submit to the Secretary a default management plan which the Secretary, in the Secretary's discretion, after consideration of the institution's history, resources, dollars in default, and targets for default reduction, determines is acceptable and provides reasonable assurance that the institution will, by July 1, 2004, have a cohort default rate that is less than 25 percent;

(ii) engage an independent third party (which may be paid with funds received under section 1059d of this title or part B of subchapter III of this chapter) to provide technical assistance in implementing such default management plan; and

(iii) provide to the Secretary, on an annual basis or at such other intervals as the Secretary may require, evidence of cohort default rate improvement and successful implementation of such default management plan.

(B) Discretionary eligibility conditioned on improvement

Notwithstanding the expiration of the exception in paragraph (2)(C), the Secretary may, in the Secretary's discretion, continue to treat an institution described in subparagraph (A) of this paragraph as an eligible institution for each of the 1-year periods beginning on July 1 of 1999 through 2003, only if the institution submits by the beginning of such period evidence satisfactory to the Secretary that—

(i) such institution has complied and is continuing to comply with the requirements of subparagraph (A); and

(ii) such institution has made substantial improvement, during each of the preceding 1-year periods, in the institution's cohort default rate.

(6) Participation rate index

(A) In general

An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0375 for any of the 3 most recent fiscal years for which data is available shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under this part or part C of this subchapter, or weighted average cohort default rate for loans under this part and part C of this subchapter, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under this part or part C of this subchapter for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

(B) Data

An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

(C) Notification

Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).

(b), (c) Repealed. Pub. L. 102–325, title IV, § 427(b)(1), (c), July 23, 1992, 106 Stat. 549

(d) Eligible lender

(1) In general

Except as provided in paragraphs (2) through (6), the term ''eligible lender'' means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or (III) it is a bank (as defined in section 1813(a)(1) of title 12) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(1) of such title, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000;

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title, or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 1078–1(d),[1] 1078–2(d), 1078–3, and 1087–2(q) of this title, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(H) for purposes of making loans under sections 1078(h) and 1078(j) of this title, a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950));

(J) for purpose of making loans under section 1078–3 of this title, any nonprofit private agency functioning in any State as a secondary market; and

(K) a consumer finance company subsidiary of a national bank which, as of October 7, 1998, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on October 7, 1998); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank's direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.

(2) Additional requirements of eligible institutions

To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) shall not be a home study school;

(C) shall make loans to not more than 50 percent of the undergraduate students at the institution;

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

(E) shall not have a cohort default rate (as defined in subsection (m) of this section) greater than 15 percent; and

(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after October 17, 1986, and prior to July 1, 1987.

(3) Disqualification for high default rates

The term ''eligible lender'' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in subsection (m) of this section.

(4) Waiver of disqualification

Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 1078(a)(1) of this title, so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) Disqualification for use of certain incentives

The term ''eligible lender'' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after October 17, 1986—

(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(D) engaged in fraudulent or misleading advertising.

It shall not be a violation of this paragraph for a lender to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.

(6) Rebate fee requirement

To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 1078–3(f) of this title.

(e) Line of credit

The term ''line of credit'' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) Due diligence

The term ''due diligence'' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(g), (h) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

(i) Holder

The term ''holder'' means an eligible lender who owns a loan.

(j) Guaranty agency

The term ''guaranty agency'' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 1078(b) of this title.

(k) Insurance beneficiary

The term ''insurance beneficiary'' means the insured or its authorized representative assigned in accordance with section 1079(d) of this title.

(*l*) Default

Except as provided in subsection (m) of this section, the term ''default'' includes only such defaults as have existed for (1) 270 days in the case of a loan which is repayable in monthly installments, or (2) 330 days in the case of a loan which is repayable in less frequent installments.

(m) Cohort default rate

(1) In general

(A) Except as provided in paragraph (2), the term ''cohort default rate'' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 1078, 1078–1,[2] or 1078–8 of this title received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default, any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

(2) Special rules

(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection. The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title.

(D) For the purposes of this subsection, a loan made in accordance with section 1078–1[2]

[2] See References in Text note below.

of this title (or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1[2] of this title) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 1078–1[2] of this title (or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1[2] of this title) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) Regulations to prevent evasions

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) Collection and reporting of cohort default rates

(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.

(n) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

(*o*) Economic hardship

(1) In general

For purposes of this part and part D of this subchapter, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 206 of title 29; or

(ii) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 9902(2) of title 42;

(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

(i) the annual earnings of an individual earning the minimum wage under section 206 of title 29; or

(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of two; or

(C) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) Considerations

In establishing criteria for purposes of paragraph (1)(C), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(Pub. L. 89–329, title IV, § 435, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408; amended Pub. L. 100–50, § 10(aa), June 3, 1987, 101 Stat. 347; Pub. L. 101–239, title II, §§ 2003(a)(2), 2007(a), Dec. 19, 1989, 103 Stat. 2113, 2120; Pub. L. 101–508, title III, § 3004(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 101–542, title III, § 301, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(a)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §§ 416(e)(2), 427(a), (b)(1), (c)–(g), July 23, 1992, 106 Stat. 519, 549, 550; Pub. L. 103–66, title IV, §§ 4046(b)(1), 4106(b), Aug. 10, 1993, 107 Stat. 362, 368; Pub. L. 103–208, § 2(c)(55)–(62), Dec. 20, 1993, 107 Stat. 2468, 2469; Pub. L. 103–235, § 1, Apr. 28, 1994, 108 Stat. 381; Pub. L. 103–382, title III, § 357, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–244, title I, § 102(b)(2), title IV, § 429(a)–(c)(1), (d), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1622, 1704–1709, 1828; Pub. L. 106–554, § 1(a)(1) [title III, §§ 308(a), 312], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, 2763A–46.)

REFERENCES IN TEXT

Section 1801(a)(4) of title 25, referred to in subsec. (a)(2)(C)(ii), was amended by Pub. L. 105–244, title IX, § 901(b)(5), Oct. 7, 1998, 112 Stat. 1828, and, as so amended, no longer defines the term ''tribally controlled community college''.

The Navajo Community College Act, referred to in subsec. (a)(2)(C)(iii), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Employee Retirement Income Security Act, referred to in subsec. (d)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(3)(B), (d)(1)(G), and (m)(1)(A), (2)(D), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug.

10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)), referred to in subsec. (d)(1)(I), is act May 3, 1950, ch. 152, 64 Stat. 98, known as the Rural Rehabilitation Corporation Trust Liquidation Act, which was classified to sections 440 to 444 of former Title 40, Public Buildings, Property, and Works, and as notes set out under section 1001 of Title 7, Agriculture, and section 440 of former Title 40, and was omitted from the Code.

Title IV, referred to in subsec. (m)(2)(C), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1085, Pub. L. 89–329, title IV, §435, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 89–698, title II, §204, Oct. 29, 1966, 80 Stat. 1072; Pub. L. 90–575, title I, §§116(a), 118(a), Oct. 16, 1968, 82 Stat. 1023, 1026; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2130; Pub. L. 95–43, §1(a)(35), (36), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§413(e), 421(e)(2), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1418, 1432, 1503; Pub. L. 99–272, title XVI, §§16017(b)(2), 16020, Apr. 7, 1986, 100 Stat. 347, 349, defined terms used in this part, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (a)(2)(D). Pub. L. 106–554, §1(a)(1) [title III, §308(a)], added subpar. (D).

Subsec. (a)(5)(A)(i). Pub. L. 106–554, §1(a)(1) [title III, §312(1)], substituted ''July 1, 2004,'' for ''July 1, 2002,''.

Subsec. (a)(5)(B). Pub. L. 106–554, §1(a)(1) [title III, §312(2)], substituted ''1999 through 2003'' for ''1999, 2000, and 2001'' in introductory provisions.

1998—Subsec. (a)(1). Pub. L. 105–244, §102(b)(2), substituted ''section 1002'' for ''section 1088''.

Subsec. (a)(2)(A). Pub. L. 105–244, §429(a)(1)(A)(i), (ii), struck out ''or'' at end of cl. (i), added cls. (ii) and (iii), and struck out former cl. (ii) which read as follows: ''there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.''

Pub. L. 105–244, §429(a)(1)(A)(iii), inserted at end of concluding provisions ''If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.''

Subsec. (a)(2)(C). Pub. L. 105–244, §429(a)(1)(B), substituted ''July 1, 1999,'' for ''July 1, 1998,'' in introductory provisions.

Subsec. (a)(2)(C)(ii). Pub. L. 105–244, §901(d), made technical amendment to reference in original act which appears in text as reference to section 1801(a)(4) of title 25.

Subsec. (a)(3). Pub. L. 105–244, §429(a)(2), in concluding provisions, inserted ''for a reasonable period of time, not to exceed 30 days,'' after ''access'' and substituted ''used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter'' for ''of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days''.

Subsec. (a)(4) to (6). Pub. L. 105–244, §429(a)(3), added pars. (4) to (6).

Subsec. (d)(1)(A)(ii)(III). Pub. L. 105–244, §429(b)(1)(A), added subcl. (III).

Subsec. (d)(1)(K). Pub. L. 105–244, §429(b)(1)(B)–(D), added subpar. (K).

Subsec. (d)(5). Pub. L. 105–244, §429(b)(2), inserted concluding provisions.

Subsec. (*l*). Pub. L. 105–244, §429(c)(1), substituted ''270 days'' for ''180 days'' and ''330 days'' for ''240 days''.

Subsec. (m)(1)(B). Pub. L. 105–244, §429(d)(1), substituted ''insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,'' for ''insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude''.

Subsec. (m)(2)(C). Pub. L. 105–244, §429(d)(2), inserted at end ''The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title.''

Subsec. (m)(4)(D). Pub. L. 105–244, §429(d)(3), added subpar. (D).

1996—Subsec. (d)(1)(F). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(i)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title,'' after ''Student Loan Marketing Association''.

Subsec. (d)(1)(G). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(ii)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(2)(C). Pub. L. 103–235 substituted ''July 1, 1998'' for ''July 1, 1994''.

Subsec. (*o*)(1). Pub. L. 103–382, §357(1)–(3), struck out ''or'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (*o*)(2). Pub. L. 103–382, §357(4), substituted ''(1)(C)'' for ''(1)(B)''.

1993—Subsec. (a)(3). Pub. L. 103–208, §2(c)(55), added par. (3).

Subsec. (d)(1). Pub. L. 103–66, §4106(b)(1), in par. (1) substituted ''through (6)'' for ''through (5)'' in introductory provisions.

Subsec. (d)(2). Pub. L. 103–208, §2(c)(57), realigned margins of closing provisions.

Subsec. (d)(2)(D). Pub. L. 103–208, §2(c)(56), substituted ''lender;'' for ''lender; and''.

Subsec. (d)(3). Pub. L. 103–208, §2(c)(58), substituted ''subsection (m)'' for ''subsection (*o*)''.

Subsec. (d)(6). Pub. L. 103–66, §4106(b)(2), added par. (6).

Subsec. (m)(1). Pub. L. 103–66, §4046(b)(1)(C), which directed the insertion in par. (1)(D) of ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the first place it appears, and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the second place it appears, could not be executed because subsec. (m)(1) does not contain a subpar. (D).

Subsec. (m)(1)(A). Pub. L. 103–208, §2(c)(60)(A), inserted at end ''The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.''

Pub. L. 103–208, §2(c)(59), substituted ''section 1078, 1078–1, or 1078–8'' for ''section 1078 or 1078–1''.

Pub. L. 103–66, § 4046(b)(1)(A), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(1)(B). Pub. L. 103–208, § 2(c)(60)(B), substituted ''and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.'' for ''and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

Subsec. (m)(1)(C). Pub. L. 103–66, § 4046(b)(1)(B), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(2)(D). Pub. L. 103–208, § 2(c)(61), inserted ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1 of this title)'' after ''in accordance with section 1078–1 of this title'', and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1 of this title)'' after ''a loan made under section 1078–1 of this title''.

Subsec. (m)(4). Pub. L. 103–208, § 2(c)(62), added par. (4).

1992—Subsec. (a)(1). Pub. L. 102–325, § 427(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''Subject to subsection (n) of this section, the term 'eligible institution' means—

''(A) an institution of higher education;

''(B) a vocational school; or

''(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 1078(a)(1), 1078–1, or 1078–2 of this title at that institution or school.''

Subsec. (a)(2). Pub. L. 102–325, § 427(a)(3), struck out ''and'' at end of subpar. (B)(i), substituted ''fiscal year 1993; and'' for ''any succeeding fiscal year.'' in subpar. (B)(ii), and added subpar. (B)(iii).

Pub. L. 102–325, § 427(a)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which required Secretary to establish criteria for qualifying foreign medical schools as ''eligible institutions''.

Subsec. (a)(3). Pub. L. 102–325, § 427(a)(2), redesignated par. (3) as (2).

Subsec. (b). Pub. L. 102–325, § 427(b)(1), struck out subsec. (b) which defined ''institution of higher education''.

Subsec. (c). Pub. L. 102–325, § 427(c), struck out subsec. (c) which defined ''vocational school''.

Subsec. (d)(1)(A). Pub. L. 102–325, § 427(d)(1), in introductory provisions, struck out ''a trust company,'' after ''stock savings bank,'' and in cl. (ii), inserted at end of subcl. (I) ''or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, or'' and substituted a semicolon for ''or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;''.

Subsec. (d)(2)(E), (F). Pub. L. 102–325, § 427(d)(2), added subpars. (E) and (F).

Subsec. (f). Pub. L. 102–325, § 427(e), inserted ''servicing and'' before ''collection practices''.

Subsecs. (g), (h). Pub. L. 102–325, § 427(f), struck out subsec. (g) which defined ''temporarily totally disabled'' and subsec. (h) which defined ''parental leave''.

Subsec. (m). Pub. L. 102–325, § 427(g), amended subsec. (m) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single paragraph.

Subsec. (n). Pub. L. 102–325, § 427(f), struck out subsec. (n) which related to impact of loss of accreditation on certification or recertification as an eligible institution.

Subsec. (*o*). Pub. L. 102–325, § 416(e)(2), added subsec. (*o*).

1991—Subsec. (c)(1). Pub. L. 102–26 substituted ''or who are beyond the age of compulsory school attendance in the State in which the institution is located'' for ''and who have the ability to benefit (as determined by the institution under section 1088(d) of this title) from the training offered by such institution;''.

1990—Subsec. (a)(3). Pub. L. 101–508 added par. (3).

Subsec. (*l*). Pub. L. 101–542, § 301(1), substituted ''Except as provided in subsection (m) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–542, § 301(2), inserted after first sentence ''In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

1989—Subsec. (a)(1). Pub. L. 101–239, § 2007(a)(1), substituted ''Subject to subsection (n) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–239, § 2003(a)(2), added subsec. (m).

Subsec. (n). Pub. L. 101–239, § 2007(a)(2), added subsec. (n).

1987—Subsec. (b)(3). Pub. L. 100–50, § 10(aa)(1), inserted '', or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training'' before semicolon at end.

Subsec. (d)(1)(J). Pub. L. 100–50, § 10(aa)(2), added subpar. (J).

Subsec. (d)(2). Pub. L. 100–50, § 10(aa)(3), added subpars. (C) and (D) and inserted concluding provision that the requirements of subpars. (C) and (D) not apply with respect to loans made, and loan commitments made, after Oct. 17, 1986, and prior to July 1, 1987.

Subsec. (g)(2). Pub. L. 100–50, § 10(aa)(4), added par. (2) and struck out former par. (2) which read as follows: ''Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.''

Subsec. (h). Pub. L. 100–50, § 10(aa)(5), struck out ''Definition of'' before ''Parental'' in heading.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(1) [title III, § 308(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective for cohort default rate calculations for fiscal years 1997 and 1998.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(b)(2) and 429(a), (b), (d) of 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.

Pub. L. 105–244, title IV, § 429(c)(2), Oct. 7, 1998, 112 Stat. 1708, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act [Oct. 7, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective on reorganization effective date as defined in section 1087–3(h) of

this title, see section 101(e) [title VI, § 602(b)(1)(B)] of Pub. L. 104–208, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendments by section 2(c)(55), (60)(B) of Pub. L. 103–208 applicable with respect to determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year, amendments by section 2(c)(56)–(58), (61) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, amendment by section 2(c)(59) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, amendment by section 2(c)(60)(A) of Pub. L. 103–208 effective on and after Oct. 1, 1994, and amendment by section 2(c)(62) effective on and after Dec. 20, 1993, see section 5(a), (b)(2), (3), (7), (8) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by section 4046(b)(1) of Pub. L. 103–66 effective July 1, 1994, see section 4046(c) of Pub. L. 103–66, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 2(d)(1) of Pub. L. 102–26 provided that: ''The amendments made by this section [amending this section and sections 1078–1, 1088, 1091, 1094, and 1141 of this title] shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3004(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section, section 1078 of this title, and provisions set out as a note under section 1078–1 of this title] shall be effective July 1, 1991, except that the amendment made by subsection (b) [amending section 1078 of this title] shall be effective upon enactment.''

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Section 427(b)(2) of Pub. L. 102–325 provided that: ''With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [former 20 U.S.C. 1088(a)].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1074, 1075, 1077, 1078, 1078–3, 1078–7, 1080, 1082, 1087–2, 1087c, 1087e, 1087dd, 2341a, 2373 of this title; title 2 section 1602; title 11 section 362; title 25 section 3324.

§ 1086. Delegation of functions

(a) In general

An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this subchapter and part C of subchapter I of chapter 34 of title 42, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

(b) Special rule

A lender that holds a loan made under this part in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

(Pub. L. 89–329, title IV, § 436, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1413; amended Pub. L. 105–244, title IV, § 430, Oct. 7, 1998, 112 Stat. 1709.)

PRIOR PROVISIONS

A prior section 1086, Pub. L. 89–329, title IV, § 436, as added Pub. L. 89–752, § 12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90–575, title I, § 116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized establishment of a District of Columbia student loan insurance program.

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.

§ 1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending closed schools or falsely certified as eligible to borrow

(a) Repayment in full for death and disability

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) Payment of claims on loans in bankruptcy

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078–1,[1] 1078–2, 1078–3, or 1078–8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) Discharge

(1) In general

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaran-

[1] See References in Text note below.

teed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part G of this subchapter. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) Eligibility for additional assistance

The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.

(5) Reporting

The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

(d) Repayment of loans to parents

If a student on whose behalf a parent has received a loan described in section 1078–2 of this title dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(Pub. L. 89–329, title IV, § 437, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 102–325, title IV, § 428, July 23, 1992, 106 Stat. 551; Pub. L. 103–208, § 2(c)(63)–(65), Dec. 20, 1993, 107 Stat. 2469; Pub. L. 105–244, title IV, § 431, Oct. 7, 1998, 112 Stat. 1709.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1087, Pub. L. 89–329, title IV, § 437, as added Pub. L. 90–575, title I, § 113(a), Oct. 16, 1968, 82 Stat. 1020; amended Pub. L. 92–318, title I, § 132D(a), June 23, 1972, 86 Stat. 263; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to repayment of loans by Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–244 inserted "or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender," after "falsely certified by the eligible institution," and inserted at end "In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds."

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(63), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "If the collection of a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title or sections 1078–1, 1078–2, 1078–3, or 1078–8 of this title is stayed in any action under title 11, the Secretary shall repay the unpaid balance of principal and interest owed on the loan."

Subsec. (c)(1). Pub. L. 103–208, § 2(c)(64), substituted "If a borrower" for "If a student borrower", "under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable" for "under this part is unable", and "in which such student is enrolled" for "in which the borrower is enrolled".

Subsec. (c)(4). Pub. L. 103–208, § 2(c)(65), inserted at end "The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title."

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which related to repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1071, 1072a, 1075, 1077, 1078, 1080a, 1092b, 1099c of this title.

§ 1087–0. Repealed. Pub. L. 105–244, title IV, § 432, Oct. 7, 1998, 112 Stat. 1710

Section, Pub. L. 89–329, title IV, § 437A, as added Pub. L. 102–325, title IV, § 429, July 23, 1992, 106 Stat. 552; amended Pub. L. 103–208, § 2(c)(66)–(68), Dec. 20, 1993, 107 Stat. 2469, related to debt management options.

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.

§ 1087–1. Special allowances

(a) Findings

In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) Computation and payment

(1) Quarterly payment based on unpaid balance

A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Rate of special allowance

(A) Subject to subparagraphs (B), (C), (D), (E), (F), (G), (H), and (I) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under title 26 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under division (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under title 26, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), (F), (G), (H), or (I) as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) Subject to subparagraphs (G), (H), and (I) in the case of loans disbursed on or after October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under section 1077a(c)(4)(B) of this title exceeds—

(I) 11 percent in the case of a loan under section 1078–1[1] of this title; or

(II) 10 percent in the case of a loan under section 1078–2 of this title.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''.

(ii) For the purpose of division (i) of this subparagraph, the term ''qualified State obligation'' means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student

[1] See References in Text note below.

Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 1077a(g)(2) of this title, subparagraph (A)(iii) shall be applied by substituting ''2.5 percent'' for ''3.10 percent''.

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 1077a(h) of this title shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.2 percent'' for ''2.8 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 1077a(j)(3) of this title, a special allowance shall not be paid for such loan for such[2] unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.

(H) LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JANUARY 1, 2000.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.2 percent'' for ''2.8 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auc-

[2] So in original.

tion held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078–3 of this title and for which the application is received on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

(II) 3.1 percent,

exceeds the rate determined under section 1077a(k)(4) of this title.

(I) LOANS DISBURSED ON OR AFTER JANUARY 1, 2000.—

(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.34 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title; or

(II) for which the first disbursement is made on or after July 1, 2006, and for which the applicable rate of interest is described in section 1077a(*l*)(1) of this title, but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title;

clause (i)(III) of this subparagraph shall be applied by substituting ''1.74 percent'' for ''2.34 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) or (*l*)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.64 percent'' for ''2.34 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) or (*l*)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.64 percent'' for ''2.34 percent'', subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS BEFORE JULY 1, 2006.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after January 1, 2000, and before July 1, 2006, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078–3 of this title and for which the application is received on or after January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) or (*l*)(3) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

(II) 2.64 percent,

exceeds the rate determined under section 1077a(k)(4) or (*l*)(3) of this title, whichever is applicable.

(vii) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS ON OR AFTER JULY 1, 2006.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after July 1, 2006, for which the interest rate is determined under section 1077a(*l*)(2) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless—

(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial), as published by

the Board of Governors of the Federal Reserve System in Publication H–15 (or its successor), for the last calendar week ending on or before such July 1; plus

(II) 2.64 percent,

exceeds 9.0 percent.

(3) Contractual right of holders to special allowance

The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment

(A) If payments of the special allowances payable under this section or of interest payments under section 1078(a) of this title with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) "Eligible loan" defined

As used in this section, the term ''eligible loan'' means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 1078(a) of this title;

(ii) which is made under section 1078–1,[3] 1078–2, 1078–3, 1078–8, or 1087–2(*o*) of this title; or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

As used in this section, the term ''eligible loan'' includes all loans subject to section 1078–9 of this title.

[3] See References in Text note below.

(6) Regulation of time and manner of payment

The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance

The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) Origination fees from students

(1) Deduction from interest and special allowance subsidies

(A) Notwithstanding subsection (b) of this section, the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder; or

(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) Amount of origination fees

Subject to paragraph (6) of this subsection, with respect to any loan (including loans made under section 1078–8 of this title, but excluding loans made under sections 1078–3 and 1087–2(*o*) of this title) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after August 13, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.

(3) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(4) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders

Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 1078(a)(3)(A) of this title or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before October 17, 1986, together with interest thereon.

(6) SLS and PLUS loans

With respect to any loans made under section 1078–1[4] or 1078–2 of this title on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) Distribution of origination fees

All origination fees collected pursuant to this section on loans authorized under section 1078–1[4] or 1078–2 of this title shall be paid to the Secretary by the lender and deposited in the fund authorized under section 1081 of this title.

(8) Exception

Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.

(d) Loan fees from lenders

(1) Deduction from interest and special allowance subsidies

(A) In general

Notwithstanding subsection (b) of this section, the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan; or

(ii) directly from the holder of the loan, if the lender—

(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

(II) withdraws from the program with unpaid loan fees.

(B) Special rule

If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.

(2) Amount of loan fees

With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

(3) Distribution of loan fees

The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 1081 of this title.

(e) Nondiscrimination

In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(f) Regulations to prevent denial of loans to eligible students

The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(Pub. L. 89–329, title IV, § 438, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 100–50, § 10(d)(2), (bb), (cc), June 3, 1987, 101 Stat. 342, 347; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 430, July 23, 1992, 106 Stat. 553; Pub. L. 103–66, title IV, §§ 4102(a), 4103, 4105, 4111, Aug. 10, 1993, 107 Stat. 366, 367, 368, 370; Pub. L. 105–178, title VIII, § 8301(b), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§ 416(b)(1), (3), 433(a)–(d)(1), Oct. 7, 1998, 112 Stat. 1680, 1682, 1710, 1711; Pub. L. 106–170, title IV, § 409(a), Dec. 17, 1999, 113 Stat. 1914; Pub. L. 107–139, § 2, Feb. 8, 2002, 116 Stat. 10.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (b)(2)(C), (5)(A)(ii) and (c)(6), (7), was repealed by Pub.

[4] See References in Text note below.

L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1087–1, Pub. L. 89–329, title IV, § 438, as added Pub. L. 92–318, title I, § 132E(a), June 23, 1972, 86 Stat. 264; amended Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 95–43, § 1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96–49, § 5(c)(1), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§ 420(a), 451(d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1425, 1458, 1503; Pub. L. 97–35, title V, §§ 532(b)(4), 534(b), 536(a), Aug. 13, 1981, 95 Stat. 452, 454, 455; Pub. L. 98–79, § 7(a), (c), Aug. 15, 1983, 97 Stat. 482, 483; Pub. L. 99–272, title XVI, §§ 16013(d), 16017(b)(3), (c), Apr. 7, 1986, 100 Stat. 340, 347, related to special allowances, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087–1a, Pub. L. 96–374, title IV, § 420(b), Oct. 3, 1980, 94 Stat. 1427, related to eligibility for special allowances covering loans made or purchased with funds obtained from Authorities issuing tax exempt obligations, and established requirement relating to plans for doing business, prior to repeal by Pub. L. 98–79, § 7(b), Aug. 15, 1983, 97 Stat. 483.

AMENDMENTS

2002—Subsec. (b)(2)(I). Pub. L. 107–139, § 2(1), struck out ", AND BEFORE JULY 1, 2003" after "JANUARY 1, 2000" in heading.

Subsec. (b)(2)(I)(i). Pub. L. 107–139, § 2(2), struck out "and before July 1, 2003," after "January 1, 2000," in introductory provisions.

Subsec. (b)(2)(I)(ii). Pub. L. 107–139, § 2(3), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: "In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'."

Subsec. (b)(2)(I)(iii). Pub. L. 107–139, § 2(2), (4), struck out "and before July 1, 2003," after "January 1, 2000," and inserted "or (*l*)(2)" after "section 1077a(k)(3)".

Subsec. (b)(2)(I)(iv). Pub. L. 107–139, § 2(2), (5), inserted "or (*l*)(3)" after "section 1077a(k)(4)" and struck out "and before July 1, 2003," after "January 1, 2000,".

Subsec. (b)(2)(I)(v). Pub. L. 107–139, § 2(6), inserted "BEFORE JULY 1, 2006" after "PLUS LOANS" in heading and substituted "July 1, 2006," for "July 1, 2003," in introductory provisions.

Subsec. (b)(2)(I)(vi). Pub. L. 107–139, § 2(2), (7), in introductory provisions, struck out "and before July 1, 2003," after "January 1, 2000," and inserted "or (*l*)(3)" after "section 1077a(k)(4)", and in concluding provisions, substituted "section 1077a(k)(4) or (*l*)(3) of this title, whichever is applicable" for "section 1077a(k)(4) of this title".

Subsec. (b)(2)(I)(vii). Pub. L. 107–139, § 2(8), added cl. (vii).

1999—Subsec. (b)(2)(A). Pub. L. 106–170, § 409(a)(1), substituted "(G), (H), and (I)" for "(G), and (H)" in first sentence.

Subsec. (b)(2)(B)(iv). Pub. L. 106–170, § 409(a)(2), substituted "(G), (H), or (I)" for "(G), or (H)" in first sentence.

Subsec. (b)(2)(C)(ii). Pub. L. 106–170, § 409(a)(3), substituted "(G), (H), and (I)" for "(G) and (H)" in introductory provisions.

Subsec. (b)(2)(H). Pub. L. 106–170, § 409(a)(4), (5), substituted "JANUARY 1, 2000" for "JULY 1, 2003" in subpar. heading and "January 1, 2000" for "July 1, 2003" in text wherever appearing.

Subsec. (b)(2)(I). Pub. L. 106–170, § 409(a)(6), added subpar. (I).

1998—Subsec. (b)(2)(A). Pub. L. 105–244, § 416(b)(3)(A), substituted "(F), (G), and (H)" for "(F), and (G)".

Pub. L. 105–178, § 8301(b)(2)(A), substituted "(E), (F), and (G)" for "(E), and (F)".

Subsec. (b)(2)(B)(iv). Pub. L. 105–244, § 416(b)(3)(B), substituted "(F), (G), or (H)" for "(F), or (G)".

Pub. L. 105–178, § 8301(b)(2)(B), substituted "(E), (F), or (G)" for "(E), or (F)".

Subsec. (b)(2)(C)(ii). Pub. L. 105–244, § 416(b)(3)(C), substituted "subparagraphs (G) and (H)" for "subparagraph (G)".

Pub. L. 105–178, § 8301(b)(2)(C), substituted "Subject to subparagraph (G), in the case" for "In the case".

Subsec. (b)(2)(G). Pub. L. 105–178, § 8301(b)(1), added subpar. (G).

Subsec. (b)(2)(H). Pub. L. 105–244, § 416(b)(1), added subpar. (H).

Subsec. (c)(1). Pub. L. 105–244, § 433(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b) of this section, the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted."

Subsec. (c)(2). Pub. L. 105–244, § 433(b)(1), substituted "(including loans made under section 1078–8 of this title, but excluding" for "(other than" and inserted at end "Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers."

Subsec. (c)(8). Pub. L. 105–244, § 433(b)(2), added par. (8).

Subsec. (d)(1). Pub. L. 105–244, § 433(c), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Notwithstanding subsection (b) of this section, the Secretary shall reduce the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted."

Subsec. (e). Pub. L. 105–244, § 433(d)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to lending from proceeds of tax exempt obligations.

1993—Subsec. (b)(2)(A). Pub. L. 103–66, § 4111(1), substituted "subparagraphs (B), (C), (D), (E), and (F)" for "subparagraphs (B), (C), and (D)" and "section 1077a(f)" for "section 1077a(e)".

Subsec. (b)(2)(B)(iv). Pub. L. 103–66, § 4105, added cl. (iv).

Subsec. (b)(2)(E), (F). Pub. L. 103–66, § 4111(2), added subpars. (E) and (F).

Subsec. (c). Pub. L. 103–66, § 4102(a)(1), inserted "from students" after "origination fees" in heading.

Subsec. (c)(2). Pub. L. 103–66, § 4102(a)(2)(A), substituted "sections 1078–3 and 1087–2(*o*)" for "sections 1078–1, 1078–2, 1078–3, and 1087–2(*o*)" and "3.0 percent" for "5 percent".

Subsec. (c)(6). Pub. L. 103–66, § 4102(a)(2)(B), substituted "3.0 percent" for "5 percent".

Subsecs. (d) to (f). Pub. L. 103–66, § 4103, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1992—Subsec. (b)(2)(A). Pub. L. 102–325, § 430(a)(1), (2), substituted ''3.10'' for ''3.25'' and inserted at end ''If such computation produces a number less than zero, such loans shall be subject to section 1077a(e) of this title.''

Subsec. (b)(2)(B)(i). Pub. L. 102–325, § 430(a)(3), substituted ''3.10'' for ''3.25''.

Subsec. (b)(2)(B)(ii). Pub. L. 102–325, § 430(a)(4), added cl. (ii) and struck out former cl. (ii) which read as follows: ''The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.''

Subsec. (b)(2)(C). Pub. L. 102–325, § 430(a)(5), designated existing provision as cl. (i), inserted ''before October 1, 1992,'' after ''made'', and added cl. (ii).

Subsec. (b)(2)(D)(i). Pub. L. 102–325, § 430(a)(6), substituted ''3.10'' for ''3.25''.

Subsec. (b)(5). Pub. L. 102–325, § 430(c), inserted closing provision which defined ''eligible loan'' as used in this section to include all loans subject to section 1078–9 of this title.

Subsec. (b)(5)(A)(ii). Pub. L. 102–325, § 430(b), inserted ''1078–8,'' after ''1078–3,''.

Subsec. (c)(2). Pub. L. 102–325, § 430(d)(1), substituted ''Subject to paragraph (6) of this subsection, with'' for ''With''.

Subsec. (c)(6), (7). Pub. L. 102–325, § 430(d)(2), added pars. (6) and (7).

Subsec. (d)(2)(C). Pub. L. 102–325, § 430(e), struck out ''or discount'' after ''premium''.

1988—Subsecs. (b)(2)(B)(i), (d)(1), (3). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (b)(2)(B)(iii). Pub. L. 100–50, § 10(bb)(1), substituted ''subsection (d) of this section'' for ''subsection (c) of this section''.

Subsec. (b)(2)(C). Pub. L. 100–50, § 10(d)(2), substituted ''12 percent'' for ''12.5 percent''.

Subsec. (b)(7). Pub. L. 100–50, § 10(bb)(2), added par. (7).

Subsec. (d)(4)(C). Pub. L. 100–50, § 10(cc), struck out '', as evidenced by the information submitted under paragraph (2)(G) of this subsection'' after ''fiscal year''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title IV, § 409(b), Dec. 17, 1999, 113 Stat. 1916, provided that: ''Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(1) and (3) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 433(a)–(c) of 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.

Pub. L. 105–244, title IV, § 433(d)(2), Oct. 7, 1998, 112 Stat. 1711, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective as of the date the plan required by section 438(e)(1) [subsec. (e)(1) of this section] (as such section was in effect prior to such amendment) was approved by the Secretary or the Governor (whichever was the case). No Authority shall have a right or cause of action against the Secretary for any amounts paid to or offset by the Secretary pursuant to a final settlement agreement entered into prior to July 1, 1998, resolving any audit or program review findings alleging violations of any provision of section 438(e) (as in effect prior to such amendment).''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 4102(a) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432(a)(13) of Pub. L. 102–325, set out as a note under section 1078 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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (b) of this section effective with respect to loans disbursed on or after 30 days after Oct. 17, 1986, or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after Oct. 17, 1986, and subsec. (d) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078, 1078–3, 1082 of this title; title 2 section 906; title 10 section 2174; title 26 sections 144, 148; title 42 section 292e.

§ 1087–2. Student Loan Marketing Association

(a) Purpose

The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) Establishment

(1) In general

There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the ''Association''). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places

as it may deem necessary or appropriate for the conduct of its business.

(2) Exemption from State and local taxes

The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) Appropriations authorized for establishment

There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) Board of Directors

(1) Composition of Board; Chairman

(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f) of this section. Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) Terms of appointed and elected members

The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) Affiliated members

For the purpose of this subsection, the references to a director ''affiliated with the eligible institution'' or a director ''affiliated with an eligible lender'' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) Authority of Association

(1) In general

The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title;

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials (including related equipment, instrumentation, and furnishings) at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties, dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and

(iii) library facilities, including the acquisition of library materials at institutions of higher education;

except that not more than 30 percent of the value of transactions entered into under this subparagraph shall involve transactions of the types described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 1078 of this title, and except with respect to loans under subsection (*o*) of this section or under section 1078–3 of this title, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Warehousing advances

Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Perfection of security interests in student loans

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 1085(a) of this title may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) Form of securities

Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) Restrictions on facilities and housing activities

Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) Advances to lenders that do not discriminate

The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) of this section only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lend-

er with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) Stock of the Association

(1) Voting common stock

The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) Number of shares; transferability

The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) Dividends

To the extent that net income is earned and realized, subject to subsection (g)(2) of this section, dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) Single class of voting common stock

As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) Preferred stock

(1) Authority of Board

The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) Rights of preferred stock

The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) Preference on termination of business

In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) Debt obligations

(1) Approval by Secretaries of Education and the Treasury

The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1)(B) and (C) of this section and as to which the income is exempt from taxation under title 26 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of title 26.

(2) Guarantee of debt

The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) Borrowing authority to meet guarantee obligations

To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consid-

eration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Action on request for guarantees

Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) Authority of Treasury to purchase debt

The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Sale of debt to Federal Financing Bank

Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 1078 or 1079 of this title, to the Federal Financing Bank.

(7) Offset fee

(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to section 1078–3 of this title, subsection (*o*) of this section, or subsection (q) of this section) and that was acquired on or after August 10, 1993.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q) of this section, subparagraph (A) shall be applied by substituting ''1.0 percent'' for ''0.3 percent''.

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 1081 of this title.

(i) General corporate powers

The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things

as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) Accounting, auditing, and reporting

The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(*l*) Lawful investment instruments; effect of and exemptions from other laws

All obligations issued by the Association including those made under subsection (d)(4) of this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 355(2) of title 12, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31. For the purpose of the distribution of its property pursuant to section 726 of title 11, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31 shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) Preparation of obligations

In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) Report on operations and activities

The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year.

(*o*) Loan consolidations

(1) In general

The Association or its designated agent may, upon request of a borrower, consolidate loans received under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with section 1078–3 of this title.

(2) Use of existing agencies as agent

The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) Advances for direct loans by guaranty agencies

(1) In general

The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 1078(h)(1) of this title which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 1078(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) Limitation

No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) Lender-of-last-resort

(1) Action at request of Secretary

(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or its designated agent shall, not later than 90 days after August 10, 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 1079 of this title with a certificate of comprehensive insurance coverage provided for under section 1079(b)(1) of this title or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) Issuance and coverage of loans

(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 1085(d)(1)(D) of this title, determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 1078(b) of this title. For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) Termination of lending

The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) Safety and soundness of Association

(1) Reports by the Association

The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association;

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations; and

(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.

(2) Audit by Secretary of the Treasury

(A) The Secretary of the Treasury may—

(i) appoint and fix the compensation of such auditors and examiners as may be necessary to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 1087–3 of this title are being met; and

(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 1087–3 of this title are being met.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(D) ANNUAL ASSESSMENT.—

(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses.

(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(iii) DEFINITION.—For purposes of this subparagraph, the term ''associated person'' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.

(F) COMPENSATION OF AUDITORS AND EXAMINERS.—

(i) RATES OF PAY.—Rates of basic pay for all auditors and examiners appointed pursuant to subparagraph (A) may be set and adjusted by the Secretary of the Treasury without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(ii) COMPARABILITY.—

(I) IN GENERAL.—Subject to section 5373 of title 5, the Secretary of the Treasury may provide additional compensation and benefits to auditors and examiners appointed pursuant to subparagraph (A) if the same type of compensation or benefits are then being provided by any agency referred to in section 1833b of title 12 or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

(II) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for auditors and examiners appointed pursuant to subparagraph (A), the Secretary of the Treasury shall consult with, and seek to maintain comparability with, the agencies referred to in section 1833b of title 12.

(3) Monitoring of safety and soundness

The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) Capital standard

If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) Capital restoration plan

(A) Submission, approval, and implementation

The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the

Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) Disapproval

If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) Association implementation and response

Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) Substantial capital ratio reduction

(A) Additional plan required

If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

(B) Disapproval

If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) Review by Congress; Association implementation

Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period

shall begin on the first day of the next session of Congress.

(7) Actions by Secretary of the Treasury

If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) Limit increase in liabilities

Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) Restrict growth

Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) Restrict distributions

Restrict the Association from making any capital distribution.

(D) Require issuance of new capital

Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) Limit executive compensation

Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) Critical capital standard

(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) Additional reports to committees

The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and General Accounting Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) Review by Secretary of Education

The Secretary of Education shall review the Secretary of the Treasury's submission re-

quired pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) Safe harbor

The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

(12) Treatment of confidential information

Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association or the Association's associated persons and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) Enforcement of safety and soundness requirements

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(14) Actions by Secretary

(A) In general

For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

(B) Applicability

The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.

(15) Definitions

As used in this subsection:

(A) The term ''nationally recognized statistical rating organization'' means any entity recognized as such by the Securities and Exchange Commission.

(B) The term ''capital ratio'' means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term ''legislative days'' means only days on which either House of Congress is in session.

(16) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such divi-

dends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

(17) Certification prior to payment of dividend

Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.

(s) Charter sunset

(1) Application of provisions

This subsection applies beginning 18 months and one day after September 30, 1996, if no reorganization of the Association occurs in accordance with the provisions of section 1087–3 of this title.

(2) Sunset plan

(A) Plan submission by the Association

Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

(B) Amendment of the plan by the Association

The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

(C) Plan monitoring

The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

(D) Amendment of the plan by the Secretary of the Treasury

The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

(E) Implementation by the Association

The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

(3) Dissolution of the Association

The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) of this section or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

(A) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

(B) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

(C) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

(D) Transfer of remaining assets

After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

(4) Restrictions relating to winding up

(A) Restrictions on new business activity or acquisition of assets by the Association

(i) In general

Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) of this section other than in connection with the Association—

(I) serving as a lender of last resort pursuant to subsection (q) of this section; and

(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(ii) Agreement

The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) of this section shall not apply to loans acquired under any such agreement with the Secretary.

(B) Issuance of debt obligations during the wind up period; attributes of debt obligations

The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) of this section or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

(C) Use of Association name

The Association may not transfer or permit the use of the name ''Student Loan Marketing Association'', ''Sallie Mae'', or any variation thereof, to or by any entity other than a subsidiary of the Association.

(Pub. L. 89–329, title IV, § 439, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1418; amended Pub. L. 100–50, § 10(dd), June 3, 1987, 101 Stat. 347; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 431, July 23, 1992, 106 Stat. 554; Pub. L. 103–66, title IV, §§ 4041(c), 4104, Aug. 10, 1993, 107 Stat. 356, 367; Pub. L. 103–208, § 2(c)(69), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 103–382, title III, § 358, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(2)–(4), (c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–284 to 3009–286; Pub. L. 106–554, § 1(a)(1) [title III, § 309], Dec. 21, 2000, 114 Stat. 2763, 2763A–45.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under section 1087–3(d)(1) of this title have been extinguished, if reorganization occurs in accordance with section 1087–3 of this title; or date on which all obligations of trust established under subsec. (s)(3)(A) of this section have been extinguished, if reorganization does not occur in accordance with section 1087–3 of this title.

REFERENCES IN TEXT

For the effective date of the Higher Education Amendments of 1992, referred to in subsec. (f)(4), see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CODIFICATION

In subsec. (h)(3) and (5), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' and ''the Second Liberty Bond Act'', and ''that chapter'' substituted for ''that Act, as amended'', on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1087–2, Pub. L. 89–329, title IV, § 439, as added Pub. L. 92–318, title I, § 133(a), June 23, 1972, 86 Stat. 265; amended Pub. L. 94–273, § 3(9), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2136; Pub. L. 95–43, § 1(a)(38), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, § 421(a)–(e)(1), title XIII, § 1391(a)(1), (3), Oct. 3, 1980, 94 Stat. 1427–1430, 1503; Pub. L. 97–35, title V, § 538, Aug. 13, 1981, 95 Stat. 457; Pub. L. 97–115, § 18, Dec. 29, 1981, 95 Stat. 1610; Pub. L. 97–301, § 14, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, §§ 2, 8, Aug. 15, 1983, 97 Stat. 476, 483; Pub. L. 99–272, title XVI, §§ 16017(b)(4), 16018(a)(3), Apr. 7, 1986, 100 Stat. 347, 348, established the Student Loan Marketing Association, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (r)(2)(A)(i). Pub. L. 106–554, § 1(a)(1) [title III, § 309(1)], which directed amendment of this section by substituting ''and fix the compensation of such auditors and examiners as may be necessary'' for ''auditors and examiners'', was executed by making the substitution for ''auditors or examiners'', to reflect the probable intent of Congress.

Subsec. (r)(2)(F). Pub. L. 106–554, § 1(a)(1) [title III, § 309(2)], added subpar. (F).

1996—Subsec. (r)(1)(C). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(A)], added subpar. (C).

Subsec. (r)(2)(A)(i), (ii). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(i)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

''(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph.''

Subsec. (r)(2)(D). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(ii)], added subpar. (D).

Subsec. (r)(2)(E). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(4)(A)], added subpar. (E).

Subsec. (r)(12). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(A)], inserted ''or the Association's associated persons'' after ''by the Association'' in first sentence.

Subsec. (r)(13). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B), (C)], added par. (13) and redesignated former par. (13) as (15).

Subsec. (r)(14). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(C)], added par. (14).

Subsec. (r)(15). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B)], redesignated par. (13) as (15).

Subsec. (r)(16), (17). Pub. L. 104–208, § 101(e), [title VI, § 602(b)(4)(B)], added pars. (16) and (17).

Subsec. (s). Pub. L. 104–208, § 101(e) [title VI, § 602(c)], added subsec. (s).

1994—Subsec. (d)(1)(C). Pub. L. 103–382, § 358(1)(A), (D), inserted ''(including related equipment, instrumentation, and furnishings)'' after ''materials'' in introductory provisions and substituted ''30 percent'' for ''15 percent'' and ''types'' for ''type'' in concluding provisions.

Subsec. (d)(1)(C)(ii). Pub. L. 103–382, § 358(1)(B), substituted '', dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and'' for the semicolon.

Subsec. (d)(1)(C)(iii), (iv). Pub. L. 103–382, § 358(1)(C), (E), struck out ''and'' after the semicolon in cl. (iii) and struck out cl. (iv) which read as follows: ''related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);''.

Subsec. (n). Pub. L. 103–382, § 358(2), substituted ''a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year'' for ''a report of its operations and activities during each year''.

1993—Subsec. (h)(7). Pub. L. 103–66, § 4104, added par. (7).

Subsec. (q). Pub. L. 103–66, § 4041(c), amended subsec. (q) generally, substituting present provisions for substantially similar former provisions.

Subsec. (r)(12). Pub. L. 103–208 substituted ''section 552'' for ''section 522''.

1992—Subsec. (c). Pub. L. 102–325, § 431(a), amended subsec. (c) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), Board membership; in par. (2), interim Board; in par. (3), regular Board; in par. (4), succession of regular Board; in par. (5), terms of appointed and elected members; and in par. (6), meetings and functions of Board.

Subsec. (d)(1)(C). Pub. L. 102–325, § 431(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;''.

Subsec. (d)(5). Pub. L. 102–325, § 431(c), substituted ''second highest rating'' for ''third highest rating''.

Subsec. (f). Pub. L. 102–325, § 431(d), amended subsec. (f) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), common stock to insured lenders and eligible institutions only; in par. (2), voting rights; in par. (3), number of shares and transferability; in par. (4), dividends; and in par. (5), nonvoting common stock.

Subsec. (r). Pub. L. 102–325, § 431(e), added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' in two places, which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (d)(1)(E)(iii). Pub. L. 100–50 inserted ''Labor and'' before ''Human Resources''.

Change of Name

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

Effective Date of 1996 Amendment

Section 101(e) [title VI, § 602(d)(2)] of div. A of Pub. L. 104–208 provided that: ''The repeals made by paragraph (1) [repealing this section and section 1087–3 of this title] shall be effective one year after—

''(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(d)(1)] (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

''(B) the date on which all of the obligations of the trust established under subsection [sic] 439(s)(3)(A) of such Act [20 U.S.C. 1087–2(s)(3)(A)] (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.''

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 July 23, 1992, except that changes in subsec. (d)(1), relating to facilities loans, applicable with respect to applications received on or after July 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 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.

Termination of Reporting Requirements

For termination, effective May 15, 2000, of provisions in subsecs. (k) and (n) of this section relating to transmitting annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 141 and 206 of House Document No. 103–7.

Use of Association Names Upon Dissolution; Enforcement

Section 101(e) [title VI, § 602(e), (f)] of div. A of Pub. L. 104–208 provided that:

''(e) Association Names.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of

1965 (20 U.S.C. 1087–2[(s)]), the names 'Student Loan Marketing Association', 'Sallie Mae', and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act [Sept. 30, 1996]) without the approval of the Secretary of the Treasury.

''(f) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (e), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (e).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1072a, 1078, 1085, 1087–1, 1087–3, 1092a of this title; title 12 section 1828.

§ 1087–3. Reorganization of Student Loan Marketing Association through formation of Holding Company

(a) Actions by Association's Board of Directors

The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b) of this section, a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

(b) Shareholder approval

The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) of this section shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

(c) Transition

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) In general

Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 1087–2 of this title, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 1087–2 of this title, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this chapter until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 1087–2(q) of this title or under an agreement with the Secretary described in paragraph (6).

(2) Transfer of certain property

(A) In general

Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on September 30, 1996, and any interest in any government-sponsored enterprise);

(ii) contracts, leases, and other agreements of the Association;

(iii) licenses and other intellectual property of the Association; and

(iv) any other property of the Association.

(B) Construction

Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

(3) Transfer of personnel

On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary

and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

(4) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 1087–2(r) of this title. If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

(5) Certification prior to dividend

Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

(6) Restrictions on new business activity or acquisition of assets by Association

(A) In general

After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 1087–2(d) of this title other than in connection with—

(i) student loan purchases through September 30, 2007;

(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

(iii) the Association serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title; and

(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(B) Agreement

The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 1087–2(h)(7) of this title shall not apply to loans acquired under any such agreement with the Secretary.

(7) Issuance of debt obligations during the transition period; attributes of debt obligations

After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 1087–2 of this title, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d) of this section.

(8) Monitoring of safety and soundness

(A) Obligation to obtain, maintain, and report information

The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(B) Summary reports

The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(C) Separate operation of corporations

(i) In general

The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's

purposes and to fulfill the Association's obligations.

(ii) Books and records

The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

(iii) Corporate office

The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

(iv) Director

No director of the Association who is appointed by the President pursuant to section 1087–2(c)(1)(A) of this title may serve as a director of the Holding Company.

(v) One officer requirement

At least one officer of the Association shall be an officer solely of the Association.

(vi) Transactions

Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

(vii) Credit prohibition

The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

(viii) Amounts collected

Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

(D) Encumbrance of assets

Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

(E) Holding Company activities

After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

(F) Confidentiality

Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 1087–2(r)(12) of this title.

(G) Definition

For purposes of this paragraph, the term ''associated person'' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

(9) Issuance of stock warrants

(A) In general

On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding September 30, 1996, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to September 30, 1996, on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

(B) Authority to sell or exercise stock warrants; deposit of proceeds

The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 1155(e)[1] of this title

[1] See References in Text note below.

amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

(10) Restrictions on transfer of Association shares and bankruptcy of Association

After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, without prior approval of the Secretary of the Treasury and the Secretary of Education.

(d) Termination of Association

In the event the shareholders of the Association approve a plan of reorganization under subsection (b) of this section, the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 1087–2(q) of this title or continues to be needed to purchase loans under an agreement with the Secretary described in subsection (c)(6) of this section. On the dissolution date, the Association shall take the following actions:

(1) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

(2) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

(3) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

(4) Transfer of remaining assets

After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

(e) Operation of Holding Company

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) Holding Company Board of Directors

The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

(2) Holding Company name

The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

(A) may not contain the name ''Student Loan Marketing Association''; and

(B) may contain, to the extent permitted by applicable State or District of Columbia law, ''Sallie Mae'' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

(3) Use of Sallie Mae name

Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the ''Sallie Mae'' name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the ''Sallie Mae'' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 1155(e)[2] of this title, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign

[2] See References in Text note below.

the ''Sallie Mae'' name as a trademark or service mark.

(4) Disclosure required

Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

(B) in any advertisement or promotional materials which use the ''Sallie Mae'' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

(f) Strict construction

Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

(g) Right to enforce

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(h) Deadline for reorganization effective date

This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after September 30, 1996.

(i) Definitions

For purposes of this section:

(1) Association

The term ''Association'' means the Student Loan Marketing Association.

(2) Dissolution date

The term ''dissolution date'' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d) of this section.

(3) Holding Company

The term ''Holding Company'' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a) of this section.

(4) Remaining obligations

The term ''remaining obligations'' means the debt obligations of the Association outstanding as of the dissolution date.

(5) Remaining property

The term ''remaining property'' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

(A) Debt obligations issued by the Association.

(B) Contracts relating to interest rate, currency, or commodity positions or protections.

(C) Investment securities owned by the Association.

(D) Any instruments, assets, or agreements described in section 1087–2(d) of this title (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

(E) Except as specifically prohibited by this section or section 1087–2 of this title, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

(6) Reorganization

The term ''reorganization'' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a) of this section.

(7) Reorganization effective date

The term ''reorganization effective date'' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) of this section and shall not be later than the date that is 18 months after September 30, 1996.

(8) Subsidiary

The term ''subsidiary'' means one or more direct or indirect subsidiaries.

(Pub. L. 89–329, title IV, § 440, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under subsec. (d)(1) of this section have been extinguished, if reorganization occurs in accordance with this section, or date on which all obligations of trust established under section 1087–2(s)(3)(A) of this title have been extinguished, if reorganization does not occur in accordance with this section.

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For

complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 1155(e) of this title, referred to in subsecs. (c)(9)(B) and (e)(3), was in the original a reference to section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, and was translated as reading section 603(e) of that Act, which is Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, to reflect the probable intent of Congress, because that Act does not contain a section 3(e), but does contain a section 603(e) which establishes the account referred to in text.

PRIOR PROVISIONS

A prior section 1087–3, Pub. L. 89–329, title IV, § 439A, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, related to a five-year nondischargeability of certain loan debts, prior to repeal by Pub. L. 95–598, title III, § 317, Nov. 6, 1978, 92 Stat. 2678, eff. Nov. 6, 1978.

A prior section 1087–3a, Pub. L. 89–329, title IV, § 439B, as added Pub. L. 95–566, § 8, Nov. 1, 1978, 92 Stat. 2404, authorized any loan under this part to be counted as part of the expected family contribution in the determination of need, prior to repeal by Pub. L. 97–35, title V, § 532(b)(2), Aug. 13, 1981, 95 Stat. 452, applicable to loans for the statement required by section 1078(a)(2)(A) of this title is completed on or after Oct. 1, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1085, 1087–2, 1087–4, 1155 of this title; title 12 section 1828.

§ 1087–4. Discrimination in secondary markets prohibited

The Student Loan Marketing Association (and, if the Association is privatized under section 1087–3 of this title, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.

(Pub. L. 89–329, title IV, § 440A, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 604], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.)

PRIOR PROVISIONS

A prior section 1087–4, Pub. L. 89–329, title IV, § 440, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, provided for criminal penalties, prior to repeal by Pub. L. 96–374, title IV, § 451(b), Oct. 3, 1980, 94 Stat. 1458, eff. Oct. 1, 1980. See section 1097 of this title.

PART C—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

CODIFICATION

This part was, in the original, part D of title IV of Pub. L. 89–329, the Higher Education Act of 1965. The letter designation was changed from ''D'' to ''C'' for codification purposes. Part C of title IV of Pub. L. 89–329, consisting of sections 441 to 447, as added by Pub. L. 99–498, title IV, § 403(a), Oct. 17, 1986, 100 Stat. 1429, is set out as section 2751 et seq. of Title 42, The Public Health and Welfare, because sections 441 to 446 of Pub. L. 89–329 had originally been enacted as part C of title I of the Economic Opportunity Act of 1964, consisting of sections 121 to 126 of Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 513, prior to the transfer of such sections into Pub. L. 89–329, and had already been classified to section 2751 et seq. of Title 42 at the time of the transfer.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070a, 1078, 1078–3, 1078–11, 1082, 1085, 1087tt, 1090, 1091, 1091a, 1091b, 1092, 1092b, 1094, 1098c, 1099c of this title; title 2 sections 60c–5, 906; title 5 section 5379; title 10 sections 2171, 2174, 16301, 16302; title 11 section 525; title 26 section 6103.

§ 1087a. Program authority

(a) In general

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(b) Designation

(1) Program

The program established under this part shall be referred to as the ''William D. Ford Federal Direct Loan Program''.

(2) Direct loans

Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 1078 of this title, shall be known as ''Federal Direct Stafford/Ford Loans''.

(Pub. L. 89–329, title IV, § 451, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 103–382, title III, § 358A, Oct. 20, 1994, 108 Stat. 3968.)

PRIOR PROVISIONS

A prior section 1087a, Pub. L. 89–329, title IV, § 451, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031; amended Pub. L. 92–318, title I, § 136(a), (b)(1), June 23, 1972, 86 Stat. 272, authorized appropriations for cooperative education programs from the fiscal year ending June 30, 1969, through the fiscal year ending prior to July 1, 1975, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1994—Pub. L. 103–382 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to program authority for former provisions relating to program and payment authority.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to program and payment authority for Federal direct loan demonstration program for former provisions relating to statement of

purpose of income contingent direct loan demonstration project.

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.

INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS

Section 452 of Pub. L. 102–325 provided that:

''(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on the date of enactment of this Act [July 23, 1992]) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E [20 U.S.C. 1087aa et seq.] account, part C [42 U.S.C. 2751 et seq.] fund, or subpart 3 of part A [20 U.S.C. 1070b et seq.] fund under the terms and conditions of the appropriate program.

''(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on such date) to part E [20 U.S.C. 1087aa et seq.] loans, provided that such institution—

''(1) notify the borrower of such conversion;

''(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

''(3) provide the borrower in writing with a description of all terms and conditions of the new loan.''

§ 1087b. Funds for origination of direct student loans

(a) In general

The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 1087d(a) of this title to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 1087d(b) of this title to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 1087d(a) of this title but that do not have an agreement with the Secretary under section 1087d(b) of this title.

(b) No entitlement to participate or originate

No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) Delivery of loan funds

Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of Federal Pell Grants under subpart 1 of part A of this subchapter.

(Pub. L. 89–329, title IV, § 452, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105–33, title VI, § 6102, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 401(g)(5), Oct. 7, 1998, 112 Stat. 1652.)

PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89–329, title IV, § 452, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–244 substituted ''Federal Pell Grants'' for ''basic grants''.

1997—Subsecs. (b) to (d). Pub. L. 105–33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

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 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.

§ 1087c. Selection of institutions for participation and origination

(a) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(b) Selection criteria

(1) Application

Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

(c) Selection criteria for origination

(1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection 1087d(a) of this title;

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) Selection criteria

The Secretary may approve an institution to originate loans only if such institution—

(A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter;

(B) is not overdue on program or financial reports or audits required under this subchapter;

(C) is not subject to an emergency action, or a limitation, suspension, or termination under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;

(D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(3) Regulations governing approval

The Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title.

(d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 1085(a) of this title.

(e) Consortia

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d) of this section) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) of this section with respect to loan origination.

(Pub. L. 89–329, title IV, § 453, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103–208, § 2(e), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 105–244, title IV, § 451, Oct. 7, 1998, 112 Stat. 1715.)

CODIFICATION

Amendment by section 2 of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89–329, title IV, § 453, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92–318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 451(a), amended heading, redesignated par. (1) as entire subsec., and struck out pars. (2) to (4) which provided for transition from loan programs under part B of this subchapter to direct student loan program under this part and defined term ''new student loan volume''.

Subsec. (b)(2). Pub. L. 105–244, § 451(b), substituted ''prescribe.'' for ''prescribe, by, to the extent possible—

''(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

''(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

''(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.''

Subsec. (c)(2). Pub. L. 105–244, § 451(c)(1)(A), (B), substituted ''Selection criteria'' for ''Transition selection criteria'' in heading and ''The Secretary'' for ''For academic year 1994–1995, the Secretary'' in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105–244, § 451(c)(1)(C), struck out subpar. (A) which read as follows: ''made loans under part D of this

subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;''.

Subsec. (c)(2)(B) to (D). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105–244, § 451(c)(1)(D), struck out subpar. (E) which read as follows: ''in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;''.

Subsec. (c)(2)(F) to (H). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105–244, § 451(c)(2), struck out ''after transition'' after ''approval'' in heading and substituted ''The Secretary'' for ''For academic year 1995–1996 and subsequent academic years, the Secretary'' in text.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.'' See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1091a of this title.

§ 1087d. Agreements with institutions

(a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078–8 of this title (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078–2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b) of this section, concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;

(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with pro-

gram requirements and meeting program objectives;

(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) Origination

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) Withdrawal and termination procedures

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89–329, title IV, § 454, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100–50, § 12, June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 571; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 345.)

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100–50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087b, 1087c, 1087g of this title.

§ 1087e. Terms and conditions of loans

(a) In general

(1) Parallel terms, conditions, benefits, and amounts

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 1078, 1078–2, and 1078–8 of this title.

(2) Designation of loans

Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as ''Federal Direct Stafford Loans'';

(B) section 1078–2 of this title shall be known as ''Federal Direct PLUS Loans''; and

(C) section 1078–8 of this title shall be known as ''Federal Direct Unsubsidized Stafford Loans''.

(b) Interest rate

(1) Rates for FDSL and FDUSL

For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Out-year rule

Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) Rates for FDPLUS

(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) Temporary interest rate provision

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting ''1.7 percent'' for ''2.3 percent''.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting ''3.1 percent'' for ''2.3 percent''; and

(ii) by substituting ''9.0 percent'' for ''8.25 percent''.

(6) Interest rate provision for new loans on or after October 1, 1998, and before July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the appli-

cable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting ''1.7 percent'' for ''2.3 percent''.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting ''3.1 percent'' for ''2.3 percent''; and

(ii) by substituting ''9.0 percent'' for ''8.25 percent''.

(D) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(E) Temporary rules for consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(7) Interest rate provision for new loans on or after July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(B) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(C) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(8) Repayment incentives

(A) In general

Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 1087h of this title and other administrative accounts.

(B) Accountability

Prior to publishing regulations proposing repayment incentives, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reductions will be completely cost neutral. Such reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.

(9) Publication

The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) Loan fee

The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(d) Repayment plans

(1) Design and selection

Consistent with criteria established by the Secretary, the Secretary shall offer a borrower

of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

(2) Selection by Secretary

If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) Changes in selections

The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) Alternative repayment plans

The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) Repayment after default

The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) Income contingent repayment

(1) Information and procedures

The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of title 26) may be obtained under the preceding sentence only to the extent authorized by section 6103(*l*)(13) of title 26. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) Repayment based on adjusted gross income

A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of title 26) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) Additional documents

A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) Repayment schedules

Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) Calculation of balance due

The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) Notification to borrowers

The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent re-

payment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(*l*)(13) of title 26; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(f) Deferment

(1) Effect on principal and interest

A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) Eligibility

A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 1085(a) of this title) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 1085(*o*) of this title, that the borrower has experienced or will experience an economic hardship.

(3) "Borrower" defined

For the purpose of this subsection, the term ''borrower'' means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) Deferments for previous part B loan borrowers

A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of this subchapter prior to July 1, 1993, shall be eligible for a deferment under section 1077(a)(2)(C) of this title or section 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992.

(g) Federal Direct Consolidation Loans

A borrower of a loan made under this part may consolidate such loan with the loans described in section 1078–3(a)(4) of this title. Loans made under this subsection shall be known as ''Federal Direct Consolidation Loans''.

(h) Borrower defenses

Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 1087g(a)(1) of this title) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) Loan application and promissory note

The common financial reporting form required in section 1090(a)(1) of this title shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) Loan disbursement

(1) In general

Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) Payment periods

The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of Federal Pell Grants under subpart 1 of part A of this subchapter.

(k) Fiscal control and fund accountability

(1) In general

(A) An institution shall maintain financial records in a manner consistent with records

maintained for other programs under this subchapter.

(B) Except as otherwise required by regulations of the Secretary, or in a notice under section 1087g(a)(1) of this title, an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) Payments and refunds

Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A of this subchapter, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) Transaction histories

All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of Federal Pell Grants under subpart 1 of part A of this subchapter.

(*l*) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

(Pub. L. 89–329, title IV, § 455, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 346; Pub. L. 103–382, title III, § 359, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 105–178, title VIII, § 8301(c), June 9, 1998, 112 Stat. 498; Pub. L. 105–244, title IV, §§ 401(g)(6), 452(a)(1), (b), (c), Oct. 7, 1998, 112 Stat. 1652, 1715–1717; Pub. L. 106–554, § 1(a)(1) [title III, § 318(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, § 1(b), (c), Feb. 8, 2002, 116 Stat. 9; Pub. L. 107–314, div. A, title VI, § 651(c), Dec. 2, 2002, 116 Stat. 2580.)

REFERENCES IN TEXT

Sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992, referred to in subsec. (f)(4), means sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title prior to being amended generally by sections 414(b) and 416(e)(1), respectively, of Pub. L. 102–325, title IV, July 23, 1992, 106 Stat. 513, 519.

AMENDMENTS

2002—Subsec. (b)(6) to (9). Pub. L. 107–139, in par. (6) relating to interest rate provision for new loans substituted ''2006'' for ''2003'' in heading and ''July 1, 2006,'' for ''July 1, 2003,'' wherever appearing in text, added par. (7), redesignated former par. (7) as (8), and redesignated par. (6) relating to publication of rate in Federal Register as (9).

Subsec. (*l*). Pub. L. 107–314 added subsec. (*l*).

2000—Subsec. (b)(4)(A). Pub. L. 106–554 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

''(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

''(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.''

1998—Subsec. (b)(5). Pub. L. 105–178, § 8301(c)(2), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by adding par. (5), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 105–244, § 452(a)(1), added par. (6) relating to interest rate provision for new loans.

Pub. L. 105–178, § 8301(c)(1), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by redesignating par. (5) as (6), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress.

Subsec. (b)(7). Pub. L. 105–244, § 452(b), added par. (7).

Subsec. (g). Pub. L. 105–244, § 452(c), struck out ''only under such terms and conditions as the Secretary shall establish pursuant to section 1087g(a)(1) of this title or regulations promulgated under this part'' after ''section 1078–3(a)(4) of this title''.

Subsecs. (j)(2), (k)(3). Pub. L. 105–244, § 401(g)(6), substituted ''Federal Pell Grants'' for ''basic grants''.

1994—Subsec. (f)(3), (4). Pub. L. 103–382 added pars. (3) and (4).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to terms and conditions of loans for former provisions relating to withdrawal and termination procedures.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to withdrawal and termination procedures for former provisions relating to feasibility study.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 401(g)(6) and 452(b), (c) of 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.

Pub. L. 105–244, title IV, § 452(d), Oct. 7, 1998, 112 Stat. 1717, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 [this part] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to a Federal Direct Consolidation Loan for which the application is received on or after October 1, 1998, and before July 1, 2003.''

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.

LIMITATION ON CONSOLIDATION LOANS DURING TEMPORARY INTEREST RATE

Pub. L. 105–244, title IV, § 452(a)(2), Oct. 7, 1998, 112 Stat. 1716, provided that: ''Notwithstanding section 455(g) of the Higher Education Act of 1965 [subsec. (g) of this section], a borrower who is enrolled or accepted for enrollment in an institution of higher education may not consolidate loans under such section during the period beginning October 1, 1998, and ending February 1, 1999, unless the borrower certifies that the borrower has no outstanding loans made, insured, or guaranteed under title IV of such Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] other than loans made under part D of such title [this part].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–3, 1087i of this title; title 2 section 906; title 10 section 2174.

§ 1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078(b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d(b) of this title;

(2) the servicing and collection of loans made under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part; and

(4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(Pub. L. 89–329, title IV, § 456, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352; Pub. L. 105–244, title IV, § 453, Oct. 7, 1998, 112 Stat. 1717.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 453(1), inserted ''and'' after semicolon.

Subsec. (b)(4), (5). Pub. L. 105–244, § 453(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and''.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to contracts for former provisions relating to terms and conditions.

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

Section 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087c of this title.

§ 1087g. Regulatory activities

(a) Notice in lieu of regulations for first year of program

(1) Notice in lieu of regulations for first year of program

The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary, in consultation with members of the higher education community, determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 1232[1] of this title shall not apply to the publication of such standards, criteria, and procedures.

(2) Negotiated rulemaking

Beginning with academic year 1995–1996, all standards, criteria, procedures, and regula-

[1] See References in Text note below.

tions implementing this part as amended by the Student Loan Reform Act of 1993 shall, to the extent practicable, be subject to negotiated rulemaking, including all such standards, criteria, procedures, and regulations promulgated from August 10, 1993.

(b) Closing date for applications from institutions

The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

(c) Publication of list of participating institutions

Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

(Pub. L. 89–329, title IV, § 457, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352.)

REFERENCES IN TEXT

Section 1232 of this title, referred to in subsec. (a)(1), was in the original a reference to section 431 of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

The Student Loan Reform Act of 1993, referred to in subsec. (a)(2), is subtitle A (§§ 4011–4047) of title IV of Pub. L. 103–66, Aug. 10, 1993, 106 Stat. 341. For complete classification of this Act to the Code, see Short Title of 1993 Amendments note set out under section 1001 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to regulatory activities for former provisions relating to loan collection functions under competitive procurement contracts.

EFFECTIVE DATE

Section 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087c, 1087e of this title.

§ 1087h. Funds for administrative expenses

(a) Administrative expenses

(1) In general

Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B of this subchapter, including the costs of the direct student loan programs under this part; and

(B) account maintenance fees payable to guaranty agencies under part B of this subchapter and calculated in accordance with subsections (b) and (c) of this section,

not to exceed (from such funds not otherwise appropriated) $617,000,000 in fiscal year 1999, $735,000,000 in fiscal year 2000, $770,000,000 in fiscal year 2001, $780,000,000 in fiscal year 2002, and $795,000,000 in fiscal year 2003.

(2) Account maintenance fees

Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 1072b of this title.

(3) Carryover

The Secretary may carry over funds made available under this section to a subsequent fiscal year.

(b) Calculation basis

Except as provided in subsection (c) of this section, account maintenance fees payable to guaranty agencies under paragraph (1)(B) shall be calculated—

(1) for fiscal years 1999 and 2000, on the basis of 0.12 percent of the original principal amount of outstanding loans on which insurance was issued under part B of this subchapter; and

(2) for fiscal years 2001, 2002, and 2003, on the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B of this subchapter.

(c) Special rules

(1) Fee cap

The total amount of account maintenance fees payable under this section—

(A) for fiscal year 1999, shall not exceed $177,000,000;

(B) for fiscal year 2000, shall not exceed $180,000,000;

(C) for fiscal year 2001, shall not exceed $170,000,000;

(D) for fiscal year 2002, shall not exceed $180,000,000; and

(E) for fiscal year 2003, shall not exceed $195,000,000.

(2) Insufficient funding

(A) In general

If the amounts set forth in paragraph (1) are insufficient to pay the account maintenance fees payable to guaranty agencies pursuant to subsection (b) of this section for a fiscal year, the Secretary shall pay the insufficiency by requiring guaranty agencies to transfer funds from the Federal Student Loan Reserve Funds under section 1072a of this title to the Agency Operating Funds under section 1072b of this title.

(B) Entitlement

A guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of subparagraph (A).

(d) Budget justification

No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and

costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

(Pub. L. 89–329, title IV, § 458, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 573; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 353; Pub. L. 104–19, title I, § 601, July 27, 1995, 109 Stat. 219; Pub. L. 105–33, title VI, § 6103, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(*l*), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 454, Oct. 7, 1998, 112 Stat. 1717.)

PRIOR PROVISIONS

Prior sections 1087i and 1087j were omitted in the general revision of this part by Pub. L. 103–66.

Section 1087i, Pub. L. 89–329, title IV, § 459, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to schedule of regulatory activities by Secretary under Federal direct loan demonstration program.

Section 1087j, Pub. L. 89–329, title IV, § 459A, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to funds for administrative expenses under Federal direct loan demonstration program.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 454(1), amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) related to availability of funds for administrative costs and cost allowances.

Subsec. (b). Pub. L. 105–244, § 454(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Funds made available under subsection (a) of this section shall remain available until expended.''

Subsec. (c). Pub. L. 105–244, § 454(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–244, § 454(4), redesignated subsec. (c) as (d).

Pub. L. 105–244, § 454(3), struck out heading and text of subsec. (d). Text read as follows: ''In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) of this section to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.''

1997—Subsec. (a). Pub. L. 105–33 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 1072(g) of this title and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B of this subchapter to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $284,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.''

Subsec. (a)(1). Pub. L. 105–78 substituted ''$507,000,000'' for ''$532,000,000'' in closing provisions.

1995—Subsec. (a). Pub. L. 104–19 substituted ''$284,000,000 in fiscal year 1995'' for ''$345,000,000 in fiscal year 1995'' and ''$2,439,000,000 in fiscal years 1994 through 1998'' for ''$2,500,000,000 in fiscal years 1994 through 1998''.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for administrative expenses for former provisions relating to reports.

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

Section 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.

CONSTRUCTION

Section 609(m) of Pub. L. 105–78 provided that: ''Nothing in this Act [see Tables for classification] or an amendment made by this Act shall be construed to prohibit the Secretary of Education from using funds that are returned or otherwise recovered by the Secretary under section 422(g) of the Higher Education Act of 1965 (20 U.S.C. 1072(g)) including the balances of returned reserve funds, formerly held by the Higher Education Assistance Foundation, that are currently held in Higher Education Assistance Foundation Claims Reserves, Treasury account number 91X6192, for expenditure for expenses pursuant to section 458 of such Act (20 U.S.C. 1087h).''

USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF WILLIAM D. FORD DIRECT LOAN PROGRAM PROHIBITED

Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 304], Sept. 30, 1996, 110 Stat. 3009–233, 3009–261, provided in part that: ''Notwithstanding section 458 of the Higher Education Act [of 1965] [20 U.S.C. 1087h], the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, § 101(d) [title III, § 305], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1018, 1072, 1072b, 1087e of this title.

§ 1087i. Authority to sell loans

The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in ac-

cordance with section 1087e(b)(7) of this title. Such reductions may be offered only if the Secretary determines the reductions are in the best financial interests of the Federal Government.

(Pub. L. 89–329, title IV, § 459, as added Pub. L. 105–244, title IV, § 455, Oct. 7, 1998, 112 Stat. 1718.)

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.

§ 1087j. Loan cancellation for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

(1) In general

The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with subsection (c) of this section for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for any new borrower on or after October 1, 1998, who—

(A) has been employed as a full-time teacher for 5 consecutive complete school years—

(i) in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools;

(ii) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

(iii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

(B) is not in default on a loan for which the borrower seeks forgiveness.

(2) Special rule

No borrower may obtain a reduction of loan obligations under both this section and section 1078–10 of this title.

(c) Qualified loan amounts

(1) In general

The Secretary shall cancel not more than $5,000 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1)(A) of this section.

(2) Treatment of consolidation loans

A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title, for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any canceled loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(h) "Year" defined

For the purpose of this section, the term ''year'' where applied to service as a teacher means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, § 460, as added Pub. L. 105–244, title IV, § 456, Oct. 7, 1998, 112 Stat. 1719.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078–10 of this title.

PART D—FEDERAL PERKINS LOANS

CODIFICATION

This part was added as part E of title IV of Pub. L. 89–329 by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and amended by Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99–498. The letter designation of this part was changed from ''E'' to ''D'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1078, 1078–3, 1085, 1087c, 1089, 1090, 1091, 1091a, 1091b, 1092, 1092b, 1094, 1096, 1098c of this title; title 2 section 60c–5; title 5 section 5379; title 10 sections 2171, 2174, 16301, 16302; title 11 section 525; title 26 section 6103; title 42 sections 2756b, 4953.

§ 1087aa. Appropriations authorized

(a) Program authority

The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as ''Federal Perkins Loans''.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $250,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 2003 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 2003, to continue or complete courses of study.

(c) Use of appropriations

Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(Pub. L. 89–329, title IV, § 461, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 461(a)(2)–(c), July 23, 1992, 106 Stat. 576; Pub. L. 105–244, title IV, § 461, Oct. 7, 1998, 112 Stat. 1720.)

PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89–329, title IV, § 461, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94–482, title I, § 130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–49, § 5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 441, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 461(1), substituted ''1999'' for ''1993''.

Subsec. (b)(2). Pub. L. 105–244, § 461(2), substituted ''2003'' for ''1997'' in two places.

1992—Subsec. (a). Pub. L. 102–325, § 461(a)(2), (b), inserted ''or while engaged in programs of study abroad approved for credit by such institutions'' after ''in such institutions'' and substituted ''Federal Perkins Loans'' for ''Perkins Loans''.

Subsec. (b). Pub. L. 102–325, § 461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087bb, 1087cc, 1087ee of this title.

§ 1087bb. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) Allocation of excess based on share of excess eligible amounts

(1) From the remainder of the amount appropriated pursuant to section 1087aa(b) of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1087aa(b) of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section,

except that an eligible institution which has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (c) of this section; minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (e) of this section;

except that, if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the eligible amount of that institution is zero.

(c) Determination of institution's self-help need

(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(d) Anticipated collections

(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low cohort default rates in the program assisted under this part.

(e) Default penalties

(1) Years preceding fiscal year 2000

For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(2) Years following fiscal year 2000

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g) of this section) that equals or exceeds 25 percent shall have a default penalty of zero.

(3) Ineligibility

(A) In general

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (g) of this section) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Sec-

retary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

(B) Continued participation

During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

(C) Return of funds

Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

(ii) The remainder of such student loan fund shall be paid to the institution.

(D) Use of returned funds

Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i) of this section.

(E) Definition

For the purposes of subparagraph (A), the term ''loss of eligibility'' shall be defined as the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.

(f) Applicable maximum cohort default rate

(1) Award years prior to 2000

For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

(2) Award year 2000 and succeeding award years

For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.

(g) "Cohort default rate" defined

(1)(A) The term ''cohort default rate'' means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) For any award year in which less than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(C) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(D) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

(I) voluntarily made 6 consecutive payments;

(II) voluntarily made all payments currently due;

(III) repaid in full the amount due on the loan; or

(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

(iii) any other loan that the Secretary determines should be excluded from such determination.

(F) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(h) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(i) Reallocation of excess allocations

(1) In general

(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term ''participating institution'' means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1999; and

(ii) did not receive an allocation under subsection (a) of this section in the fiscal year for which the reallocation determination is made.

(2) Excess eligible amount

For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under subsection (b)(3) of this section), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (b) of this section.

(3) Remainder

The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) Allocation reductions

If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(Pub. L. 89–329, title IV, § 462, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1440; amended Pub. L. 100–50, § 13(a)–(d), June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 462, July 23, 1992, 106 Stat. 576; Pub. L. 103–208, § 2(f)(1)–(4), Dec. 20, 1993, 107 Stat. 2470, 2471; Pub. L. 105–244, title IV, § 462(a)(1), (2), (b)–(e), Oct. 7, 1998, 112 Stat. 1720–1723.)

PRIOR PROVISIONS

A prior section 1087bb, Pub. L. 89–329, title IV, § 462, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 96–374, title IV, § 448(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1443, 1503, provided for apportionment of appropriations among States, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 462(e)(1), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(ii), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 105–244, § 462(a)(1)(A), which directed the substitution of ''the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)'' for ''the amount of the Federal capital contribution allocated to such institution under this part for fiscal year 1985,'' was executed by making the substitution for text which read ''amount of Federal capital'' rather than ''amount of the Federal capital'', to reflect the probable intent of Congress.

Subsec. (a)(1)(B). Pub. L. 105–244, § 462(a)(2)(A)(i), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (a)(2)(A), (B). Pub. L. 105–244, § 462(a)(1)(B)(i), substituted ''1999'' for ''1985'' in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, § 462(a)(1)(B)(ii), substituted ''2000'' for ''1986''.

Subsec. (a)(2)(D). Pub. L. 105–244, § 462(e)(1), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(iv), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 105–244, § 462(a)(2)(A)(iii), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (b). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (c) as (b).

Pub. L. 105–244, § 462(a)(2)(B), struck out heading and text of subsec. (b). Text read as follows: ''From one-quarter of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

''(1) the amount the eligible institution receives for such fiscal year under subsection (a) of this section, bears to

''(2) the amount all such institutions receive under such subsection (a) of this section.''

Subsec. (b)(2). Pub. L. 105–244, § 462(e)(2), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 105–244, § 462(e)(2), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Subsec. (c). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, § 462(a)(2)(C), substituted ''the remainder'' for ''three-quarters of the remainder''.

Subsec. (c)(2). Pub. L. 105–244, § 462(a)(2)(D), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (c)(3). Pub. L. 105–244, § 462(b), in introductory provisions, struck out ''the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years,'' after ''professional students,''.

Pub. L. 105–244, § 462(a)(2)(E)(iii), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 105–244, § 462(a)(2)(E)(i), substituted ''subsection (c)'' for ''subsection (d)''.

Subsec. (c)(3)(C). Pub. L. 105–244, § 462(a)(2)(E)(ii), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (d). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 105–244, § 462(e)(3), inserted ''cohort'' before ''default''.

Subsec. (e). Pub. L. 105–244, § 462(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

''(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum de-

fault rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

''(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h) of this section) which—

''(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

''(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

''(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

''(D) equals or exceeds 30 percent shall have a default penalty of zero.''

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–244, §462(c), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

''(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

''(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.''

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 105–244, §462(d)(1), inserted heading and struck out former heading.

Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 105–244, §462(d)(1), (2), redesignated par. (3) as (1), substituted ''The term'' for ''For award year 1994 and any succeeding award year, the term'' in subpar. (A), and struck out former par. (1) which read as follows: ''For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

''(A) the total principal amount of defaulted loans; by

''(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 1087dd(c)(2)(A)(i) of this title or are in a grace period preceding repayment.''

Subsec. (g)(1)(B). Pub. L. 105–244, §462(d)(3)(A), (B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

Subsec. (g)(1)(C), (D). Pub. L. 105–244, §462(d)(3)(B), redesignated subpars. (D) and (F) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (g)(1)(E). Pub. L. 105–244, §462(d)(3)(A), (C), added subpar. (E) and struck out former subpar. (E) which read as follows: ''Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.''

Subsec. (g)(1)(F). Pub. L. 105–244, §462(d)(3)(B), (e)(4), redesignated subpar. (G) as (F) and inserted ''cohort'' before ''default''. Former subpar. (F) redesignated (D).

Subsec. (g)(1)(G). Pub. L. 105–244, §462(d)(3)(B), redesignated subpar. (G) as (F).

Subsec. (g)(2). Pub. L. 105–244, §462(d)(4), added par. (2).

Pub. L. 105–244, §462(d)(1), struck out par. (2) which read as follows: ''For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

''(A) amounts that have been repaid or cancelled on such loans;

''(B) loans discharged in bankruptcy;

''(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title; and

''(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.''

Subsec. (g)(3). Pub. L. 105–244, §462(d)(2), redesignated par. (3) as (1).

Subsec. (g)(4). Pub. L. 105–244, §462(d)(4), struck out par. (4) which read as follows: ''A loan shall be considered to be in default—

''(A) 240 days (in the case of a loan repayable monthly), or

''(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.''

Subsecs. (h), (i). Pub. L. 105–244, §462(a)(2)(H), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 105–244, §462(a)(2)(H), redesignated subsec. (j) as (i).

Subsec. (j)(1)(B)(i). Pub. L. 105–244, §462(a)(2)(F), substituted ''1999'' for ''1985''.

Subsec. (j)(2)(A)(i). Pub. L. 105–244, §462(a)(2)(G)(i), substituted ''subsection (b)(3)'' for ''paragraph (3) of subsection (c)''.

Subsec. (j)(2)(B). Pub. L. 105–244, §462(a)(2)(G)(ii), substituted ''subsection (b)'' for ''subsection (c)''.

1993—Subsec. (a)(1), (2)(D). Pub. L. 103–208, §2(f)(1), substituted ''if the institution has'' for ''if the institution which has'' in closing provisions.

Subsec. (d)(4)(C). Pub. L. 103–208, §2(f)(2), substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

Subsecs. (e)(2), (h)(4)(B). Pub. L. 103–208, §2(f)(3), (4), realigned margins.

1992—Subsec. (a)(1)(A). Pub. L. 102–325, §462(a), substituted ''allocated to such institution'' for ''such institution received''.

Subsec. (e). Pub. L. 102–325, §462(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f). Pub. L. 102–325, §462(c), substituted ''default reduction and default penalties'' for ''Default penalty'' in heading and amended text generally. Prior to amendment, text read as follows: ''For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.''

Subsec. (g). Pub. L. 102–325, §462(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

''(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

''(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.''

Subsec. (h). Pub. L. 102–325, §462(e), substituted ''Definitions of default rate and cohort default rate'' for ''Definition of default rate'' in heading, in par. (1) substituted ''For any award year prior to award year 1994, for the purpose'' for ''For the purpose'', added par. (3), redesignated former par. (3) as (4), substituted ''240'' for ''120'' in par. (4)(A), and amended par. (4)(B) generally. Prior to amendment, par. (4)(B) read as follows: ''180 days (in the case of a loan repayable quarterly),''.

Subsec. (j). Pub. L. 102–325, §462(f), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as

follows: ''If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.''

1987—Subsec. (a)(1)(A). Pub. L. 100–50, § 13(a), amended subpar. (A) generally, substituting ''of Federal capital contribution such institution received'' for ''such institution expended''.

Subsec. (d)(3), (4). Pub. L. 100–50, § 13(b), redesignated par. (3), defining ''average cost of attendance'' and calculating average undergraduate and graduate and professional tuition and fees, standard living expenses, and allowance for books and supplies, as (4).

Subsec. (e). Pub. L. 100–50, § 13(c), struck out ''; cash on hand'' after ''collections'' in heading.

Subsec. (f). Pub. L. 100–50, § 13(d), substituted ''subsection (g) of this section'' for ''paragraph (2)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 462(a)(3), Oct. 7, 1998, 112 Stat. 1721, provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 461(b) [20 U.S.C. 1087aa(b)] for fiscal year 2000 or any succeeding fiscal year.''

Amendment by section 462(b)–(e) of 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 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.

EFFECTIVE DATE

Section applicable with respect to academic year 1988-1989 and succeeding academic years, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087aa, 1087cc, 1087dd, 1087ff, 1089, 1095 of this title.

§ 1087cc. Agreements with institutions of higher education

(a) Contents of agreements

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

(5) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(7) provide assurances that the institution will comply with the provisions of section 1087cc–1 of this title;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

(b) Administrative expenses

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

(c) Cooperative agreements with credit bureau organizations

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including information concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (6)[1] of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such credit bureau organization any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate credit bureau organizations whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such organizations to update the status of information maintained with respect to that borrower.

(d) Limitation on use of interest bearing accounts

In carrying out the provisions of subsection (a)(9) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special due diligence rule

In carrying out the provisions of subsection (a)(5)[1] of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89–329, title IV, § 463, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100–50, § 13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(5)–(7), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 463, Oct. 7, 1998, 112 Stat. 1724.)

REFERENCES IN TEXT

Paragraph (6) of subsection (a) of section 1681c of title 15, referred to in subsec. (c)(3), was redesignated paragraph (5) of subsection (a) of section 1681c of title 15 by Pub. L. 105–347, § 5(4), Nov. 2, 1998, 112 Stat. 3211.

Subsection (a)(5) of this section relating to due diligence, referred to in subsec. (e), was redesignated subsec. (a)(4), by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89–329, title IV, § 463, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94–482, title I, § 130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–374, title IV, §§ 442(b)(1)–(4), 445(a), (b)(1), 447(a), 448(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99–272, title XVI, §§ 16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

[1] See References in Text note below.

AMENDMENTS

1998—Subsec. (a)(2)(B). Pub. L. 105–244, § 463(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a capital contribution—

''(i) by an institution that—

''(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

''(II) has a default rate which does not exceed 7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

''(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);''.

Subsec. (a)(4) to (10). Pub. L. 105–244, § 463(a)(2), (3), redesignated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: ''provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;''.

Subsec. (c)(1). Pub. L. 105–244, § 463(b)(1), substituted ''the Secretary and each institution of higher education participating in the program under this part shall'' for ''the Secretary shall'' and inserted ''and regarding loans held by the Secretary or an institution'' after ''section 1087gg of this title''.

Subsec. (c)(2). Pub. L. 105–244, § 463(b)(2)(A), in introductory provisions, substituted ''by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—'' for ''by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 463(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the date of disbursement and the amount of any such loan;''.

Subsec. (c)(2)(B). Pub. L. 105–244, § 463(b)(2)(C), inserted ''the repayment and'' after ''concerning'' and substituted ''status of such'' for ''status of any defaulted''.

Subsec. (c)(2)(C). Pub. L. 105–244, § 463(b)(2)(D), inserted '', or upon cancellation or discharge of the borrower's obligation on the loan for any reason'' before period at end.

Subsec. (c)(3). Pub. L. 105–244, § 463(b)(3)(A), in introductory provisions, inserted ''or an institution'' after ''from the Secretary'' and substituted ''until the loan is paid in full.'' for ''until—''.

Subsec. (c)(3)(A), (B). Pub. L. 105–244, § 463(b)(3)(B), struck out subpars. (A) and (B) which read as follows:

''(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

''(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.''

Subsec. (c)(4). Pub. L. 105–244, § 463(b)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

''(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

''(B) the information set forth in section 1080a(a) of this title.''

Subsec. (c)(5). Pub. L. 105–244, § 463(b)(4), added par. (5).

Subsec. (d). Pub. L. 105–244, § 463(c), substituted ''subsection (a)(9)'' for ''subsection (a)(10)''.

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103–208, § 2(f)(5), substituted ''7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year'' for ''7.5 percent''.

Subsec. (c)(4). Pub. L. 103–208, § 2(f)(6), substituted ''shall disclose at least annually'' for ''shall disclose'' in introductory provisions.

Subsecs. (d), (e). Pub. L. 103–208, § 2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102–325, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);''.

Subsec. (c)(3)(B). Pub. L. 102–325, § 463(b)(1), struck out '', if that account has not been previously reported by any other holder of the note'' after ''agency''.

Subsec. (c)(4). Pub. L. 102–325, § 463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100–50, § 13(e), substituted ''in an annual report'' for ''in a report'' and struck out '', and made to the Secretary at least semiannually'' after ''in such default''.

Subsec. (b). Pub. L. 100–50, § 13(f), substituted ''section 1096 of this title'' for ''section 1092 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 July 23, 1992, except that changes made in subsec. (a)(2)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102–325, set out as a note under section 1087dd 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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087aa, 1087cc–1, 1087dd, 1087gg, 1091a, 1096 of this title.

§ 1087cc–1. Student loan information by eligible institutions

(a) Disclosure required prior to disbursement

Each institution of higher education, in order to carry out the provisions of section

1087cc(a)(8)[1] of this title, shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a credit bureau or credit reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Costs and effects of disclosures

Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(Pub. L. 89–329, title IV, § 463A, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1446; amended Pub. L. 100–50, § 13(g), (h), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(c), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(8), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 104–106, div. A, title XV, § 1501(e)(4), Feb. 10, 1996, 110 Stat. 501.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (a), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (8) and (9) as (7) and (8), respectively.

PRIOR PROVISIONS

A prior section 1087cc–1, Pub. L. 89–329, title IV, § 463A, as added Pub. L. 96–374, title IV, § 447(b), Oct. 3,

[1] See References in Text note below.

1980, 94 Stat. 1443; amended Pub. L. 97–301, § 13, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, § 3(b), Aug. 15, 1983, 97 Stat. 478; Pub. L. 99–272, title XVI, § 16027, Apr. 7, 1986, 100 Stat. 353, related to student loan information to be provided by institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1996—Subsec. (a)(10). Pub. L. 104–106 substituted ''(10 U.S.C. 16302)'' for ''(10 U.S.C. 2172)''.

1993—Subsecs. (d), (e). Pub. L. 103–208 struck out subsecs. (d) and (e), which read as follows:

''(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

''(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.''

1992—Subsec. (a)(11). Pub. L. 102–325, § 463(c)(1), substituted ''together with a statement that the disbursement of, and the default on, a loan under this part, shall be'' for ''including a statement that the default may be''.

Subsecs. (d), (e). Pub. L. 102–325, § 463(c)(2), added subsecs. (d) and (e).

1987—Subsec. (a)(8). Pub. L. 100–50, § 13(g), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;''.

Subsec. (a)(10). Pub. L. 100–50, § 13(h), substituted ''the Department of Defense educational loan repayment program (10 U.S.C. 2172)'' for ''section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

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 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.

EFFECTIVE DATE

Section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

§ 1087dd. Terms of loans

(a) Terms and conditions

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) $20,000, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) $8,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) Demonstration of need and eligibility required

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part E of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) Contents of loan agreement

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6)[1] of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 1087cc(c) of this title.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship; or

(iv) during which the borrower is engaged in service described in section 1087ee(a)(2) of this title;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in

[1] See References in Text note below.

effect on October 7, 1998, shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) Availability of loan fund to all eligible students

An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Forbearance

The Secretary shall ensure that, upon written request, an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(2) the institution determines that the borrower should qualify for forbearance for other reasons; or

(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10 and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j) of this section, except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j) of this section.

(f) Special repayment rule authority

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(g) Discharge

(1) In general

If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 1099c(c) of this title.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to

have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) Eligibility for additional assistance

The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 1087ee(a) of this title.

(5) Reporting

The Secretary or institution, as the case may be, shall report to credit bureaus with respect to loans that have been discharged pursuant to this subsection.

(h) Rehabilitation of loans

(1) Rehabilitation

(A) In general

If the borrower of a loan made under this part who has defaulted on the loan makes 12 ontime, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any credit bureau organization or credit reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) Comparable conditions

As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) Additional assistance

The borrower of a rehabilitated loan shall not be precluded by section 1091 of this title from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

(D) Limitations

A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) Restoration of eligibility

If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) Incentive repayment program

(1) In general

Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) Limitation

No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3) of this section.

(Pub. L. 89–329, title IV, § 464, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100–50, § 13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–239, title II, § 2002(a)(3),

Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102–325, title IV, § 464, July 23, 1992, 106 Stat. 580; Pub. L. 103–208, § 2(f)(9)–(11), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 464, Oct. 7, 1998, 112 Stat. 1725; Pub. L. 107–314, div. A, title VI, § 651(d), Dec. 2, 2002, 116 Stat. 2580.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (c)(1)(G), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (6) and (7) as (5) and (6), respectively.

PRIOR PROVISIONS

A prior section 1087dd, Pub. L. 89–329, title IV, § 464, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 275; amended Pub. L. 94–482, title I, § 130(d)–(g)(1), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, § 1(a)(39), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, §§ 442(b)(5), 443, 444, 445(b)(2), 446, 448(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440–1443, 1503; Pub. L. 97–35, title V, § 539, Aug. 13, 1981, 95 Stat. 458; Pub. L. 99–272, title XVI, § 16028, Apr. 7, 1986, 100 Stat. 353, related to terms and conditions of loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (e)(3). Pub. L. 107–314, § 651(d)(1), added par. (3).

Subsec. (j). Pub. L. 107–314, § 651(d)(2), added subsec. (j).

1998—Subsec. (a)(2). Pub. L. 105–244, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) related to limitations on the total of loans that could be made to a student by an institution of higher education from a loan fund established pursuant to an agreement under this part.

Subsec. (b)(1). Pub. L. 105–244, § 464(b)(1), inserted at end ''A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.''

Subsec. (b)(2). Pub. L. 105–244, § 464(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.''

Subsec. (c)(1)(D). Pub. L. 105–244, § 464(c)(1), struck out ''(i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii)'' after ''at the rate of'' and substituted ''paragraph (2)(A)(i)'' for ''subparagraph (A)(i)''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 464(c)(2), substituted ''subparagraph (A) of paragraph (1)'' for ''subparagraph (B)'' in concluding provisions.

Subsec. (c)(2)(C). Pub. L. 105–244, § 464(c)(3), added subpar. (C).

Subsec. (c)(7). Pub. L. 105–244, § 464(c)(4), added par. (7).

Subsecs. (g) to (i). Pub. L. 105–244, § 464(d), added subsecs. (g) to (i).

1993—Subsec. (c)(2)(B). Pub. L. 103–208, § 2(f)(9), substituted ''repayment of'' for ''repayment or''.

Subsec. (c)(6). Pub. L. 103–208, § 2(f)(10), substituted ''Fulbright'' for ''Fullbright''.

Subsec. (e). Pub. L. 103–208, § 2(f)(11), substituted ''principal'' for ''principle'' before ''only''.

1992—Subsec. (a)(2). Pub. L. 102–325, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

''(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

''(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

''(C) $4,500 in the case of any other student.''

Subsec. (a)(4). Pub. L. 102–325, § 464(b), added par. (4).

Subsec. (b)(1). Pub. L. 102–325, § 464(c)(1), substituted ''this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan'' for ''this subchapter and who meets the requirements of section 1091 of this title''.

Subsec. (b)(2). Pub. L. 102–325, § 464(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If the institution's Federal capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.''

Subsec. (c)(1)(C)(i). Pub. L. 102–325, § 464(d), substituted ''$40'' for ''$30'' in two places.

Subsec. (c)(1)(E). Pub. L. 102–325, § 464(e), struck out ''unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,'' before ''shall provide''.

Subsec. (c)(2)(A). Pub. L. 102–325, § 464(f), amended subpar. (A) generally, revising and restating as cls. (i) to (iv) provisions formerly contained in cls. (i) to (ix).

Subsec. (c)(2)(B), (C). Pub. L. 102–325, § 464(g)(1), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

''(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

''(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.''

Subsec. (c)(4) to (6). Pub. L. 102–325, § 464(g)(2)–(4), added par. (4), redesignated former par. (4) as (5), and added par. (6).

Subsecs. (e), (f). Pub. L. 102–325, § 464(h), added subsecs. (e) and (f).

1989—Subsec. (c)(2)(A)(i). Pub. L. 101–239 inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

1988—Subsec. (c)(2)(A)(v). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (c)(2)(A)(vi). Pub. L. 100–50 inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under sec-

tion 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

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

Section 468 of Pub. L. 102–325, as amended by Pub. L. 102–394, title III, § 307(a), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The changes made in part E of title IV of the Act [20 U.S.C. 1087aa et seq.] by the amendments made by this part [part E (§§ 461–468) of title IV of Pub. L. 102–325, enacting section 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) the changes in section 463(a)(2)(B) [20 U.S.C. 1087cc(a)(2)(B)], relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;

''(2) the changes made in section 464(c)(1)(C) [20 U.S.C. 1087dd(c)(1)(C)], relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

''(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(4) the changes made in section 467 [20 U.S.C. 1087gg], relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and

''(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.''

[Pub. L. 102–394, title III, § 307(b), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The amendments made by subsection (a) [amending section 468 of Pub. L. 102–325, set out above] shall take effect as if enacted on July 23, 1992.'']

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part B of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 405(b) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(d), June 3, 1987, 101 Stat. 361, provided that:

''(1) Section 462 of the Act [20 U.S.C. 1087bb] shall apply with respect to academic year 1988-1989 and succeeding academic years.

''(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act [20 U.S.C. 1087dd(c)(1)(A), (2), 1087ee(a)(2)(E)] shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

''(3) Section 463(a)(9) and section 463A of the Act [20 U.S.C. 1087cc(a)(9), 1087cc–1] as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

''(4) For the purpose of this subsection, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act [this part].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087cc, 1092 of this title; title 10 section 2174.

§ 1087ee. Cancellation of loans for certain public service

(a) Cancellation of percentage of debt based on years of qualifying service

(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965[1] exceeds 30 percent of the total enrollment of that school;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act [42 U.S.C. 9831 et seq.] which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

[1] See References in Text note below.

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 1435(a)(10) of this title;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37 as an area of hostilities;

(E) as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or a volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.];

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services; or

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.

For the purpose of this paragraph, the term ''children with disabilities'' has the meaning set forth in section 1401 of this title.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (F), (G), (H), or (I) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term ''year'' where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of title 26.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on October 7, 1998, shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.

(b) Reimbursement for cancellation

The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 1087hh of this title. None of the funds appropriated pursuant to section 1087aa(b) of this title shall be available for payments pursuant to this subsection. To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.

(c) Special rules

(1) List

If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(2) Continuing eligibility

Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) of this section in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) of this section such subsequent years.

(Pub. L. 89–329, title IV, § 465, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1451; amended Pub. L. 100–50, § 13(j), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–476, title IX, § 901(e), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101–647, title XXI, § 2101(a), (b), Nov. 29, 1990, 104 Stat. 4856; Pub. L. 102–119, § 26(h), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–325, title IV, § 465(a)–(c), July 23, 1992, 106 Stat. 582, 583; Pub. L. 103–82, title I, § 102(c)(3), Sept. 21, 1993, 107 Stat. 824; Pub. L.

103–208, § 2(f)(12)–(14), (k)(7), Dec. 20, 1993, 107 Stat. 2471, 2486; Pub. L. 103–382, title III, § 391(e)(3), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, § 465, Oct. 7, 1998, 112 Stat. 1728.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 111(c) of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), was classified to section 2711(c) of this title, prior to its omission in the general revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140.

The Head Start Act, referred to in subsec. (a)(2)(B), is subchapter B (§§ 635 to 657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Peace Corps Act, referred to in subsec. (a)(2)(E), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(E), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(6), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(f)(14) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087ee, Pub. L. 89–329, title IV, § 465, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 277; amended Pub. L. 95–561, title XIII, § 1323, Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title IV, §§ 442(b)(6), 448(d), (e), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1443, 1503, related to cancellation of loans for certain public service, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 465(1)(B), substituted ''section 1401'' for ''section 1401(a)(1)'' in concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, § 465(1)(A), substituted ''section 1435(a)(10)'' for ''section 1476(b)(9)''.

Subsec. (a)(7). Pub. L. 105–244, § 465(1)(C), added par. (7).

Subsec. (b). Pub. L. 105–244, § 465(2), inserted at end ''To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.''

1994—Subsec. (a)(2)(A). Pub. L. 103–382 substituted ''title I of the Elementary and Secondary Education Act of 1965'' for ''chapter 1 of the Education Consolidation and Improvement Act of 1981''.

1993—Subsec. (a)(2)(A). Pub. L. 103–208, § 2(k)(7), amended Pub. L. 102–325, § 465(a)(1). See 1992 Amendment note below.

Subsec. (a)(2)(D). Pub. L. 103–208, § 2(f)(12), substituted ''service'' for ''services''.

Subsec. (a)(2)(F). Pub. L. 103–208, § 2(f)(13), struck out ''or'' after semicolon at end.

Subsec. (a)(6). Pub. L. 103–208, § 2(f)(14), realigned margin. See Codification note above.

Pub. L. 103–82 added par. (6).

1992—Subsec. (a)(2)(A). Pub. L. 102–325, § 465(a)(1), as amended by Pub. L. 103–208, § 2(k)(7), struck out before semicolon at end ''and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1''.

Subsec. (a)(2)(C). Pub. L. 102–325, § 465(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''as a full-time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system;''.

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, § 465(a)(3)–(5), added subpars. (G) to (I).

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 465(b), substituted ''(A), (C), (F), (G), (H), or (I)'' for ''(A), (C), or (F)''.

Subsec. (c). Pub. L. 102–325, § 465(c), added subsec. (c).

1991—Subsec. (a)(2). Pub. L. 102–119 substituted ''1401(a)(1)'' for ''1401(1)'' in last sentence. The references to section 1401 include the substitution of ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act'' in the original.

1990—Subsec. (a)(2). Pub. L. 101–476, § 901(e), substituted ''children with disabilities'' for ''handicapped children'' in two places.

Subsec. (a)(2)(F). Pub. L. 101–647, § 2101(a), which directed amendment of subsec. (a)(2) by adding at the end a new subpar. (F), was executed by adding subpar. (F) after subpar. (E) and before last sentence to reflect the probable intent of Congress.

Subsec. (a)(3)(A)(i). Pub. L. 101–647, § 2101(b), which directed amendment of subsec. (a)(3)(i) by substituting ''(A), (C), or (F)'' for ''(A) or (C)'', was executed by making the substitution in subsec. (a)(3)(A)(i) to reflect the probable intent of Congress.

1988—Subsec. (a)(5). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a)(2)(A). Pub. L. 100–50, § 13(j)(1), (2), substituted ''chapter 1 of the Education Consolidation and Improvement Act of 1981'' for ''title I of the Elementary and Secondary Education Act of 1965'' and ''such chapter 1'' for ''such title I''.

Subsec. (a)(2)(B). Pub. L. 100–50, § 13(j)(3), substituted ''the Head Start Act'' for ''section 2809(a)(1) of title 42''.

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 AMENDMENTS

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.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 2101(c) of Pub. L. 101–647 provided that: ''The amendments made by this section [amending this section] shall apply only to loans made on or after the date of enactment of this Act [Nov. 29, 1990] under part E of title IV of the Higher Education Act of 1965 [this part].''

Section 1001 of Pub. L. 101–476 provided that: ''The amendments made by this Act [see Short Title of 1990 Amendment note set out under section 1400 of this title] shall take effect October 1, 1990.''

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(2)(E) of this section applicable only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1078–10, 1087, 1087j, 1087dd, 1092 of this title.

§ 1087ff. Distribution of assets from student loan funds

(a) In general

After September 30, 2003, and not later than March 31, 2004, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 2003, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of late collections

After March 31, 2012, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 2003, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a) of this section.

(c) Distribution of excess capital

(1) Upon a finding by the institution or the Secretary prior to October 1, 2004, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 1087bb of this title.

(Pub. L. 89–329, title IV, § 466, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 466, July 23, 1992, 106 Stat. 584; Pub. L. 103–208, § 2(f)(15), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 466, Oct. 7, 1998, 112 Stat. 1728.)

PRIOR PROVISIONS

A prior section 1087ff, Pub. L. 89–329, title IV, § 466, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 278; amended Pub. L. 94–482, title I, § 130(h), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 96–374, title IV, § 442(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1503, related to distribution of assets from student loan funds, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 466(1)(A), in introductory provisions, substituted ''2003'' for ''1996'' and ''2004'' for ''1997''.

Subsec. (a)(1). Pub. L. 105–244, § 466(1)(B), substituted ''2003'' for ''1996''.

Subsec. (b). Pub. L. 105–244, § 466(2), substituted ''2012'' for ''2005'' and ''2003'' for ''1996''.

Subsec. (c)(1). Pub. L. 105–244, § 466(3), substituted ''2004'' for ''1997'' in introductory provisions.

1993—Subsec. (c)(2). Pub. L. 103–208 realigned margin.

1992—Subsec. (b). Pub. L. 102–325, § 466(1), substituted ''2005'' for ''1997''.

Subsec. (c). Pub. L. 102–325, § 466(2), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

§ 1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund

(a) Authority of Secretary to collect referred, transferred, or assigned loans

With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 1087cc(a) of this title,

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) Collection of referred, transferred, or assigned loans

The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a)[1] of this title until all appropriate collection efforts, as determined by the Secretary, have been expended.

(Pub. L. 89–329, title IV, § 467, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 467, July 23, 1992, 106 Stat. 584; Pub. L. 105–244, title IV, § 467(a), Oct. 7, 1998, 112 Stat. 1728.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (5), (6), and (7) as (4), (5), and (6), respectively.

PRIOR PROVISIONS

A prior section 1087gg, Pub. L. 89–329, title IV, § 467, as added Pub. L. 96–49, § 5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352; amended Pub. L. 96–374, title IV, § 445(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1442, 1503; Pub. L. 99–272, title XVI, § 16029, Apr. 7, 1986, 100 Stat. 354, related to collection of defaulted loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–244 struck out heading and text of subsec. (c) which established the Perkins Loan Revolving Fund and provided for deposits into and payments from the Fund.

1992—Pub. L. 102–325 amended section catchline generally, inserting ": Perkins Loan Revolving Fund" after "loans" and added subsec. (c).

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 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to creation of Perkins Loan Revolving Fund, effective Sept. 15, 1997, see section 468(4) of Pub. L. 102–325, set out as a note under section 1087dd of this title.

[1] See References in Text note below.

TRANSFER OF BALANCE

Pub. L. 105–244, title IV, § 467(b), Oct. 7, 1998, 112 Stat. 1728, provided that: "Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087cc of this title.

§ 1087hh. General authority of Secretary

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 1082(a)(2) of this title; and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(Pub. L. 89–329, title IV, § 468, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1454.)

PRIOR PROVISIONS

A prior section 1087hh, Pub. L. 89–329, title IV, § 468, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1437, related to alternative source of funds, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087ii, Pub. L. 89–329, title IV, § 469, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1439, related to recapture of current balance of student loan funds, prior to the general revision of this part by Pub. L. 99–498.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087ee of this title.

§ 1087ii. Definitions

(a) Low-income communities

For the purpose of this part, the term "low-income communities" means communities in which there is a high concentration of children eligible to be counted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(b) High-risk children

For the purposes of this part, the term "high-risk children" means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, toddlers, children, and youth with disabilities

For purposes of this part, the term "infants, toddlers, children, and youth with disabilities"

means children with disabilities and infants and toddlers with disabilities as defined in sections 1401(a)(1)[1] and 1472(1)[1] of this title, respectively, and the term ''qualified professional provider of early intervention services'' has the meaning specified in section 1472(2)[1] of this title.

(Pub. L. 89–329, title IV, § 469, as added Pub. L. 102–325, title IV, § 465(d), July 23, 1992, 106 Stat. 583; amended Pub. L. 103–382, title III, § 391(e)(4), Oct. 20, 1994, 108 Stat. 4022.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 1401(a)(1) of this title, referred to in subsec. (c), was in the original a reference to section 602(a)(1) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 602 of Pub. L. 91–230 was omitted in the general amendment of subchapter I of chapter 33 of this title by Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37. Pub. L. 105–17 enacted a new section 602 of Pub. L. 91–230, which is classified to section 1401 of this title, and which contains provisions defining ''child with a disability'' and ''infant or toddler with a disability''.

Section 1472 of this title, referred to in subsec. (c), was in the original a reference to section 672 of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 672 of Pub. L. 91–230 was repealed by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157. Pub. L. 105–17 enacted a new section 672 of Pub. L. 91–230, which is classified to section 1472 of this title, and which no longer defines ''infants and toddlers with disabilities'' or ''qualified professional provider of early intervention services''.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 substituted ''title I'' for ''chapter 1 of title I''.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89–329 by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from ''F'' to ''E'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1070b, 1070b–1, 1070b–3, 1078, 1087d, 1087bb, 1087dd, 1092, 1093, 1098, 1134b, 1135b, 1135c of this title; title 42 sections 2752, 2753, 2756b.

§ 1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts[1] 1 or 2 of part A of this subchapter) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89–329, title IV, § 471, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 105–244, title IV, § 480(a), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''or 2'' for ''or 4'' in introductory provisions.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 480A, Oct. 7, 1998, 112 Stat. 1732, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part F (§§ 471–480A) of title IV of Pub. L. 105–244, amending this section and sections 1087*ll* to 1087tt and 1087vv of this title] are effective on the date of enactment of this Act [Oct. 7, 1998].

''(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000–2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 [amending sections 1087nn to 1087qq of this title] shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 [this part] for academic years beginning on or after July 1, 2000.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 471(b) of Pub. L. 102–325 provided that: ''The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE

Section 406(b)(1)–(3) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

''(1) Except as provided in paragraphs (2) through (4)—

''(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

''(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97–301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

''(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

''(3) For purposes of sections 413D(d)(2)(B) [now 413D(c)(2)(B)], 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C.

[1] See References in Text note below.

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

1070b–3(c)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

''(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070d–40, 1087vv of this title.

§ 1087*ll*. Cost of attendance

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''cost of attendance'' means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;

(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution); and

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.

(Pub. L. 89–329, title IV, § 472, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 103–208, § 2(g)(1), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 471, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Par. (2). Pub. L. 105–244, § 471(1), inserted '', including a reasonable allowance for the documented rental or purchase of a personal computer,'' after ''personal expenses''.

Par. (3)(A). Pub. L. 105–244, § 471(2)(A), substituted ''determined by the institution'' for ''of not less than $1,500''.

Par. (3)(C). Pub. L. 105–244, § 471(2)(B), struck out '', except that the amount may not be less than $2,500'' after ''room and board''.

Par. (10). Pub. L. 105–244, § 471(3), substituted a semicolon for '', but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;''.

Par. (11). Pub. L. 105–244, § 471(4), substituted ''engaged'' for ''placed''.

1993—Par. (12). Pub. L. 103–208 added par. (12).

1992—Pub. L. 102–325 amended section generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (9).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1015, 1070a, 1070a–14, 1078, 1078–8, 1087vv, 1093 of this title; title 10 sections 510, 1598, 2145, 2193, 2410c; title 26 sections 221, 529; title 42 sections 677, 1862n–1, 12604.

§ 1087mm. Family contribution

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 2 of part A of this subchapter, the term ''family contribution'' with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(Pub. L. 89–329, title IV, § 473, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1455; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 586; Pub. L. 105–244, title IV, § 480(b), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''subpart 2'' for ''subpart 4''.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subparts 1 and 3 of part A of this subchapter, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087nn. Determination of expected family contribution; data elements

(a) General rule for determination of expected family contribution

The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 1087*oo* of this title;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 1087pp of this title; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 1087qq of this title.

(b) Data elements

The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of title 26.

(Pub. L. 89–329, title IV, § 474, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 105–244, title IV, § 472, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244 inserted '', excluding the student's parents,'' after ''family of the student''.

1992—Pub. L. 102–325 substituted ''Determination of expected family contribution; data elements'' for ''Data elements used in determining expected family contribution'' in section catchline and amended text generally, adding subsec. (a), designating existing provisions as subsec. (b) and inserting heading, adding the age of the older parent, in the case of a dependent student, and the student as a data element and striking out consideration of any unusual medical and dental expenses and consideration of the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid as data elements.

1988—Par. (8). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087*oo*. Family contribution for dependent students

(a) Computation of expected family contribution

For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b) of this section);

(2) the student contribution from available income (determined in accordance with subsection (g) of this section); and

(3) the student contribution from assets (determined in accordance with subsection (h) of this section).

(b) Parents' contribution from adjusted available income

The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c) of this section); and

(B) the parents' contribution from assets (determined in accordance with subsection (d) of this section);

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) Parents' available income

(1) In general

The parents' available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor

table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size (including student)	Number in College: 1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) Parents' contribution from assets

(1) In general

The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Parental net worth

The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000

Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is:
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Education savings and asset protection allowance

The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are: two parents	one parent
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800

Education Savings and Asset Protection Allowances for Families and Students—Continued

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the allowance is—	
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(e) Assessment schedule

The adjusted available income (as determined under subsection (b)(1) of this section and hereafter in this subsection referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) Computations in case of separation, divorce, remarriage, or death

(1) Divorced or separated parents

Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) Death of a parent

Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) Remarried parents

If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) Student contribution from available income

(1) In general

The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 1087vv of this title); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) Adjustment to student income

The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of $2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);

(E) the amount of any tax credit taken by the student under section 25A of title 26; and

(F) an allowance for parents' negative available income, determined in accordance with paragraph (6).

(3) Allowance for State and other income taxes

The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0

Percentages for Computation of State and Other Tax Allowance—Continued

If the students' State or territory of residence is—	The percentage is—
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) Assessment of available income

The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(6) Allowance for parents' negative available income

The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) of this section exceeds the sum of the parents' total income (as defined in section 1087vv of this title) and the parents' contribution from assets (as determined in accordance with subsection (d) of this section).

(h) Student contribution from assets

The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 35 percent, except that the result shall not be less than zero.

(i) Adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter

For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b) of this section) is determined as follows for purposes other than subpart 2 of part A of this subchapter:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1) of this section) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4) of this section) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) of this section and adjusted according to subsection (b)(3) of this section to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(j) Adjustments to student's contribution for enrollment periods of less than nine months

For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g) of this section) is determined, for purposes other than subpart 2 of part A of this subchapter, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.

(Pub. L. 89–329, title IV, § 475, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–50, § 14(1)–(12), June 3, 1987, 101 Stat. 349, 350; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 103–208, § 2(g)(2)–(5), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(g), Nov. 13, 1997, 111 Stat. 1523; Pub. L. 105–244, title IV, § 473, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 473(a), which directed insertion of '', excluding the student's parents,'' after ''number of family members'', was executed by making the insertion after ''number of the family members'' to reflect the probable intent of Congress.

Subsec. (g)(2)(D). Pub. L. 105–244, § 473(b)(1)(A), substituted ''$2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);'' for ''$1,750; and''.

Subsec. (g)(2)(F). Pub. L. 105–244, § 473(b)(1)(B), (C), added subpar. (F).

Subsec. (g)(6). Pub. L. 105–244, § 473(b)(2), added par. (6).

Subsec. (j). Pub. L. 105–244, § 473(c), added subsec. (j).

1997—Subsec. (c)(1)(F). Pub. L. 105–78, § 609(g)(1), added subpar. (F).

Subsec. (g)(2)(E). Pub. L. 105–78, § 609(g)(2), added subpar. (E).

1993—Subsec. (c)(4). Pub. L. 103–208, § 2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (f)(3). Pub. L. 103–208, § 2(g)(3), in introductory provisions, substituted ''If a parent'' for ''Income in the

case of a parent'', ''(1) of this subsection, or if a parent'' for ''(1) of this subsection, or a parent'', and ''the income'' for ''is determined as follows: The income''.

Subsec. (g)(1)(B). Pub. L. 103–208, § 2(g)(4), inserted closing parenthesis after ''paragraph (2)''.

Subsec. (g)(3). Pub. L. 103–208, § 2(g)(5), in table added last item relating to Other.

1992—Pub. L. 102–325 amended section generally, making minor changes in subsecs. (a) to (c) and (e) to (g), in subsec. (d) substituting provisions relating to parents' contribution from assets for provisions relating to parents' income supplemental amount from assets, in subsec. (h) substituting provisions relating to student contribution from assets for provisions relating to student and spouse income supplemental amount from assets, and in subsec. (i) substituting provisions relating to adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter for provisions relating to adjustments for enrollment periods other than 9 months.

1987—Subsec. (c)(2), (4). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (c)(7). Pub. L. 100–50, § 14(2), struck out ''National'' before ''Center''.

Subsec. (d)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (d)(2)(C). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Pub. L. 100–50, § 14(4), added table after subpar. (C) and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (d)(4)(B). Pub. L. 100–50, § 14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (d)(4)(C). Pub. L. 100–50, § 14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d)(4)(D). Pub. L. 100–50, § 14(7), substituted ''income is less than zero'' for ''income is equal to or less than zero''.

Subsec. (e). Pub. L. 100–50, § 14(8), inserted a minus sign before ''$3,409'' in two places in table.

Subsec. (g)(1)(C). Pub. L. 100–50, § 14(9), substituted ''paragraph (2)'' for ''paragraph (3)''.

Subsec. (g)(3). Pub. L. 100–50, § 14(10), inserted ''(or a successor table prescribed by the Secretary under section 1087rr of this title)'' after ''following table''.

Subsec. (h). Pub. L. 100–50, § 14(11), added subsec. (h) and struck out former subsec. (h) which read as follows: ''The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

''(1) the current balance of checking and savings accounts and cash on hand; and

''(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 1087vv(e) of this title).''

Subsec. (i). Pub. L. 100–50, § 14(12), added subsec. (i).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087pp. Family contribution for independent students without dependents other than a spouse

(a) Computation of expected family contribution

For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (2) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's contribution from available income

(1) In general

The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 1087vv of this title)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(I) $5,000 for single students;

(II) $5,000 for married students where both are enrolled pursuant to subsection (a)(2) of this section; and

(III) $8,000 for married students where one is enrolled pursuant to subsection (a)(2) of this section;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of title 26; and

(B) assessing such available income in accordance with paragraph (5).

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Employment expenses allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) Assessment of available income

The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) Family contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) Family's net worth

The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is married	And the student is single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700

Asset Protection Allowances for Families and Students—Continued

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 35 percent.

(d) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(Pub. L. 89–329, title IV, § 476, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1463; amended Pub. L. 100–50, § 14(1), (3), (4), (13)–(17), June 3, 1987, 101 Stat. 349, 351; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 594; Pub. L. 103–208, § 2(g)(6), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(h), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 474, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–244, § 474(a), added par. (3).

Subsec. (b)(1)(A)(iv). Pub. L. 105–244, § 474(b)(1), in introductory provisions, substituted ''allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—'' for ''allowance of—''.

Subsec. (b)(1)(A)(iv)(I), (II). Pub. L. 105–244, § 474(b)(2), substituted ''$5,000'' for ''$3,000''.

Subsec. (b)(1)(A)(iv)(III). Pub. L. 105–244, § 474(b)(3), substituted ''$8,000'' for ''$6,000''.

1997—Subsec. (b)(1)(A)(vi). Pub. L. 105–78 added cl. (vi).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students without dependents other than a spouse for provisions relating to family contribution for independent students without dependents (including a spouse).

1987—Subsec. (b)(1)(A), (B). Pub. L. 100–50, § 14(13)(B), (C), substituted subpar. (A) and introductory provisions of subpar. (B) for introductory provisions of former subpar. (A) which read as follows: ''computing the student's available taxable income by deducting from the student's adjusted gross income—''. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 100–50, § 14(13)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 100–50, § 14(15), which directed that subsec. (b)(1)(C) be amended by inserting ''plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28'', was executed to subpar. (D) to reflect the probable intent of Congress and the intervening redesignation of subpar. (C) as (D) by section 14(13)(B) of Pub. L. 100–50.

Pub. L. 100–50, § 14(13)(A), (B), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (b)(2). Pub. L. 100–50, § 14(1), (14), substituted ''total income'' for ''total taxable income'' and ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(4)(A). Pub. L. 100–50, § 14(16)(A), substituted ''$8,600'' for ''$8,900''.

Subsec. (b)(4)(B). Pub. L. 100–50, § 14(16), substituted ''$8,600'' for ''$8,900'' in two places and ''$6,020'' for ''$6,230''.

Subsec. (c)(1). Pub. L. 100–50, § 14(17), substituted a semicolon for a period at end of subpar. (C) and inserted, after subpar. (C), provision that the student's income supplemental amount from assets not be less than zero.

Subsec. (c)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, § 14(4), added table and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or

after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087qq. Family contribution for independent students with dependents other than a spouse

(a) Computation of expected family contribution

For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d) of this section;

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (3) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's available income

(1) In general

The family's available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate

appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) Family's contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Family net worth

The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW

Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is—
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200

Asset Protection Allowances for Families and Students—Continued

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(d) Assessment schedule

The adjusted available income (as determined under subsection (a)(1) of this section and hereafter referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

(Pub. L. 89–329, title IV, § 477, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1465; amended Pub. L. 100–50, § 14(1)–(6), (8), (18), (19), June 3, 1987, 101 Stat. 349–351; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 597; Pub. L. 103–208, § 2(g)(2), (7), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(i), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 475, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–244 added par. (4).

1997—Subsec. (b)(1)(F). Pub. L. 105–78 added subpar. (F).

1993—Subsec. (b)(4). Pub. L. 103–208, § 2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (e). Pub. L. 103–208, § 2(g)(7), added subsec. (e).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students with dependents other than a spouse for provisions relating to family contribution for independent students with dependents (including a spouse).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 14(18), added subpar. (C).

Subsec. (b)(2). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(5)(A). Pub. L. 100–50, § 14(19), substituted ''$2,100'' for ''$2,000''.

Subsec. (b)(7). Pub. L. 100–50, § 14(2), struck out ''National'' before ''Center''.

Subsec. (c)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, § 14(1), (4), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text, added table, and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (c)(4)(B). Pub. L. 100–50, § 14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (c)(4)(C). Pub. L. 100–50, § 14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d). Pub. L. 100–50, § 14(1), (8), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text and inserted a minus sign before ''$3,409'' in two places in table.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087nn, 1087rr, 1087ss of this title.

§ 1087rr. Regulations; updated tables

(a) Authority to prescribe regulations restricted

(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 1089 of this title. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 1089 of this title updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) Income protection allowance

(1) Revised tables

For each academic year after academic year 1993–1994, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 1087*oo*(c)(4) and 1087qq(b)(4) of this title. Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(2) Revised amounts

For each academic year after academic year 2000–2001, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 1087*oo*(g)(2)(D) and 1087pp(b)(1)(A)(iv) of this title. Such revised allowances shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1999 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) Adjusted net worth of a farm or business

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 1087*oo*(d)(2)(C), 1087pp(c)(2)(C), and 1087qq(c)(2)(C) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts ''$30,000'', ''$105,000'', and ''$195,000'' to reflect the changes made pursuant to paragraph (1).

(d) Education savings and asset protection allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 1087*oo*(d)(3), 1087pp(c)(3), and 1087qq(c)(3) of this title. Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment schedules and rates

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 1087*oo*(e) and 1087qq(d) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) "Consumer Price Index" defined

As used in this section, the term ''Consumer Price Index'' means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) State and other tax allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 1087*oo*(c)(2), 1087*oo*(g)(3), 1087pp(b)(2), and 1087qq(b)(2) of this title. The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) Employment expense allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Fed-

eral Register a revised table of employment expense allowances for the purpose of sections 1087*oo*(c)(5), 1087pp(b)(4), and 1087qq(b)(5) of this title. Such revised table shall be developed by increasing the dollar amount specified in sections 1087*oo*(c)(5)(A), 1087*oo*(c)(5)(B), 1087pp(b)(4)(A), 1087pp(b)(4)(B), 1087qq (b)(5)(A), and 1087qq(b)(5)(B) of this title to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(Pub. L. 89–329, title IV, § 478, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1470; amended Pub. L. 100–50, § 14(20)–(22), June 3, 1987, 101 Stat. 351, 352; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 602; Pub. L. 103–208, § 2(g)(8), (9), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, § 476, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244 designated existing provisions as par. (1), inserted heading, and added par. (2).

1993—Subsec. (b). Pub. L. 103–208, § 2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (c). Pub. L. 103–208, § 2(g)(8), substituted ''1993–1994'' for ''1992–1993'' in introductory provisions and inserted ''December'' before ''1992'' in par. (1).

Subsecs. (d), (e), (g). Pub. L. 103–208, § 2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (h). Pub. L. 103–208, § 2(g)(8)(A), (9), substituted ''1993–1994'' for ''1992–1993'' and ''Bureau of Labor Statistics'' for ''Bureau of Labor Standards''.

1992—Pub. L. 102–325 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly contained in subsecs. (a) to (f).

1987—Subsec. (c)(2). Pub. L. 100–50, § 14(21), substituted '' '$24,000', '$84,000', and '$156,000' '' for '' '$26,000', '$91,000', and '$169,000' ''.

Subsec. (d). Pub. L. 100–50, § 14(20), inserted '', rounded to the nearest $100,'' after ''present value cost'' and ''of 40 and above'' after ''each age cohort'' in second sentence and, after second sentence, inserted ''For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.''

Subsec. (f). Pub. L. 100–50, § 14(22), substituted ''Consumer Price Index for All Urban Consumers'' for ''Consumer Price Index for Wage Earners and Clerical Workers''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087*oo*, 1087pp, 1087qq, 1089 of this title.

§ 1087ss. Simplified needs test

(a) Simplified application section

(1) In general

The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 1090(a) of this title for families described in subsections (b) and (c) of this section.

(2) Reduced data requirements

The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1) of this section, permit such family to submit only the data elements required under subsection (b)(2) of this section for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c) of this section, permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c) of this section.

(b) Simplified needs test

(1) Eligibility

An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) Simplified test elements

The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in post-secondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 1087*oo*(c)(2) of this title for dependent students and in section 1087qq(b)(2) of this title for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 1087pp(b)(2) of this title for independent students without dependents other than a spouse.

(3) Qualifying forms

A student or family files a form described in this subsection, or subsection (c) of this section, as the case may be, if the student or family, respectively, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to title 26;

(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to title 26, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of title 26, and would otherwise be eligible to file a form described in subparagraph (A); or

(C) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) Zero expected family contribution

The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents file, or are eligible to file, a form described in subsection (b)(3) of this section, or certify that the parents are not required to file an income tax return and the student files, or is eligible to file, such a form, or certifies that the student is not required to file an income tax return; and

(B) the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) of this section, or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection.

(Pub. L. 89–329, title IV, § 479, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(23)–(25), June 3, 1987, 101 Stat. 352; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–26, § 11, Apr. 9, 1991, 105 Stat. 129; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 604; Pub. L. 103–208, § 2(g)(10)–(15), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, § 477, Oct. 7, 1998, 112 Stat. 1731.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 477(1)(A), substituted ''this subsection, or subsection (c) of this section, as the case may be,'' for ''this paragraph'' in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 105–244, § 477(1)(B), struck out ''or'' at end.

Subsec. (b)(3)(B), (C). Pub. L. 105–244, § 477(1)(C), (D), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(1)(A). Pub. L. 105–244, § 477(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student's parents were not required to file an income tax return under section 6012(a)(1) of title 26; and''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 477(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of title 26; and''.

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(g)(10), inserted ''of'' after ''(c)''.

Subsec. (b)(1)(B)(i). Pub. L. 103–208, § 2(g)(11), inserted ''(and the student's spouse, if any)'' after ''student'' in two places and struck out ''such'' before ''an income tax return''.

Subsec. (b)(2). Pub. L. 103–208, § 2(g)(12), (13), substituted ''six elements'' for ''five elements'' in introductory provisions and a comma for semicolon in subpar. (E).

Subsec. (b)(3)(A). Pub. L. 103–208, § 2(g)(14)(A), inserted ''(including any prepared or electronic version of such form)'' before ''required''.

Subsec. (b)(3)(B). Pub. L. 103–208, § 2(g)(14)(B), inserted ''(including any prepared or electronic version of such return)'' before ''required''.

Subsec. (c)(1)(A). Pub. L. 103–208, § 2(g)(15)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student's parents did not file, and were not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(1)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(g)(15)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student (and the student's spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(2)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), analysis applicable to all title IV programs; in subsec. (b), elements in tests; and in subsec. (c), simplified application form.

1991—Subsec. (a). Pub. L. 102–26 inserted before period at end '', or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code''.

1988—Subsec. (a). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100–50, § 14(23), substituted ''subsection (b) of this section'' for ''paragraph (2)'', ''families (1) who'' for ''families which'', and ''and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title'' for ''and which file a form 1040A pursuant to title 26''.

Subsec. (b)(2). Pub. L. 100–50, § 14(24)(A), struck out ''and State'' after ''Federal''.

Subsec. (b)(6). Pub. L. 100–50, § 14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100–50, § 14(25), added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1090 of this title.

§ 1087tt. Discretion of student financial aid administrators

(a) In general

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) Adjustments to assets taken into account

A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) Refusal or adjustment of loan certifications

On a case-by-case basis, an eligible institution may refuse to certify a statement that permits a student to receive a loan under part B or C of this subchapter, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

(Pub. L. 89–329, title IV, § 479A, as added Pub. L. 100–50, § 14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101–239, title II, § 2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103–208, § 2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105–244, title IV, § 478, Oct. 7, 1998, 112 Stat. 1731.)

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89–329, title IV, § 479A, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100–50.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 478(1), inserted after second sentence ''Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status.''

Subsec. (c). Pub. L. 105–244, § 478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

1993—Subsec. (c). Pub. L. 103–208 added subsec. (c).

1992—Pub. L. 102–325 amended section generally, revising and restating provisions of subsecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101–239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk 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 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1091 of this title.

§ 1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89–329, title IV, § 479B, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89–329, title IV, § 479B, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100–50.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99–498, as amended, set out as a note under section 1087kk of this title.

§ 1087uu–1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act [25 U.S.C. 1401 et seq.]; and

(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or the Maine Indian Claims Settlement Act [25 U.S.C. 1721 et seq.].

(Pub. L. 89–329, title IV, § 479C, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

REFERENCES IN TEXT

The Per Capita Act, referred to in par. (1), probably means Pub. L. 98–64, Aug. 2, 1983, 97 Stat. 365, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Distribution of Judgment Funds Act, referred to in par. (1), is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, as amended, also known as the Indian Tribal Judgment Funds Use or Distribution Act, which is classified generally to chapter 16 (§ 1401 et seq.) of Title 25. For complete classification of this Act to the Code, see Tables.

The Alaskan Native Claims Settlement Act, referred to in par. (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.

The Maine Indian Claims Settlement Act, referred to in par. (2), probably means the Maine Indian Claims Settlement Act of 1980, Pub. L. 96–420, Oct. 10, 1980, 94 Stat. 1785, which is classified generally to subchapter II (§ 1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, reenacting provisions without change.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section 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 an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087vv. Definitions

As used in this part:

(a) Total income

(1) Except as provided in paragraph (2), the term ''total income'' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.], and no portion of any tax credit taken under section 25A of title 26, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this chapter.

(b) Untaxed income and benefits

The term ''untaxed income and benefits'' means—

(1) child support received;

(2) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c) of this section;

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(c) Veteran and veterans' education benefits

(1) The term ''veteran'' means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term ''veterans' education benefits'' means veterans' benefits the student will receive during the award year, including but not limited to the following:

(A) Title 10, chapter 2: Reserve Officer Training Corps scholarship.

(B) Title 10, chapter 106: Selective Reserve.

(C) Title 10, chapter 107: Selective Reserve Educational Assistance Program.

(D) Title 37, chapter 2: Reserve Officer Training Corps Program.

(E) Title 38, chapter 30: Montgomery GI Bill—active duty.

(F) Title 38, chapter 31: vocational rehabilitation.

(G) Title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

(H) Title 38, chapter 35: Dependents Educational Assistance Program.

(I) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

(J) Public Law 96–342, section 903: Educational Assistance Pilot Program.

(d) Independent student

The term ''independent'', when used with respect to a student, means any individual who—

(1) is 24 years of age or older by December 31 of the award year;

(2) is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;

(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section);

(4) is a graduate or professional student;

(5) is a married individual;

(6) has legal dependents other than a spouse; or

(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(e) Excludable income

The term ''excludable income'' means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(3) child support payments made by the student or parent; and

(4) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.].

(f) Assets

(1) The term ''assets'' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term ''assets'' shall not include the net value of—

(A) the family's principal place of residence; or

(B) a family farm on which the family resides.

(g) Net assets

The term ''net assets'' means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term ''current balance of checking and savings accounts'' does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance; tuition prepayment plans

(1) For purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including veterans' education benefits as defined in subsection (c) of this section, and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.].

(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 1087*ll* of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.

(3) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26 shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term ''dependent of the parent'' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term ''dependent of the student'' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

***(l)* Family size**

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) Business assets

The term ''business assets'' means property that is used in the operation of a trade or busi-

ness, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(Pub. L. 89–329, title IV, § 480, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100–369, § 7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101–610, title I, § 185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103–82, title I, § 102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, § 2(g)(17)–(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104–193, title I, § 110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105–78, title VI, § 609(j), (k), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 479, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(15)(B), (f)(12)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(2), and (j)(1), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§ 12511 et seq.) of chapter 129 of Title 42 and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsecs. (b)(2) and (e)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and E of title IV of the Act are classified generally to parts A (§ 601 et seq.) and E (§ 670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(14), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

Title 10, chapter 2, referred to in subsec. (c)(2)(A), relates to the organization of the Department of Defense. For provisions relating to the Reserve Officer Training Corps, see chapters 102 and 103 of Title 10, Armed Forces.

Title 10, chapter 107, referred to in subsec. (c)(2)(C), relates to educational assistance for active duty enlistees. For provisions relating to the Selective Reserve educational assistance program, see chapter 106 of Title 10.

Title 37, chapter 2, referred to in subsec. (c)(2)(D), has never been enacted. For provisions relating to the Reserve Officer Training Corps, see chapters 102 and 103 of Title 10.

Public Law 97–376, section 156, referred to in subsec. (c)(2)(I), probably means Pub. L. 97–377, title I, § 156, Dec. 21, 1982, 96 Stat. 1920, as amended, which is set out as a note under section 402 of Title 42, The Public Health and Welfare. Pub. L. 97–376 does not contain a section 156.

Public Law 96–342, section 903, referred to in subsec. (c)(2)(J), is set out as a note under section 2141 of Title 10, Armed Forces.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (b)(14). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(12)(B)], struck out ''Job Training Partnership Act noneducational benefits or'' after ''railroad retirement benefits, or''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(15)(B)], substituted ''Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998'' for ''Job Training Partnership Act noneducational benefits''.

Subsec. (j)(1). Pub. L. 105–244, § 479(1), inserted before period at end '', and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990''.

Subsec. (j)(3), (4). Pub. L. 105–244, § 479(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 shall not be treated as financial assistance for purposes of section 1087kk(3) of this title.''

1997—Subsec. (a)(2). Pub. L. 105–78, § 609(j), substituted ''program by an individual, no'' for ''program by an individual, and no'' and inserted ''and no portion of any tax credit taken under section 25A of title 26,'' before ''shall be included''.

Subsec. (j)(4). Pub. L. 105–78, § 609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104–193 substituted ''assistance under a State program funded'' for ''aid to families with dependent children under a State plan approved''.

1993—Subsec. (a)(2). Pub. L. 103–82, § 102(c)(4), inserted '', and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990,'' after ''by an individual''.

Subsec. (c)(2). Pub. L. 103–208, § 2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103–208, § 2(g)(18), inserted before semicolon ''or was a ward of the court until the individual reached the age of 18''.

Subsec. (j)(3). Pub. L. 103–208, § 2(g)(19), realigned margin. See Codification note above.

Pub. L. 103–82, § 102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103–208, § 2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101–610, § 185(4), inserted ''and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)'' after ''other than parents''.

Subsec. (f)(3). Pub. L. 101–610, § 185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100–369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100–50, § 14(28)(A), (B), substituted ''paragraphs (2) through (4)'' for ''paragraphs (2) and (3)'' and inserted ''minus excludable income (as defined in subsection (f) of this section)'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 14(28)(C), added par. (2) and struck out former par. (2) which read as follows: ''The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.''

Subsec. (a)(4). Pub. L. 100–50, § 14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100–50, § 14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former sub-

sec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100–50, § 14(28)(F), substituted ''annual total resources (including all sources of resources other than parents)'' for ''an annual total income''.

Subsecs. (f) to (h). Pub. L. 100–50, § 14(28)(G), added subsecs. (f) to (h).

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

Amendment by section 101(f) [title VIII, § 405(d)(15)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

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.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk 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.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEFINITION OF ''INDEPENDENT STUDENT''; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Section 406(b)(5), formerly section 406(b)(4), of Pub. L. 99–498, renumbered Pub. L. 100–50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: ''The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a–11, 1078, 1087kk, 1087*oo*, 1087pp, 1087qq of this title; title 42 sections 12604, 12651d.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89–329 by Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from ''E'' to ''D.'' It was subsequently rechanged to ''E'' when this part was redesignated ''F'', and then to ''F'' when this part was redesignated ''G''. See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89–329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90–575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 99–498.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1098c of this title.

§ 1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''award year'' shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''academic year'' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an

institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''eligible program'' means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(c) Third party servicer

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''third party servicer'' means any individual, or any State, or private, profit or nonprofit organization which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this subchapter, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(Pub. L. 89–329, title IV, § 481, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1476; amended Pub. L. 100–50, § 15(1), June 3, 1987, 101 Stat. 355; Pub. L. 101–239, title II, § 2007(b), (c), Dec. 19, 1989, 103 Stat. 2120, 2121; Pub. L. 101–508, title III, § 3005(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, § 2(a)(2), (3), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–325, title IV, § 481, July 23, 1992, 106 Stat. 609; Pub. L. 103–208, § 2(h)(1)–(6), Dec. 20, 1993, 107 Stat. 2475, 2476; Pub. L. 105–216, § 12, July 29, 1998, 112 Stat. 908; Pub. L. 105–244, title I, § 101(c), Oct. 7, 1998, 112 Stat. 1617.)

PRIOR PROVISIONS

A prior section 1088, Pub. L. 89–329, title IV, § 481, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1443, defined ''institution of higher education'' for this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, prior to the general amendment of this part by Pub. L. 99–498.

Another prior section 1088, Pub. L. 89–329, title IV, § 491, formerly § 461, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, renumbered § 491 and amended Pub. L. 92–318, title I, §§ 131(c), 137(b), title X, § 1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381; amended Pub. L. 95–180, § 1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, § 6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–49, § 5(e), Aug. 13, 1979, 93 Stat. 352, defined terms for this subchapter and part C of subchapter I of chapter 34 of title 42, prior to the general revision of this part by Pub. L. 96–374.

AMENDMENTS

1998—Pub. L. 105–244 redesignated subsecs. (d) to (f) as (a) to (c), respectively, and struck out former subsecs. (a) to (c) which defined the terms ''institution of higher education'', ''proprietary institution of higher education'', and ''postsecondary vocational institution''. See section 1002 of this title.

Subsec. (a)(4). Pub. L. 105–216, which directed the amendment of par. (4), effective 1 year after July 29, 1998, by designating existing provisions as subpar. (A), redesignating former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and by adding subpar. (B) to read as follows: ''Subparagraph (A)(i) shall not apply to a nonprofit institution whose primary function is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, and December 31, 1998.'', could not be executed because subsec. (a) did not contain a par. (4) subsequent to amendment by Pub. L. 105–244. See above.

1993—Subsec. (a)(3)(B). Pub. L. 103–208, § 2(h)(1), inserted before semicolon at end '', except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree''.

Subsec. (a)(3)(D). Pub. L. 103–208, § 2(h)(2), substituted ''do not have a high school diploma or its recognized equivalent'' for ''are admitted pursuant to section 1091(d) of this title'' and inserted before period at end '', except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent''.

Subsec. (a)(4)(A). Pub. L. 103–208, § 2(h)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: ''such institution has filed for bankruptcy; or''.

Subsec. (d)(2). Pub. L. 103–208, §2(h)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.''

Subsec. (e)(2). Pub. L. 103–208, §2(h)(5), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours, in length to be eligible to participate in the programs authorized under part B of this subchapter.''

Subsec. (f). Pub. L. 103–208, §2(h)(6), substituted ''individual, or any State,'' for ''State'' in introductory provisions.

1992—Pub. L. 102–325, §481(a), amended section catchline.

Subsec. (a). Pub. L. 102–325, §481(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) and (2) defining ''institution of higher education'' and ''accredited'' and par. (3) which related to recognition of accreditation of eligible institutions of higher education.

Subsec. (b). Pub. L. 102–325, §481(b)(4), struck out at end ''For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.''

Subsec. (b)(1). Pub. L. 102–325, §481(b)(1), substituted ''an eligible program'' for ''not less than a 6-month program''.

Subsec. (b)(4). Pub. L. 102–325, §481(b)(2), substituted ''pursuant to part G of this subchapter,'' for ''for this purpose, and''.

Subsec. (b)(5), (6). Pub. L. 102–325, §481(b)(3), substituted ''years, and'' for ''years.'' in cl. (5) and added cl. (6).

Subsec. (c)(1). Pub. L. 102–325, §481(c), substituted ''an eligible program'' for ''not less than a six-month program''.

Subsec. (d). Pub. L. 102–325, §481(d), inserted ''and award'' after ''Academic'' in heading and amended text generally. Prior to amendment, text read as follows: ''For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall be defined by the Secretary by regulation.''

Subsec. (e). Pub. L. 102–325, §481(e), amended subsec. (e) generally, substituting provisions relating to eligible program for provisions relating to impact of loss of accreditation.

Subsec. (f). Pub. L. 102–325, §481(f), added subsec. (f).

1991—Subsec. (b). Pub. L. 102–26, §2(d)(2)(A), repealed Pub. L. 101–508, §3005(b). See 1990 Amendment note below.

Pub. L. 102–26, §2(a)(2), struck out ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution'' before period at end of second sentence, and struck out at end ''The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.''

Subsec. (c). Pub. L. 102–26, §2(a)(3), struck out before period at end ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution''.

1990—Subsec. (b). Pub. L. 101–508, which inserted '', except in accordance with section 1091(d) of this title,'' after ''shall not'' in fourth sentence, was repealed by Pub. L. 102–26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1989—Subsec. (a)(1). Pub. L. 101–239, §2007(b)(1), substituted ''Subject to subsection (e) of this section, for the purpose'' for ''For the purpose''.

Subsec. (a)(3). Pub. L. 101–239, §2007(c), added par. (3).

Subsec. (e). Pub. L. 101–239, §2007(b)(2), added subsec. (e).

1987—Subsec. (c). Pub. L. 100–50 substituted ''section 1091(d) of this title'' for ''subsection (d) of this section''.

EFFECTIVE DATE OF 1998 AMENDMENTS

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.

Amendment by Pub. L. 105–216 effective 1 year after July 29, 1998, see section 13 of Pub. L. 105–216, set out as an Effective Date note under section 4901 of Title 12, Banks and Banking.

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

Section 498 of Pub. L. 102–325 provided that: ''The changes made in part G of title IV of the Act [20 U.S.C. 1088 et seq.] by the amendments made by this part [part G (§§481–498) of title IV of Pub. L. 102–325, enacting sections 1091b, 1092c, 1094a, 1094b, 1098a, and 1098b of this title, amending sections 1088 to 1091, 1092, 1092b, 1093, 1094, 1095, 1096, 1097, and 1098 of this title, and repealing section 1096a of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) as otherwise provided in such part G;

''(2) the changes in section 481(a) [20 U.S.C. 1088(a)], relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

''(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

''(4) section 484(m)(1) [20 U.S.C. 1091(m)(1)], relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

''(5) the changes in section 485 [20 U.S.C. 1092], relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

''(6) the changes in section 488 [20 U.S.C. 1095], relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

''(7) the changes in section 489 [20 U.S.C. 1096], relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3005(c) of Pub. L. 101–508, which provided that the amendments made by section 3005 (amending this

section and section 1091 of this title) were to apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1991, was repealed by section 2(d)(2)(A) of Pub. L. 102–26. See Construction of 1991 Amendment note below.

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.

CONSTRUCTION OF 1991 AMENDMENT

Section 2(d)(2)(A) of Pub. L. 102–26 provided that: ''Section 3005 of the Omnibus Reconciliation Act of 1990 [Pub. L. 101–508, amending this section and section 1091 of this title and enacting provisions set out as a note above] is repealed. Sections 484(d) and 481(b) of the Act [20 U.S.C. 1091(d), 1088(b)] shall be applied as if such section 3005 had not been enacted.''

NEED-BASED AID

Section 1544 of Pub. L. 102–325 authorized institutions of higher education to voluntarily agree with other such institutions to award financial aid not awarded under this chapter to students attending such institutions only on basis of demonstrated financial need for such aid, and to discuss and adopt principles of professional judgment for determining student financial need for such aid, with exceptions for cases pending on July 23, 1992, and for discussions or agreements on prospective financial aid awards to specific common applicants, and provided that such authorization was to expire on Sept. 30, 1994, prior to repeal by Pub. L. 103–382, title V, § 568(e)(2), Oct. 20, 1994, 108 Stat. 4061. See section 568(a)–(d) of Pub. L. 103–382, set out as a note under section 1 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1075, 1078, 1078–8, 1093, 5938 of this title; title 26 sections 25A, 529; title 29 section 2204; title 42 sections 604, 3796d–6.

§ 1088a. Clock and credit hour treatment of diploma nursing schools

Notwithstanding any other provision of this chapter, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

(Pub. L. 89–329, title IV, § 481A, as added Pub. L. 103–382, title III, § 360(a), Oct. 20, 1994, 108 Stat. 3969.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Prior sections 1088a to 1088g were omitted in the general amendment of this part by Pub. L. 96–374.

Section 1088a, Pub. L. 89–329, title IV, § 492, formerly § 462, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; renumbered § 492, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the eligibility of residents of the Trust Territory of the Pacific Islands. See section 1091(b) of this title.

Section 1088b, Pub. L. 89–329, title IV, § 493, formerly § 463, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 493, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272; amended Pub. L. 94–482, title I, § 131(a), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, § 1(a)(40), June 15, 1977, 91 Stat. 217, related to administration expenses. See section 1096 of this title.

Section 1088b–1, Pub. L. 89–329, title IV, § 493A, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2148, related to institutional and financial assistance information for students. See section 1092 of this title.

Section 1088b–2, Pub. L. 89–329, title IV, § 493B, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to student aid information services.

Section 1088b–3, Pub. L. 89–329, title IV, § 493C, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to the student financial assistance training program.

Section 1088c, Pub. L. 89–329, title IV, § 494, formerly § 464, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 494 and amended Pub. L. 92–318, title I, §§ 137(b), 138(a), June 23, 1972, 86 Stat. 272, 280, related to maintenance of effort requirement.

Section 1088d, Pub. L. 89–329, title IV, § 495, as added Pub. L. 92–318, title I, § 139, June 23, 1972, 86 Stat. 280; amended S. Res. 4, Feb. 4, 1977; S. Res. 30, Mar. 7, 1979, related to requirement that copies of rules, regulations, instructions, and application forms be supplied to Congressional committees. See section 1090(b) of this title.

Section 1088e, Pub. L. 89–329, title IV, § 496, as added Pub. L. 92–318, title I, § 139A(a), June 23, 1972, 86 Stat. 281, related to transfer of funds between programs. See section 1095 of this title.

Section 1088f, Pub. L. 89–329, title IV, § 497, as added Pub. L. 92–318, title I, § 139B(a), June 23, 1972, 86 Stat. 281; amended Pub. L. 94–482, title I, § 132, Oct. 12, 1976, 90 Stat. 2150; Pub. L. 95–566, § 7, Nov. 1, 1978, 92 Stat. 2404, related to eligibility for student assistance. See section 1091 of this title.

Section 1088f–1, Pub. L. 89–329, title IV, § 497A, as added Pub. L. 94–482, title I, § 133(a), Oct. 12, 1976, 90 Stat. 2150; amended Pub. L. 95–43, § 1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95–561, title XII, § 1231(b), Nov. 1, 1978, 92 Stat. 2346, related to fiscal eligibility of institutions.

Section 1088g, Pub. L. 89–329, title IV, § 498, as added Pub. L. 92–318, title I, § 139C(a), June 23, 1972, 86 Stat. 282, related to requirement of an affidavit of educational purpose.

EFFECTIVE DATE

Section 360(b) of Pub. L. 103–382 provided that: ''Subsection (a) [enacting this section] and the amendment made by subsection (a) shall take effect on July 1, 1994.''

§ 1089. Master calendar

(a) Secretary required to comply with schedule

To assure adequate notification and timely delivery of student aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(C) by June 1: final modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.

(b) Timing for reallocations

With respect to any funds reallocated under section 1070b–3(e)[1] of this title, section 2752(e)[1] of title 42, or section 1087bb(j)[1] of this title, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, and part D of this subchapter, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of effective date of late publications

(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

(2)(A) The Secretary may designate any regulatory provision that affects the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.

(d) Notice to Congress

The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when a deadline included in the calendar described in subsection (a) of this section is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(Pub. L. 89–329, title IV, §482, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1477; amended Pub. L. 100–50, §15(2), June 3, 1987, 101 Stat. 355; Pub. L. 102–325, title IV, §482, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, §2(h)(7), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 104–66, title I, §1042(b), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105–244, title IV, §481, Oct. 7, 1998, 112 Stat. 1732.)

REFERENCES IN TEXT

Section 1070b–3 of this title, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, §406(c)(2)(D), Oct. 7, 1998, 112 Stat. 1665, which redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Section 2752 of title 42, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, §442(b)(2), Oct. 7, 1998, 112 Stat. 1712, which redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Section 1087bb(j) of this title, referred to in subsec. (b), was redesignated section 1087bb(i) by Pub. L. 105–244, title IV, §462(a)(2)(H), Oct. 7, 1998, 112 Stat. 1721.

PRIOR PROVISIONS

A prior section 1089, Pub. L. 89–329, title IV, §482, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1445; amended Pub. L. 97–35, title V, §533(a)(1), (2), (b), Aug. 13, 1981, 95 Stat. 453; Pub. L. 99–272, title XVI, §16031, Apr. 7, 1986, 100 Stat. 354, related to analysis of student's need for financial assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1089, Pub. L. 89–329, title IV, §499, formerly §469, as added Pub. L. 90–575, title I, §151, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272, related to the Advisory Council on Financial Aid to Students, prior to the general revision of this part by Pub. L. 96–374.

[1] See References in Text note below.

AMENDMENTS

1998—Subsec. (a)(3), (4). Pub. L. 105–244, § 481(a), added pars. (3) and (4).

Subsec. (c). Pub. L. 105–244, § 481(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Any regulatory changes initiated by the Secretary affecting the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.''

1995—Subsec. (d). Pub. L. 104–66, in first sentence substituted ''a deadline included in the calendar described in subsection (a) of this section is not met'' for ''the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice'' and after first sentence struck out ''When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met.''

1993—Subsec. (c). Pub. L. 103–208 inserted at end ''For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.''

1992—Subsec. (a)(1)(B), (C). Pub. L. 102–325, § 482(b)(1), substituted ''section 1087rr'' for ''sections 1070a–5 and 1087rr''.

Subsec. (b). Pub. L. 102–325, § 482(b)(2), substituted ''subpart 3'' for ''subpart 2''.

Subsec. (c). Pub. L. 102–325, § 482(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.''

1987—Subsec. (b). Pub. L. 100–50 inserted reference to section 1087bb(j) of this title and part D of this subchapter.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

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 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.

ESTABLISHMENT OF SEPARATE SYSTEMS OF NEED ANALYSIS FOR ACADEMIC YEARS 1983–1984 THROUGH 1987–1988

Pub. L. 97–301, § 4, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 480; Pub. L. 98–511, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which required Secretary of Education to establish or approve separate systems of need analysis for the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988 for the programs authorized under subpart 2 [now 3] of part A [20 U.S.C. 1070b et seq.], part C [42 U.S.C. 2751 et seq.], and part E [20 U.S.C. 1087aa et seq.] of title IV of the Higher Education Act of 1965, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

DETERMINATION OF INDEPENDENT STUDENT STATUS FOR ACADEMIC YEARS 1982–1983 THROUGH 1987–1988

Pub. L. 97–301, § 6, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–516, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which provided that notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under subsec. (c)(2) of this section, in effect for academic year 1982–1983, was to be the criteria for such determinations for each of the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070a, 1070a–33, 1087rr of this title; title 42 section 2753.

§ 1090. Forms and regulations

(a) Common financial aid form development and processing

(1) Single form required

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter). The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998. Such form shall satisfy the requirements of section 1070a(d) of this title.

(2) Charges to students and parents for use of form prohibited

The common financial reporting form prescribed by the Secretary under paragraph (1)

shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) may only be determined by using the form developed by the Secretary pursuant to paragraph (1) of this subsection. No student may receive assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter), except by use of the form developed by the Secretary pursuant to this section. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).

(3) Distribution of data

Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(4) Contracts for collection and processing

(A) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary shall use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, except that the Secretary shall not include these additional data items on the common financial reporting form developed pursuant to this section. The Secretary shall include in each such contract a requirement that—

(i) any charges by the contractor to the student or parent for additional data items required by a State or institution for any purpose (regardless of the method of collection) shall be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data, taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary pursuant to paragraph (1); and

(ii) the contractor will require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted under this subparagraph for any such additional data.

(B) To the extent practicable, the Secretary shall ensure that at least one contractor, or a portion of one contract, under this paragraph will serve graduate and professional students.

(C) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts under this paragraph, the Secretary shall require all entities competing for such contracts to comply with all requirements of this subsection and to—

(i) use the common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the ''Free Application for Federal Student Aid''; and

(ii) use a common, simplified reapplication form as the Secretary shall prescribe pursuant to subsection (b) of this section, in each award year.

(D) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

(E) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

(F) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions of higher education for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to this paragraph for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's express written approval.

(5) Electronic forms

(A) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, including private computer software providers, shall develop an electronic version of the form described in paragraph (1). As permitted by the Secretary, such an electronic version shall not require a signature to be collected at the time such version is submitted, if a signature is subsequently submitted by the applicant. The Secretary shall prescribe such version not later than 120 days after October 7, 1998.

(B) Nothing in this section shall be construed to prohibit the use of the form developed by the Secretary pursuant to subparagraph (A) by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium thereof, or such other entities as the Secretary may designate.

(C) No fee shall be charged to students in connection with the use of the electronic version of the form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.

(D) The Secretary shall ensure that data collection complies with section 552a of title 5

and that any entity using the electronic version of the form developed by the Secretary pursuant to subparagraph (A) shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such version of the form shall be used only for the application, award, and administration of aid awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such version of the form shall be used for making final aid awards under this subchapter and part C of subchapter I of chapter 34 of title 42 until such data have been processed by the Secretary or a contractor or designee of the Secretary.

(6) Third party servicers and private software providers

To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by eligible institutions for the administration of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) which are so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(7) Parent's social security number and birth date

The Secretary is authorized to include on the form developed under this subsection space for the social security number and birth date of parents of dependent students seeking financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Streamlined reapplication process

(1) The Secretary shall develop a streamlined reapplication form and process, including electronic reapplication process, consistent with the requirements of subsection (a) of this section, for those recipients who apply for financial aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42 in the next succeeding academic year subsequent to the initial year in which such recipients apply.

(2) The Secretary shall develop appropriate mechanisms to support reapplication.

(3) The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

(4) Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(5) Individuals determined to have a zero family contribution pursuant to section 1087ss of this title shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.

(c) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives at least 45 days prior to their effective date.

(d) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education that is authorized under section 1485(d)(2)(C) of this title.

(e) Preparer

Any financial aid application required to be made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application.

(Pub. L. 89–329, title IV, § 483, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub. L. 100–50, § 15(3)–(6), June 3, 1987, 101 Stat. 356; Pub. L. 102–325, title IV, § 483, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(8)–(12), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 105–244, title IV, § 482, Oct. 7, 1998, 112 Stat. 1733.)

PRIOR PROVISIONS

A prior section 1090, Pub. L. 89–329, title IV, § 483, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448, related to forms and regulations for student assistance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 482(a)(1), substituted "form development" for "form" in heading.

Subsec. (a)(1). Pub. L. 105–244, § 482(a)(2)(D), struck out at end "For the purpose of collecting eligibility and other data for the purpose of part B of this subchapter, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 1082(m)

of this title) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.''

Pub. L. 105–244, § 482(a)(2)(C), substituted ''The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998.'' for ''The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance.''

Pub. L. 105–244, § 482(a)(2)(A), (B), substituted ''A through D'' for ''A, C, and D'' and struck out ''and to determine the need of a student for the purpose of part B of this subchapter'' after ''part A of this subchapter)''.

Subsec. (a)(2). Pub. L. 105–244, § 482(a)(3), substituted ''A through D'' for ''A, C, and D'' in two places and struck out ''and the need of a student for the purpose of part B of this subchapter,'' before ''may only be determined'' and ''or have the student's need established for the purpose of part B of this subchapter'' before '', except by use of''.

Subsec. (a)(3). Pub. L. 105–244, § 482(a)(4), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.''

Subsec. (a)(5) to (7). Pub. L. 105–244, § 482(a)(5), added pars. (5) to (7).

Subsec. (b)(1). Pub. L. 105–244, § 482(b), struck out '', within 240 days after July 23, 1992,'' after ''The Secretary shall''.

Subsec. (c). Pub. L. 105–244, § 482(c), substituted ''and the Workforce'' for ''and Labor''.

Subsec. (d). Pub. L. 105–244, § 482(d), substituted ''section 1485(d)(2)(C)'' for ''section 1433(c)''.

Subsec. (f). Pub. L. 105–244, § 482(e), struck out heading and text of subsec. (f). Text read as follows: ''Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.''

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(h)(8), made technical amendment to reference to section 1070a(d) of this title to correct reference to corresponding section of original act.

Subsec. (a)(2). Pub. L. 103–208, § 2(h)(9), inserted at end ''No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).''

Subsec. (a)(3). Pub. L. 103–208, § 2(h)(10), inserted at end ''Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.''

Subsecs. (d), (e). Pub. L. 103–208, § 2(h)(12), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsec. (f). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 103–208, § 2(h)(11), substituted ''address or employer's address, social security number or employer identification number,'' for ''address, social security number,''.

Subsec. (g). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f).

1992—Subsec. (a). Pub. L. 102–325, § 483(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) to (5) relating to a common financial aid form and processing of financial aid applications.

Subsec. (b). Pub. L. 102–325, § 483(a), added subsec. (b) and struck out former subsec. (b) which related to certifications of capability of systems for determining expected family contributions.

Subsec. (d). Pub. L. 102–325, § 483(b)(1), struck out subsec. (d) which related to provision of early notice to students of their potential eligibility for financial aid.

Subsec. (e). Pub. L. 102–325, § 483(b)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.''

Subsecs. (f), (g). Pub. L. 102–325, § 483(b)(1), (3), added subsecs. (f) and (g) and struck out former subsec. (f) which related to notice of student aid receipt.

1987—Subsec. (a)(1). Pub. L. 100–50, § 15(3), (4), inserted in second sentence ''or institutions in which the students are enrolled or accepted for enrollment'' after ''that applicants'' and ''and on which the applicant shall clearly indicate a choice of lender'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 15(5), substituted ''not less than 5'' for ''not less than 3'' and inserted sentence at end providing that the Secretary not select new multiple data entry processors until certain examinations and recommendations are made by the Advisory Commission on Student Financial Assistance.

Subsecs. (b) to (f). Pub. L. 100–50, § 15(6), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), 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.

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (e) of this section applicable to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1018, 1018b, 1070a–33, 1082, 1087e, 1087ss of this title.

§ 1091. Student eligibility

(a) In general

In order to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (includ-

ing a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title, except as provided in subsections (b)(3) and (b)(4) of this section, and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c) of this section;

(3) not owe a refund on grants previously received at any institution under this subchapter and part C of subchapter I of chapter 34 of title 42, or be in default on any loan from a student loan fund at any institution provided for in part D of this subchapter, or a loan made, insured, or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 for attendance at any institution;

(4) file with the Secretary, as part of the original financial aid application process, a certification,,[1] which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;[2]

(5) be a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident,[3] a citizen of any one of the Freely Associated States.

(b) Eligibility for student loans

(1) In order to be eligible to receive any loan under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than a loan under section 1078–2 or 1078–3 of this title) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this subchapter, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 1078–1[4] of this title for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 1078(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 1078 of this title, have applied for such a loan; and

(C) has applied for a loan under section 1078–8 of this title, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B or C of this subchapter. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Satisfactory progress

(1) For the purpose of subsection (a)(2) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation,

[1] So in original.

[2] So in original. Probably should be followed by ''and''.

[3] So in original. Probably should be followed by ''or''.

[4] See References in Text note below.

as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) of this section as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) of this section for a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) Students who are not high school graduates

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall meet one of the following standards:

(1) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(2) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(3) The student has completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

(e) Certification for GSL eligibility

Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this subchapter prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this subchapter and part C of subchapter I of chapter 34 of title 42, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) Loss of eligibility for violation of loan limits

(1) No student shall be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part C, or part D of this subchapter in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part C, or part D.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Verification of immigration status

(1) In general

The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) of this section shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Special rule

The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 1324a(b)(1)(B) of title 8 to verify eligibility to participate in work-study programs under part C of subchapter I of chapter 34 of title 42.

(3) Verification mechanisms

The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) Review

In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph

(2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) Limitations of enforcement actions against institutions

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(i)[5] of this section, was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (h)(4)(B)(i)[5] of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) Validity of loan guarantees for loan payments made before immigration status verification completed

Notwithstanding subsection (h)[5] of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h)[5] of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) Assistance under subparts 1 and 3 of part A, and part C

Notwithstanding any other provision of law, a student shall be eligible until September 30, 2004, for assistance under subparts 1 and 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

(1) is a citizen of any one of the Freely Associated States and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Freely Associated States; or

(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in any one of the Freely Associated States.

(k) Special rule for correspondence courses

A student shall not be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(*l*) Courses offered through telecommunications

(1) Relation to correspondence courses

(A) In general

A student enrolled in a course of instruction at an institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized certificate for a program of study of 1 year or longer, or a recognized associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution.

(B) Requirement

An institution of higher education referred to in subparagraph (A) is an institution of higher education—

(i) that is not an institute or school described in section 2471(4)(C)[6] of this title; and

(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree.

(2) Restriction or reductions of financial aid

A student's eligibility to receive grants, loans, or work assistance under this sub-

[5] See References in Text note below.

[6] See References in Text note below.

chapter and part C of subchapter I of chapter 34 of title 42 shall be reduced if a financial aid officer determines under the discretionary authority provided in section 1087tt of this title that telecommunications instruction results in a substantially reduced cost of attendance to such student.

(3) Special rule

For award years prior to July 23, 1992, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(4) "Telecommunications" defined

For the purposes of this subsection, the term ''telecommunications'' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that such term does not include a course that is delivered using video cassette or disc recordings at such institution and that is not delivered in person to other students of that institution.

(m) Students with a first baccalaureate or professional degree

A student shall not be ineligible for assistance under parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 because such student has previously received a baccalaureate or professional degree.

(n) Data base matching

To enforce the Selective Service registration provisions of section 1113 of Public Law 97–252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(*o*) Study abroad

Nothing in this chapter shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, without regard to whether such study abroad program is required as part of the student's degree program.

(p) Verification of social security number

The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) of this section and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(q) Verification of income data

(1) Confirmation with IRS

The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this subchapter and part C of subchapter I of chapter 34 of title 42 on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.

(2) Notification

The Secretary shall establish procedures under which an applicant is notified that the

Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(*l*)(13) of title 26.

(r) Suspension of eligibility for drug-related offenses

(1) In general

A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 during the period beginning on the date of such conviction and ending after the interval specified in the following table:

If convicted of an offense involving:

The possession of a controlled substance:	**Ineligibility period is:**
First offense	1 year
Second offense	2 years
Third offense	Indefinite.

The sale of a controlled substance:	**Ineligibility period is:**
First offense	2 years
Second offense	Indefinite.

(2) Rehabilitation

A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

(A) the student satisfactorily completes a drug rehabilitation program that—

(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

(ii) includes two unannounced drug tests; or

(B) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) Definitions

In this subsection, the term ''controlled substance'' has the meaning given the term in section 802(6) of title 21.

(Pub. L. 89–329, title IV, § 484, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1479; amended Pub. L. 99–603, title I, § 121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub. L. 100–50, § 15(7)–(9), June 3, 1987, 101 Stat. 356, 357; Pub. L. 100–369, §§ 1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub. L. 100–525, § 2(g), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101–508, title III, § 3005(a), Nov. 5, 1990, 104 Stat. 1388–27; Pub. L. 102–26, § 2(b), (c)(2), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–73, title VIII, § 801(a), July 25, 1991, 105 Stat. 359; Pub. L. 102–325, title IV, § 484(a), (b)(1), (c)–(h), July 23, 1992, 106 Stat. 615–619; Pub. L. 103–208, § 2(h)(13)–(25), Dec. 20, 1993, 107 Stat. 2476, 2477; Pub. L. 103–382, title III, § 360A, Oct. 20, 1994, 108 Stat. 3969; Pub. L. 104–208, div. C, title V, § 507(b), Sept. 30, 1996, 110 Stat. 3009–673; Pub. L. 105–244, title IV, § 483(a)–(f)(1), Oct. 7, 1998, 112 Stat. 1735, 1736.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

Subsection (h) of this section, referred to in subsecs. (h)(2), (3) and (i), was redesignated subsec. (g) of this section by Pub. L. 103–208, § 2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

Section 2471 of this title, referred to in subsec. (*l*)(1)(B)(i), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

Section 1113 of Public Law 97–252, referred to in subsec. (n), amended section 462 of Title 50, Appendix, War and National Defense, and enacted provisions set out as a note under section 462 of Title 50, Appendix.

This chapter, referred to in subsec. (*o*), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1091, Pub. L. 89–329, title IV, § 484, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448; Pub. L. 99–272, title XVI, § 16032(a), (b), Apr. 7, 1986, 100 Stat. 354, related to student eligibility for assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091, Pub. L. 89–329, title V, § 501, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92–318, title I, § 141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal effective Sept. 30, 1976, by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–244, § 483(a)(1), substituted ''the Secretary, as part of the original financial aid application process, a certification,'' for ''the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document'' in introductory provisions.

Subsec. (a)(5). Pub. L. 105–244, § 483(a)(2), substituted ''a citizen of any one of the Freely Associated States'' for ''or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands''.

Subsec. (d). Pub. L. 105–244, § 483(b), struck out ''either'' after ''shall meet'' in introductory provisions and added par. (3).

Subsec. (j). Pub. L. 105–244, § 483(c), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

''(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

''(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.''

Subsec. (*l*)(1). Pub. L. 105–244, § 483(d), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''A student enrolled in a course of

instruction at an eligible institution of higher education (other than an institution that meets the definition in section 2471(4)(C) of this title) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.''

Subsec. (q). Pub. L. 105–244, § 483(e), added subsec. (q).

Subsec. (r). Pub. L. 105–244, § 483(f)(1), added subsec. (r).

1996—Subsec. (g)(4)(B)(i). Pub. L. 104–208 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,''.

1994—Subsec. (j). Pub. L. 103–382 amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42.''

1993—Subsec. (a)(4)(B). Pub. L. 103–208, § 2(h)(13), inserted '', except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau'' after ''number''.

Subsec. (a)(5). Pub. L. 103–208, § 2(h)(14), substituted ''able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident'' for ''in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident''.

Subsec. (b)(2)(C). Pub. L. 103–208, § 2(h)(15), added subpar. (C).

Subsec. (b)(3). Pub. L. 103–208, § 2(h)(16), substituted ''part B or C of this subchapter'' for ''part B of this subchapter'' in closing provisions.

Subsec. (f). Pub. L. 103–208, § 2(h)(17), (25), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: ''Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year. Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 103–208, § 2(h)(25), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 103–208, § 2(h)(18), which directed insertion of a comma after '', Part C'' wherever appearing, was executed by inserting a comma after '', part C'' wherever appearing, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 103–208, § 2(h)(25), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 103–208, § 2(h)(19), substituted ''constitute'' for ''constitutes'' in introductory provisions of par. (4)(B).

Subsec. (i). Pub. L. 103–208, § 2(h)(25), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Pub. L. 103–208, § 2(h)(22), struck out par. (4) which read as follows: ''because of a fair hearing process described in subsection (h)(5)(B) of this section.''

Pub. L. 103–208, § 2(h)(21), substituted ''(h)(4)(B)(i)'' for ''(h)(4)(B)(ii)'' and ''student.'' for ''student, or'' in par. (3).

Pub. L. 103–208, § 2(h)(20), inserted ''or'' after ''documentation,'' and substituted ''(h)(4)(A)(i)'' for ''(h)(4)(A)(ii)'' in par. (2).

Subsecs. (j) to (m). Pub. L. 103–208, § 2(h)(25), redesignated subsecs. (k) to (n) as (j) to (m), respectively. Former subsec. (j) redesignated (i).

Subsec. (n). Pub. L. 103–208, § 2(h)(25), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

Pub. L. 103–208, § 2(h)(23), substituted ''parts B, C,'' for ''part B, C,''.

Subsecs. (*o*), (p). Pub. L. 103–208, § 2(h)(25), redesignated subsecs. (p) and (q) as (*o*) and (p), respectively. Former subsec. (*o*) redesignated (n).

Subsec. (q). Pub. L. 103–208, § 2(h)(25), redesignated subsec. (q) as (p).

Pub. L. 103–208, § 2(h)(24), substituted ''documented evidence of a social security number that is determined by the institution to be correct'' for ''a correct social security number'' in par. (2).

1992—Subsec. (a)(1). Pub. L. 102–325, § 484(a)(1), inserted ''(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)'' after ''or other program''.

Subsec. (a)(4). Pub. L. 102–325, § 484(a)(2), added par. (4) and struck out former par. (4) which read as follows: ''file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and''.

Subsec. (b)(4)(B). Pub. L. 102–325, § 484(b)(1)(A), substituted ''part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42'' for ''part B of this subchapter'' in concluding provisions.

Subsec. (b)(5). Pub. L. 102–325, § 484(b)(1)(B), added par. (5).

Subsec. (d). Pub. L. 102–325, § 484(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall pass an independently administered examination approved by the Secretary.''

Subsec. (f). Pub. L. 102–325, § 484(d), inserted at end ''Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 102–325, § 484(e), designated existing provisions as par. (1), inserted '', part C'' after ''part B'' in two places and ''fraudulently'' before ''borrowed'' in two places, and added par. (2).

Subsec. (h). Pub. L. 102–325, § 484(f), amended subsec. (h) generally. Prior to amendment, subsec. (h) contained pars. (1) to (6) relating to requirements for verification of student immigration status.

Subsec. (k). Pub. L. 102–325, § 484(h), made technical amendment to directory language of Pub. L. 102–73, § 801(a). See 1991 Amendment note below.

Subsecs. (*l*) to (q). Pub. L. 102–325, § 484(g), added subsecs. (*l*) to (q).

1991—Subsec. (a)(1). Pub. L. 102–26, § 2(c)(2), inserted before semicolon at end '', and not be enrolled in an elementary or secondary school''.

Subsec. (d). Pub. L. 102–26, § 2(d)(2)(A), repealed Pub. L. 101–508, § 3005(a). See 1990 Amendment note below.

Pub. L. 102–26, § 2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

''(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

''(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

''(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

''(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.''

Subsec. (k). Pub. L. 102–73, as amended by Pub. L. 102–325, § 484(h), added subsec. (k).

1990—Subsec. (d). Pub. L. 101–508, which amended subsec. (d) generally to read: ''In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.'', was repealed by Pub. L. 102–26, § 2(d)(2)(A). See Construction of 1991 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100–369, § 6(1), substituted ''subsections (b)(3) and (b)(4)'' for ''subsection (b)(2)''.

Subsec. (b)(1). Pub. L. 100–369, § 1(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

Subsec. (b)(1)(A). Pub. L. 100–369, § 1(2), added subpar. (A) and struck out former subpar. (A) which read as follows: ''have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or''.

Subsec. (b)(2), (3). Pub. L. 100–369, § 2, added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(4). Pub. L. 100–369, § 6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub. L. 100–525 redesignated subsecs. (c) to (e) enacted by Pub. L. 99–603 as (h) to (j), respectively, and inserted headings, substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in closing provisions of subsec. (j) substituted ''date'' for ''date of''.

1987—Subsec. (a)(1). Pub. L. 100–50, § 15(7)(A), inserted '', except as provided in subsection (b)(2) of this section'' before semicolon at end.

Subsec. (b). Pub. L. 100–50, § 15(7)(B)–(D), designated existing provision as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 100–50, § 15(8), added pars. (2) and (3) and last sentence relating to ineligibility for assistance if a student is enrolled in either an elementary or a secondary school, and struck out former par. (2) which read as follows:

''(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

''(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.''

Subsec. (f). Pub. L. 100–50, § 15(9), inserted at end ''In carrying out provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applications in any award year.''

1986—Subsec. (c). Pub. L. 99–603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub. L. 99–603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub. L. 99–603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 483(a)–(e) of 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.

Pub. L. 105–244, title IV, § 483(f)(2), Oct. 7, 1998, 112 Stat. 1737, provided that: ''The amendment made by paragraph (1) [amending this section], regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act [Oct. 7, 1998].''

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 section 484(a), (b)(1)(B), and (c) to (h) of Pub. L. 102–325 effective July 23, 1992, except that subsec. (m)(1) of this section, relating to proportion of courses permitted to be correspondence courses, as added by such amendment, effective on and after Oct. 1, 1992, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title, and subsec. (n) of this section, relating to eligibility of students with first baccalaureate or professional degree for assistance, as added by such amendment, effective on and after Dec. 1, 1987, see section 484(i) of Pub. L. 102–325, set out below.

Section 484(b)(2) of Pub. L. 102–325 provided that: ''The amendments made by paragraph (1)(A) of this subsection [amending this section] shall be effective on and after December 1, 1987.''

Section 484(i) of Pub. L. 102–325, as added by Pub. L. 103–208, § 2(k)(8), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The amendments made by subsection (g) [section 484(g) of Pub. L. 102–325] with respect to the addition of subsection (n) [adding subsec. (n) of this section] shall be effective on and after December 1, 1987.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 13 of Pub. L. 100–369 provided that:

''(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 [amending this section

and section 1078–1 of this title] shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act [July 18, 1988].

''(b) SPECIAL RULES.—(1) The amendments made by section 5 [amending this section and sections 1077 and 1078 of this title] shall be effective with respect to loans made on or after October 1, 1988.

''(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 [amending this section, sections 1058, 1061, 1062, 1070a–1, 1070a–3, 1070a–4, 1070a–6, 1071, 1077, 1078, 1087–2, 1087dd, 1087ee, 1087nn, 1087ss, 1087vv, 1132d–1, 1132g–1, and 1134m of this title, and section 1905 of Title 48, Territories and Insular Possessions] shall take effect on the date of enactment of this Act [July 18, 1988].''

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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 407(b) of Pub. L. 99–498 provided that:

''(1) Sections 483(e) and 484(d) of the Act [20 U.S.C. 1090(e), 1091(d)] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(2) The changes made in section 484(a)(1) of the Act [20 U.S.C. 1091(a)(1)] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(3) Section 484(c) of the Act [20 U.S.C. 1091(c)] as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

''(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [20 U.S.C. 1091(f), 1092(b), 1094(a)(10)] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.''

CONSTRUCTION OF 1991 AMENDMENT

For repeal of section 3005 of Pub. L. 101–508 and application of subsec. (d) of this section as if such section 3005 had not been enacted, see section 2(d)(2)(A) of Pub. L. 102–26, set out as a note under section 1088 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SATISFACTORY PROGRESS

Section 1301 of Pub. L. 99–498, as amended by Pub. L. 100–50, §23(1), June 3, 1987, 101 Stat. 362, directed Secretary, through the Office of Educational Research and Improvement, to conduct survey over 5-year period ending Sept. 30, 1991, on impact on grades of students of amendments made by Pub. L. 99–498 to subsec. (c) of this section and to submit annual reports to Congress of survey, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS

Section 1361 of Pub. L. 99–498 established in Department of Education the Alien Youth Education Opportunity Panel and provided for Panel's composition, duties, reports, administrative and clerical support, compensation and expenses, and access to information, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

FINANCIAL AID TO STUDENTS NOT DEEMED INCOME OR RESOURCES FOR PURPOSES OF CERTAIN SOCIAL SECURITY ACT PROGRAMS

Pub. L. 90–575, title V, §507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub. L. 96–88, title III, §301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: ''For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1002, 1070, 1070a, 1070a–24, 1070a–34, 1070b–1, 1070b–2, 1077, 1078, 1078–2, 1078–6, 1078–8, 1087d, 1087dd, 1092, 1093, 1094, 1096, 1134, 1135c of this title; title 26 section 25A; title 42 sections 2753, 3796d–4, 12591, 12602.

§1091a. Statute of limitations, and State court judgments

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter and part C of subchapter I of chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made

under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned or transferred to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102–26, § 3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105–244, title IV, § 484, Oct. 7, 1998, 112 Stat. 1737.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–272, title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091a, Pub. L. 89–329, title V, § 502, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91–230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

1998—Pub. L. 105–244, § 484(1), inserted ", and State court judgments" after "limitations" in section catchline.

Subsec. (c). Pub. L. 105–244, § 484(2), added subsec. (c).

1991—Subsec. (a). Pub. L. 102–26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

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 1991 AMENDMENT

Section 3(c) of Pub. L. 102–26, as amended by Pub. L. 102–325, title XV, § 1551, July 23, 1992, 105 Stat. 838, provided that: "The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991]."

§ 1091b. Institutional refunds

(a) Return of title IV funds

(1) In general

If a recipient of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C of subchapter I of chapter 34 of title 42) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b) of this section.

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes a leave of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section if—

(i) the institution has a formal policy regarding leaves of absence;

(ii) the student followed the institution's policy in requesting a leave of absence; and

(iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c) of this section).

(3) Calculation of amount of title IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter and part C of sub-

chapter I of chapter 34 of title 42 that is earned by the recipient for purposes of this section is calculated by—

(i) determining the percentage of grant and loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student, as described in subparagraph (B); and

(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student is—

(i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d) of this section) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b) of this section, the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student shall be calculated by—

(i) determining the complement of the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student described in subparagraph (B); and

(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b) of this section, to the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 in the order specified in subsection (b)(3) of this section.

(b) Return of title IV program funds

(1) Responsibility of the institution

The institution shall return, in the order specified in paragraph (3), the lesser of—

(A) the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as calculated under subsection (a)(3)(C) of this section; or

(B) an amount equal to—

(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

(ii) the percentage of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as described in subsection (a)(3)(C)(i) of this section.

(2) Responsibility of the student

(A) In general

The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) of this section in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) Special rule

The student (or parent in the case of funds due to a loan borrowed by a parent under part B or C of this subchapter) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with the terms of the loan; and

(ii) a grant program under this subchapter and part C of subchapter I of chapter 34 of title 42, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) Requirement

Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section.

(3) Order of return of title IV funds

(A) In general

Excess funds returned by the institution or the student, as appropriate, in accordance

with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 1078–8 of this title for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 1078 of this title for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part D of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 1078–2 of this title for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(B) Remaining excesses

If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

(i) To awards under subpart 1 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(ii) To awards under subpart 3 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iii) To other assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 for which a return of funds is required.

(c) Withdrawal date

(1) In general

In this section, the term ''day the student withdrew''—

(A) is the date that the institution determines—

(i) the student began the withdrawal process prescribed by the institution;

(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) Special rule

Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) Percentage of the payment period or period of enrollment completed

For purposes of subsection (a)(3)(B)(i) of this section, the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours—

(A) completed by the student in that period as of the day the student withdrew; or

(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period.

(e) Effective date

The provisions of this section shall take effect 2 years after October 7, 1998. An institution of higher education may choose to implement such provisions prior to that date.

(Pub. L. 89–329, title IV, § 484B, as added Pub. L. 102–325, title IV, § 485(a), July 23, 1992, 106 Stat. 619; amended Pub. L. 103–208, § 2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477; Pub. L. 105–244, title IV, § 485, Oct. 7, 1998, 112 Stat. 1737.)

REFERENCES IN TEXT

Title IV, referred to in subsecs. (a) and (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

Prior sections 1091b to 1091f were repealed, effective Sept. 30, 1976, by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091b, Pub. L. 89–329, title V, § 503, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92–318, title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs.

Section 1091c, Pub. L. 89–329, title V, § 504, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub. L. 89–329, title V, § 505, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub. L. 89–329, title V, § 506, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized transfer of funds for programs for education professions development.

Section 1091f, Pub. L. 89–329, title V, § 507, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized employment of experts and consultants and set forth provisions for compensation and travel expenses.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) requiring each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 to have in effect a fair and equitable refund policy for refunding unearned tuition, fees, room and board, and other charges to students or parents who received grant or loan assistance under this subchapter or part C of subchapter I of chapter 34 of title 42.

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(26), substituted ''grant or loan assistance'' for ''grant, loan, or work assistance'' in introductory provisions.

Subsec. (b)(3). Pub. L. 103–208, § 2(h)(27), substituted ''subsection (c) of this section'' for ''subsection (d) of 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1092, 1094 of this title; title 42 section 12604.

§ 1092. Institutional and financial assistance information for students

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of—

(i) the requirements of any refund policy with which the institution is required to comply;

(ii) the requirements under section 1091b of this title for the return of grant or loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) the requirements for officially withdrawing from the institution;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title;

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

(M) the terms and conditions under which students receiving guaranteed student loans under part B of this subchapter or direct student loans under part D of this subchapter, or both, may—

(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under[1] the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service;

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance; and

(O) the campus crime report prepared by the institution pursuant to subsection (f) of this section, including all required reporting categories.

(2) For the purpose of this section, the term ''prospective student'' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e) of this section, a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.

(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

(b) Exit counseling for borrowers

(1)(A) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078–2 of this title) of this subchapter or made under part C or D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 1078(b), 1087dd(c)(2), and 1087ee of this title.

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, C, or D of this subchapter submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower

[1] So in original. Probably should be ''or under''.

to the guaranty agency indicated on the borrower's student aid records.

(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.

(c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) Departmental publication of descriptions of assistance programs

(1) The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, and (B) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of title 42. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

(3) The Secretary, to the extent practicable, shall update the Department's Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.

(e) Disclosures required with respect to athletically related student aid

(1) Each institution of higher education which participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and the

student's parents, guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.

(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term ''athletically related student aid'' means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;

(II) sex offenses, forcible or nonforcible;

(III) robbery;

(IV) aggravated assault;

(V) burglary;

(VI) motor vehicle theft;

(VII) manslaughter;

(VIII) arson; and

(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity,

or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j) of title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The term ''campus'' means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(ii) The term ''noncampus building or property'' means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iii) The term ''public property'' means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(9) The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to—

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) This subsection may be cited as the ''Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act''.

(g) Data required

(1) In general

Each coeducational institution of higher education that participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic com-

petition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(2) Special rule

For the purposes of subparagraph (G),[2] if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) Disclosure of information to students and public

An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

(4) Submission; report; information availability

(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

(B) The Secretary shall prepare a report regarding the information received under subparagraph (A) and submit such report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by April 1, 2000. The report shall—

(i) summarize the information and identify trends in the information;

(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

(iii) contain information on each individual institution of higher education.

(C) The Secretary shall ensure that the reports described in subparagraph (A) and the report to Congress described in subparagraph (B) are made available to the public within a reasonable period of time.

(D) Not later than 180 days after October 7, 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information reported under subparagraph (B) and the information made available

[2] So in original. Probably should be ''paragraph (1)(G),''.

under paragraph (1), and how such information may be accessed.

(5) "Operating expenses" defined

For the purposes of this subsection, the term ''operating expenses'' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(Pub. L. 89–329, title IV, § 485, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 100–50, § 15(10), (11), June 3, 1987, 101 Stat. 357; Pub. L. 101–542, title I, §§ 103(a), (b), 104(a), title II, § 204(a), Nov. 8, 1990, 104 Stat. 2381–2385; Pub. L. 101–610, title II, §§ 201–203, Nov. 16, 1990, 104 Stat. 3171, 3172; Pub. L. 102–26, § 10(a)–(d), Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, § 603, Nov. 15, 1991, 105 Stat. 1066; Pub. L. 102–325, title IV, § 486(a)–(c)(2), July 23, 1992, 106 Stat. 620, 621; Pub. L. 103–208, § 2(h)(28)–(37), (k)(9), Dec. 20, 1993, 107 Stat. 2477, 2486; Pub. L. 103–382, title III, § 360B(c), Oct. 20, 1994, 108 Stat. 3970; Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 308], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, § 60001(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–244, title I, § 102(b)(3), title IV, § 486, Oct. 7, 1998, 112 Stat. 1622, 1741; Pub. L. 106–386, div. B, title VI, § 1601(c)(1), Oct. 28, 2000, 114 Stat. 1537.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(1)(M), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(1)(M), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The Hate Crime Statistics Act, referred to in subsec. (f)(7), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 1092, Pub. L. 89–329, title IV, § 485, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1449, related to provision of institutional and financial assistance information for students, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1092, Pub. L. 89–329, title V, § 508, formerly § 502, Nov. 8, 1965, 79 Stat. 1255; renumbered § 508 and amended Pub. L. 90–35, §§ 2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibited the making of payments for religious purposes for authorized programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2000—Subsec. (f)(1)(I). Pub. L. 106–386 added subpar. (I).

1998—Subsec. (a)(1). Pub. L. 105–244, § 486(a)(1)(B), in introductory provisions, inserted after second sentence ''Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information.''

Pub. L. 105–244, § 486(a)(1)(A), in introductory provisions, substituted ''upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student'' for '', through appropriate publications and mailings, to all current students, and to any prospective student upon request''.

Subsec. (a)(1)(F). Pub. L. 105–244, § 486(a)(1)(C), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''a statement of the refund policy of the institution, as determined under section 1091b of this title, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

''(i) to outstanding balances on loans under part B of this subchapter for the period of enrollment for which a refund is required,

''(ii) to outstanding balances on loans under part C of this subchapter for the period of enrollment for which a refund is required,

''(iii) to outstanding balances on loans under part D of this subchapter for the period of enrollment for which a refund is required,

''(iv) to awards under subpart 1 of part A of this subchapter,

''(v) to awards under subpart 3 of part A of this subchapter,

''(vi) to other student assistance, and

''(vii) to the student;''.

Subsec. (a)(1)(O). Pub. L. 105–244, § 486(a)(1)(D)–(F), added subpar. (O).

Subsec. (a)(3)(A). Pub. L. 105–244, § 486(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and''.

Subsec. (a)(6). Pub. L. 105–244, § 486(a)(3), added par. (6).

Subsec. (b)(1)(A). Pub. L. 105–244, § 486(b)(1), struck out ''(individually or in groups)'' after ''counseling to borrowers'' in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 105–244, § 486(b)(2), added subpar. (C).

Subsec. (d). Pub. L. 105–244, § 486(c), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added pars. (2) and (3).

Subsec. (e)(2). Pub. L. 105–244, § 486(d)(1), substituted ''the student's parents, guidance'' for ''his parents, his guidance'' and inserted at end ''If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.''

Subsec. (e)(9). Pub. L. 105–244, § 486(d)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending August 31 of the preceding year.''

Subsec. (f)(1)(F). Pub. L. 105–244, § 486(e)(1)(A), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

''(i) murder;

''(ii) sex offenses, forcible or nonforcible;

''(iii) robbery;
''(iv) aggravated assault;
''(v) burglary; and
''(vi) motor vehicle theft.''

Subsec. (f)(1)(H). Pub. L. 105–244, § 486(e)(1)(B), (C), redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: ''Statistics concerning the number of arrests for the following crimes occurring on campus:

''(i) liquor law violations;
''(ii) drug abuse violations; and
''(iii) weapons possessions.''

Subsec. (f)(1)(I). Pub. L. 105–244, § 486(e)(1)(C), redesignated subpar. (I) as (H).

Pub. L. 105–244, § 102(b)(3), substituted ''section 1011i'' for ''section 1145g''.

Subsec. (f)(4). Pub. L. 105–244, § 486(e)(6), added par. (4). Former par. (4) redesignated (5).

Pub. L. 105–244, § 486(e)(2)(A), which directed the substitution of ''On an annual basis, each'' for ''Upon request of the Secretary, each'' was executed by making the substitution for ''Upon the request of the Secretary, each'' to reflect the probable intent of Congress.

Pub. L. 105–244, § 486(e)(2)(B), substituted ''paragraph (1)(F)'' for ''paragraphs (1)(F) and (1)(H)''.

Subsec. (f)(4)(A). Pub. L. 105–244, § 486(e)(2)(C)–(E), substituted ''and the Workforce'' for ''and Labor'' and ''2000'' for ''1995'' and struck out ''and'' at end.

Subsec. (f)(4)(B), (C). Pub. L. 105–244, § 486(e)(2)(F), (G), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(5). Pub. L. 105–244, § 486(e)(5), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(5)(A). Pub. L. 105–244, § 486(e)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For purposes of this subsection, the term 'campus' includes—

''(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

''(ii) any building or property owned or controlled by student organizations recognized by the institution.''

Subsec. (f)(6). Pub. L. 105–244, § 486(e)(5), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 105–244, § 486(e)(4), substituted ''paragraph (1)(F)'' for ''paragraphs (1)(F) and (1)(H)'' and inserted at end ''Such statistics shall not identify victims of crimes or persons accused of crimes.''

Subsec. (f)(7), (8). Pub. L. 105–244, § 486(e)(5), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f)(9) to (15). Pub. L. 105–244, § 486(e)(7), added pars. (9) to (15).

Subsec. (g)(1)(I), (J). Pub. L. 105–244, § 486(f)(1), added subpars. (I) and (J).

Subsec. (g)(4), (5). Pub. L. 105–244, § 486(f)(2)–(4), added par. (4), redesignated former par. (4) as (5), and struck out heading and text of former par. (5). Text read as follows: ''The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following October 20, 1994. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.''

1997—Subsec. (a)(3)(B). Pub. L. 105–18, § 60001(a)(1), substituted ''August 31'' for ''June 30''.

Subsec. (e)(9). Pub. L. 105–18, § 60001(a)(2), substituted ''August 31'' for ''August 30''.

1996—Subsec. (e)(9). Pub. L. 104–208 substituted ''August 30'' for ''June 30''.

1994—Subsec. (g). Pub. L. 103–382 added subsec. (g).

1993—Subsec. (a)(1)(F)(i) to (iii). Pub. L. 103–208, § 2(h)(28), inserted before comma at end ''for the period of enrollment for which a refund is required''.

Subsec. (a)(1)(F)(iv). Pub. L. 103–208, § 2(h)(29), inserted ''under'' after ''awards''.

Subsec. (a)(1)(F)(vi). Pub. L. 103–208, § 2(h)(32), redesignated cl. (vii) as (vi) and struck out former cl. (vi) which read as follows: ''to awards under part C of subchapter I of chapter 34 of title 42,''.

Subsec. (a)(1)(F)(vii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii). Former cl. (vii) redesignated (vi).

Pub. L. 103–208, § 2(h)(30), struck out ''provided under this subchapter and part C of subchapter I of chapter 34 of title 42'' after ''student assistance''.

Subsec. (a)(1)(F)(viii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii).

Pub. L. 103–208, § 2(h)(31), struck out period after ''student''.

Subsec. (a)(1)(L). Pub. L. 103–208, § 2(k)(9), amended directory language of Pub. L. 102–325, § 486(a)(3). See 1992 Amendment note below.

Pub. L. 103–208, § 2(h)(33), inserted comma after ''full-time''.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(h)(34), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation; and''.

Subsec. (b)(1)(A), (2)(A). Pub. L. 103–208, § 2(h)(35), substituted ''under part'' for ''under parts''.

Subsec. (d). Pub. L. 103–208, § 2(h)(36), inserted period at end of penultimate sentence.

Subsec. (e)(9). Pub. L. 103–208, § 2(h)(37), added subpar. (9).

1992—Subsec. (a)(1)(F). Pub. L. 102–325, § 486(a)(1), inserted '', as determined under section 1091b of this title,'' after ''of the institution'' and '', which refunds shall be credited in the following order:'' after ''of this paragraph'' and added cls. (i) to (viii).

Subsec. (a)(1)(K). Pub. L. 102–325, § 486(a)(2), struck out ''and'' at end.

Subsec. (a)(1)(L). Pub. L. 102–325, § 486(a)(4), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M).

Pub. L. 102–325, § 486(a)(3), as amended by Pub. L. 103–208, § 2(k)(9), amended subpar. (L), relating to completion or graduation rate, by substituting semicolon for period at end.

Subsec. (a)(1)(M). Pub. L. 102–325, § 486(a)(4), (5), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M) and substituted ''; and'' for period at end.

Subsec. (a)(1)(N). Pub. L. 102–325, § 486(a)(6), added subpar. (N).

Subsec. (b). Pub. L. 102–325, § 486(b), amended subsec. (b) generally, making changes in substance and structure of former text which related to exit counseling for borrowers and borrower information.

Subsec. (f)(1)(F). Pub. L. 102–325, § 486(c)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

''(i) murder;
''(ii) rape;
''(iii) robbery;
''(iv) aggravated assault;
''(v) burglary; and
''(vi) motor vehicle theft.''

Subsec. (f)(7). Pub. L. 102–325, § 486(c)(2), added par. (7).

1991—Subsec. (a)(1)(L). Pub. L. 102–26, § 10(a), which directed the insertion of ''undergraduate'' after ''full-time'' in subpar. (L), was executed to the subpar. (L) added by Pub. L. 101–542, § 103(a), relating to completion or graduation rate, to reflect the probable intent of Congress.

Subsec. (a)(3)(A) to (C). Pub. L. 102–26, § 10(b), inserted ''and'' at end of subpar. (A), substituted a period for ''; and'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''shall be updated not less than biennially.''

Subsec. (a)(5). Pub. L. 102–26, § 10(c), added par. (5).

Subsec. (b). Pub. L. 102–164 substituted ''Exit counseling for borrowers; borrower information'' for ''Exit counseling for borrowers'' in heading and inserted at end ''Each eligible institution shall require that the borrower of a loan made under part B, part C, or part D of this subchapter submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B of this subchapter, the institution shall then submit this information to the holder of the loan.''

Subsec. (f)(1). Pub. L. 102–26, §10(d), substituted ''August 1, 1991,'' for ''September 1, 1991,'' in introductory provisions, and in subpar. (F) substituted ''calendar year'' and ''calendar years'' for ''school year'' and ''school years'', respectively.

1990—Subsec. (a)(1)(L). Pub. L. 101–610, §201, added subpar. (L) relating to deferral or partial cancellation of student loans.

Pub. L. 101–542, §103(a), added subpar. (L) relating to completion or graduation rate.

Subsec. (a)(3), (4). Pub. L. 101–542, §103(b), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 101–610, §202, added par. (3).

Subsec. (d). Pub. L. 101–610, §203, inserted before last sentence ''The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization''.

Subsec. (e). Pub. L. 101–542, §104(a), added subsec. (e).

Subsec. (f). Pub. L. 101–542, §204(a), added subsec. (f).

1987—Subsec. (b). Pub. L. 100–50, §15(10), inserted ''(other than loans made pursuant to section 1078–2 of this title)'' after ''part B of this subchapter''.

Subsec. (d). Pub. L. 100–50, §15(11), inserted after second sentence ''In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–386, div. B, title VI, §1601(c)(2), Oct. 28, 2000, 114 Stat. 1538, provided that: ''The amendment made by this subsection [amending this section] shall take effect 2 years after the date of the enactment of this Act [Oct. 28, 2000].''

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 1997 AMENDMENT

Section 60001(b) of Pub. L. 105–18 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] are effective upon enactment [June 12, 1997].

''(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) [amending this section] before July 1, 1998.''

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 section 486(a), (b), and (c)(2) of Pub. L. 102–325 effective July 23, 1992, except that changes relating to disclosures effective with respect to periods of enrollment beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

Section 486(c)(3) of Pub. L. 102–325 provided that: ''The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act [20 U.S.C. 1092(f)(1)(F)(ii)] shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

''(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

''(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

''(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

''(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the three calendar years preceding the year in which the report is made.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 104(b) of Pub. L. 101–542, as amended by Pub. L. 102–26, §10(e), Apr. 9, 1991, 105 Stat. 128, provided that: ''The report to the Secretary of Education required by the amendments made by this section [amending this section] shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year.''

Section 204(c) of Pub. L. 101–542 provided that: ''The amendments made by this section [amending this section] shall take effect on September 1, 1991, except that the requirement of section 485(f)(1)(F) and (H) of the Higher Education Act of 1965 [subsec. (f)(1)(F), (H) of this section] (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act [Nov. 8, 1990] only to the extent that data concerning such years is reasonably available.''

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.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATIONS

Section 401(a) of Pub. L. 101–542 provided that: ''The Secretary is authorized to issue regulations to carry out the provisions of this Act [amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title].''

CONGRESSIONAL FINDINGS

Section 360B(b) of Pub. L. 103–382 provided that: ''The Congress finds that—

''(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

''(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

''(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

''(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

''(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

''(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

''(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

''(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.''

Section 102 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

''(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

''(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

''(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

''(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

''(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

''(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.''

Section 202 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

''(2) although annual 'National Campus Violence Surveys' indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

''(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

''(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

''(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

''(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

''(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

''(A) to encourage the development on all campuses of security policies and procedures;

''(B) for uniformity and consistency in the reporting of crimes on campus; and

''(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1094, 1152 of this title.

§ 1092a. Combined payment plan

(a) Eligibility for plan

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078–3(a)(1) of this title, or defined in subpart I[1] of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 1078–3 of this title (and section 1087–2(*o*) of this title as in effect prior to the enactment of section 1078–3 of this title) and loans guaranteed under subpart I[1] of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Applicability of other requirements

A lender offering a combined payment plan shall comply with all provisions of section 1078–3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I[1] of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 1078–3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

[1] See References in Text note below.

(c) Lender eligibility

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) Borrower selection of competing offers

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) Effect of plan

Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3)[2] of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) Notes and insurance certificates

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I[2] of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a)[2] of the Public Health Service Act. Notwithstanding the provisions of section 729(a)[2] of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I[2] of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C. 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of borrower eligibility

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and premiums

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of repayment

Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub. L. 89–329, title IV, § 485A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1484; amended Pub. L. 100–50, § 15(12), June 3, 1987, 101 Stat. 357.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a), (b), and (f), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. Subpart I of part C of title VII of the Act was classified generally to subpart I (§ 294 et seq.) of part C of subchapter V of chapter 6A of Title 42 and was omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§ 292 et seq.) of part A of subchapter V of chapter 6A. Sections 728, 729, and 733 of the Act were classified to sections 294a, 294b, and 294f, respectively, of Title 42 and were omitted in the general revision of subchapter V by Pub. L. 102–408. Pub. L. 102–408 enacted a new section 728 of act July 1, 1944, relating to distribution of assets, a new section 762, relating to special projects, and a new section 763, relating to preventive medicine and dental public health which are classified to sections 292x, 294a, and 294b, respectively, of Title 42. See sections 292a, 292b, and 292f, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

[2] See References in Text note below.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''subparagraph (A), (B), or (C)'' for ''clause (i), (ii), or (iii)''.

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.

§ 1092b. National Student Loan Data System

(a) Development of System

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B of this subchapter and loans made under parts C and D of this subchapter, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan not later than one year after October 7, 1998. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts C and D of this subchapter;

(5)[1] the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.)),[2] for service under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.[3]

(5)[1] the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(6) the total amount of loans made to any borrower and the remaining balance of the loans;

(7) the lender, holder, and servicer of such loans;

(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(9) information regarding any deferments or forbearance granted on such loans; and

(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B of this subchapter. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) Verification

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, C, or D of this subchapter.

(d) Omitted

(e) Standardization of data reporting

(1) In general

The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) Activities

For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

[1] So in original. Two pars. (5) have been enacted.

[2] So in original.

[3] So in original. The period probably should be a semicolon.

(f) Common identifiers

The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(g) Integration of databases

The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, § 485B, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1486; amended Pub. L. 100–50, § 15(13), June 3, 1987, 101 Stat. 357; Pub. L. 101–239, title II, § 2008, Dec. 19, 1989, 103 Stat. 2121; Pub. L. 101–610, title II, § 204, Nov. 16, 1990, 104 Stat. 3172; Pub. L. 102–325, title IV, § 487, July 23, 1992, 106 Stat. 623; Pub. L. 103–208, § 2(h)(38)–(41), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, § 487, Oct. 7, 1998, 112 Stat. 1746.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(5), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

CODIFICATION

Subsec. (d) of this section, which required the Secretary to prepare and submit to appropriate committees of Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 80 of House Document No. 103–7.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 inserted ''not later than one year after October 7, 1998'' before period at end of third sentence.

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(38), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter'' and struck out second period at end of third sentence.

Subsec. (a)(4). Pub. L. 103–208, § 2(h)(39), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter''.

Subsec. (c). Pub. L. 103–208, § 2(h)(40), substituted ''part B, C, or D of this subchapter'' for ''part B or part D of this subchapter''.

Subsec. (e)(1), (2)(C). Pub. L. 103–208, § 2(h)(41), substituted ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part''.

1992—Subsec. (a). Pub. L. 102–325, § 487(a), inserted '', and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan.'' after ''part D of this subchapter''.

Subsecs. (e) to (g). Pub. L. 102–325, § 487(b), added subsecs. (e) to (g).

1990—Subsec. (a)(5). Pub. L. 101–610 added subsec. (a)(5) relating to loan cancellations and deferments.

1989—Pub. L. 101–239 amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to authority of Secretary, subsec. (b) relating to access to information, subsec. (c) relating to verification not required, and subsec. (d) relating to report to Congress.

1987—Subsec. (b)(1). Pub. L. 100–50, § 15(13)(A), substituted ''public agencies'' for ''Federal agencies''.

Subsec. (b)(2)(D). Pub. L. 100–50, § 15(13)(B), substituted ''of any borrower'' for ''of a borrower for whom the guaranty agency provides insurance''.

Subsec. (b)(3). Pub. L. 100–50, § 15(13)(C), substituted ''public agency'' for ''Federal agency''.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078 of this title.

§ 1092c. Simplification of lending process for borrowers

(a) All like loans treated as one

To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B of this subchapter as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One lender, one guaranty agency

To the extent practicable, and with the cooperation of the borrower, the guaranty agency

shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(Pub. L. 89–329, title IV, § 485C, as added Pub. L. 102–325, title IV, § 488, July 23, 1992, 106 Stat. 624.)

§ 1092d. Scholarship fraud assessment and awareness activities

(a) Annual report on scholarship fraud

(1) Requirement

The Attorney General and the Secretary of Education, in conjunction with the Federal Trade Commission, shall jointly submit to Congress each year a report on fraud in the offering of financial assistance for purposes of financing an education at an institution of higher education. Each report shall contain an assessment of the nature and quantity of incidents of such fraud during the one-year period ending on the date of such report.

(2) Initial report

The first report under paragraph (1) shall be submitted not later than 18 months after November 1, 2000.

(b) National awareness activities

The Secretary of Education shall, in conjunction with the Federal Trade Commission, maintain a scholarship fraud awareness site on the Internet web site of the Department of Education. The scholarship fraud awareness site may include the following:

(1) Appropriate materials from the Project Scholarscam awareness campaign of the Commission, including examples of common fraudulent schemes.

(2) A list of companies and individuals who have been convicted of scholarship fraud in Federal or State court.

(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Internet web sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information Center, including telephone and Internet contact information.

(Pub. L. 106–420, § 5, Nov. 1, 2000, 114 Stat. 1868.)

CODIFICATION

Section was enacted as part of the College Scholarship Fraud Prevention Act of 2000, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

FINDINGS

Pub. L. 106–420, § 2, Nov. 1, 2000, 114 Stat. 1867, provided that: ''Congress makes the following findings:

''(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

''(2) Such fraud includes the following:

''(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

''(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

''(C) Misrepresentations regarding the pre-selection of students as eligible to receive such assistance.

''(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

''(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

''(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

''(3) In 1996, the Federal Trade Commission launched 'Project Scholarscam', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called 'scholarship services'.

''(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and nongovernmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur.''

§ 1093. Distance education demonstration programs

(a) Purpose

It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this chapter;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

(b) Demonstration programs authorized

(1) In general

In accordance with the provisions of subsection (d) of this section, the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

(2) Waivers

The Secretary is authorized to waive for any institution of higher education, system of in-

stitutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 1087*ll*(5) of this title as the section relates to computer costs, sections 1088(a) and 1088(b) of this title as such sections relate to requirements for a minimum number of weeks of instruction, sections 1002(a)(3)(A), 1002(a)(3)(B), and 1091(*l*)(1) of this title, or one or more of the regulations prescribed under this part or part E of this subchapter which inhibit the operation of quality distance education programs.

(3) Eligible applicants

(A) Eligible institutions

Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be eligible to participate in the demonstration program authorized under this section.

(B) Prohibition

An institution of higher education described in section 1002(a)(1)(C) of this title shall not be eligible to participate in the demonstration program authorized under this section.

(C) Special rule

Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 1002 of this title, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

(D) Requirement

Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of subchapter I of this chapter and this part and part G of this subchapter for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

(c) Application

(1) In general

Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Contents

Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) of this section or, if applicable, subsection (b)(3)(D) of this section for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

(d) Selection

(1) In general

For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g) of this section.

(2) Considerations

In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

(A) the number and quality of applications received;

(B) the Department's capacity to oversee and monitor each institution's participation;

(C) an institution's—

(i) financial responsibility;

(ii) administrative capability; and

(iii) program or programs being offered via distance education; and

(D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

(e) Notification

The Secretary shall make available to the public and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory require-

ments being waived for each institution, system or consortium and a description of the distance education courses to be offered.

(f) Evaluations and reports

(1) Evaluation

The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

(A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;

(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;

(C) issues related to student financial assistance for distance education;

(D) effective technologies for delivering distance education course offerings; and

(E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

(2) Policy analysis

The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

(3) Reports

(A) In general

Within 18 months of the initiation of the demonstration program, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to—

(i) the evaluations of the demonstration programs authorized under this section; and

(ii) any proposed statutory changes designed to enhance the use of distance education.

(B) Additional reports

The Secretary shall provide additional reports to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives on an annual basis regarding—

(i) the demonstration programs authorized under this section; and

(ii) the number and types of students receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for instruction leading to a recognized certificate, as provided for in section 1091(*l*)(1) of this title, including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

(g) Oversight

In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

(1) assure compliance of institutions, systems or consortia with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D) of this section);

(2) provide technical assistance;

(3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and

(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

(h) "Distance education" defined

For the purpose of this section, the term ''distance education'' means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

(2) audio or computer conferencing;

(3) video cassettes or discs; or

(4) correspondence.

(Pub. L. 89–329, title IV, § 486, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102–325, title IV, § 489, July 23, 1992, 106 Stat. 624; Pub. L. 105–244, title IV, § 488, Oct. 7, 1998, 112 Stat. 1746.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1093, Pub. L. 89–329, title IV, § 486, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to make grants to nonprofit private organizations to provide training for student financial aid administrators and TRIO personnel.

1992—Pub. L. 102–325 struck out ''and student support'' after ''aid'' in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

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.

§ 1094. Program participation agreements

(a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this

subchapter and part C of subchapter I of chapter 34 of title 42, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of title 42, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate guaranty agency; and

(C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or C of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 1091(d) of this title, the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 1092(f) of this title.

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or C of this subchapter, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or C of this subchapter, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part G of this subchapter to share

with each other any information pertaining to the institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, or the receipt of program funds under this subchapter and part C of subchapter I of chapter 34 of title 42, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or contract with an institution or third party servicer that has been terminated under section 1082 of this title involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or who has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 1092(g) of this title.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 due to compliance with the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 1091b of this title.

(23)(A) The institution, if located in a State to which section 1973gg–2(b)[1] of title 42 does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 431(3) of title 2, and to the elections for Governor or other chief executive within such State).[2]

(b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the

[1] See References in Text note below.

[2] So in original. The closing parenthesis probably should not appear.

institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of title 42 or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part G of this subchapter;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 1002(a)(1)(C) of this title) that has obtained less than $200,000 in funds under this subchapter and part C of subchapter I of chapter 34 of title 42 during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 1099c(g) of this title;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter and part C of

subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part G of this subchapter, over one or more institutions participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, is determined to have committed one or more violations of the requirements of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part G of this subchapter, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this subchapter and part C of subchapter I of chapter 34 of title 42 for which the institution has not received funds appropriated under this subchapter and part C of subchapter I of chapter 34 of title 42 (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) "Eligible institution" defined

For the purpose of this section, the term ''eligible institution'' means any such institution described in section 1002 of this title.

(e) Construction

Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(Pub. L. 89–329, title IV, § 487, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1488; amended Pub. L. 101–239, title II, §§ 2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118; Pub. L. 101–542, title II, § 205, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(c)(3), Apr. 9, 1991, 105 Stat. 124; Pub. L. 102–325, title IV, § 490, July 23, 1992, 106 Stat. 625; Pub. L. 103–208, § 2(h)(42), (43), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title I, § 102(b)(4), title IV, § 489(a), (b)(1), (c), Oct. 7, 1998, 112 Stat. 1622, 1750, 1751; Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 314], Nov. 29, 1999, 113 Stat. 1535, 1501A–266.)

REFERENCES IN TEXT

Section 1973gg–2(b) of title 42, referred to in subsec. (a)(23)(A), was in the original a reference to section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg–2(b)), and has been translated as if it referred to section 4(b) of the National Voter Registration Act of 1993, Pub. L. 103–31, to reflect the probable intent of Congress.

The Higher Education Amendments of 1992, referred to in subsec. (e), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1094, Pub. L. 89–329, title IV, § 487, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1451; amended Pub. L. 99–272, title XVI, § 16034, Apr. 7, 1986, 100 Stat. 356, related to program participation agreements, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1999—Subsec. (a)(23)(C). Pub. L. 106–113 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''This paragraph shall apply to elections as defined in section 431(1) of title 2, and includes the election for Governor or other chief executive within such State).''

1998—Subsec. (a)(3)(B) to (D). Pub. L. 105–244, § 489(a)(1), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: ''the appropriate State review entity designated under subpart 1 of part G of this subchapter;''.

Subsec. (a)(4). Pub. L. 105–244, § 489(a)(2), substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (a)(9). Pub. L. 105–244, § 489(a)(3), substituted ''part B or C'' for ''part B''.

Subsec. (a)(14)(A), (B). Pub. L. 105–244, § 489(a)(4)(A), (B), substituted ''part B or C'' for ''part B''.

Subsec. (a)(14)(C). Pub. L. 105–244, § 489(a)(4)(C), added subpar. (C).

Subsec. (a)(15). Pub. L. 105–244, § 489(a)(5), substituted ''the State agencies'' for ''State review entities''.

Subsec. (a)(18). Pub. L. 105–244, § 489(a)(6), amended par. (18) generally. Prior to amendment, par. (18) required institutions to cause an annual compilation to be prepared of revenues and expenses relating to men's and women's sports.

Subsec. (a)(21). Pub. L. 105–244, § 489(a)(7), amended par. (21) generally. Prior to amendment, par. (21) read as follows: ''The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part G of this subchapter.''

Subsec. (a)(23). Pub. L. 105–244, § 489(b)(1), added par. (23).

Subsec. (c)(1)(A)(i). Pub. L. 105–244, § 489(c)(1)(A), substituted ''clauses (ii) and (iii)'' for ''clause (ii)'' and

''appropriate State agency notifying the Secretary under'' for ''State review entities referred to in'' and struck out ''or'' after semicolon.

Subsec. (c)(1)(A)(iii). Pub. L. 105–244, §489(c)(1)(B), (C), added cl. (iii).

Subsec. (c)(4). Pub. L. 105–244, §489(c)(2), struck out '', after consultation with each State review entity designated under subpart 1 of part G of this subchapter,'' after ''shall publish''.

Subsec. (c)(5). Pub. L. 105–244, §489(c)(3), substituted ''State agencies notifying the Secretary'' for ''State review entities designated''.

Subsec. (d). Pub. L. 105–244, §102(b)(4), substituted ''section 1002'' for ''section 1088''.

1993—Subsec. (a)(2). Pub. L. 103–208, §2(h)(42), struck out '', or for completing or handling the Federal Student Assistance Report'' after ''amount of such assistance''.

Subsec. (c)(1)(F). Pub. L. 103–208, §2(h)(43), substituted ''participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution,'' for ''eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution,''.

1992—Subsec. (a). Pub. L. 102–325, §490(f)(1), substituted ''subpart 4'' for ''subpart 3''.

Subsec. (a)(2). Pub. L. 102–325, §490(f)(2), struck out ''provided for in section 1090(e) of this title'' after ''Report''.

Subsec. (a)(3). Pub. L. 102–325, §490(a)(1), inserted before period at end '', together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—'' and added subpars. (A) to (D).

Subsec. (a)(8). Pub. L. 102–325, §490(a)(2), substituted ''application (A)'' for ''application,'' inserted '', and'' after ''advertisements'', and added subpar. (B).

Subsec. (a)(13) to (22). Pub. L. 102–325, §490(a)(3), added pars. (13) to (22).

Subsec. (b)(2). Pub. L. 102–325, §490(b)(1), struck out ''on the record'' after ''for a hearing''.

Subsec. (c)(1). Pub. L. 102–325, §490(b)(2)(A), substituted ''shall'' for ''is authorized to'' in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 102–325, §490(c), substituted ''a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution'' for ''a financial and compliance audit of an eligible institution,'' and ''on at least an annual basis'' for ''at least once every 2 years'' and inserted ''and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter'' after ''submitted to the Secretary''.

Subsec. (c)(1)(B). Pub. L. 102–325, §490(d)(1), inserted before semicolon at end '', including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution''.

Subsec. (c)(1)(C). Pub. L. 102–325, §490(d)(3), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (c)(1)(D). Pub. L. 102–325, §490(d)(3), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 102–325, §490(b)(2)(B), struck out ''on the record'' after ''opportunity for hearing''.

Subsec. (c)(1)(E). Pub. L. 102–325, §490(d)(2), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (c)(1)(F). Pub. L. 102–325, §490(d)(2), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Pub. L. 102–325, §490(b)(2)(C), struck out ''on the record'' after ''opportunity for a hearing''.

Subsec. (c)(1)(G). Pub. L. 102–325, §490(d)(2), redesignated subpar. (E) as (G). Former subpar. (G) redesignated (I).

Subsec. (c)(1)(H). Pub. L. 102–325, §490(d)(2), (4), redesignated subpar. (F) as (H) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(1)(I). Pub. L. 102–325, §490(d)(2), (5), redesignated subpar. (G) as (I) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(2). Pub. L. 102–325, §490(d)(8), added par. (2). Former par. (2) redesignated (3).

Pub. L. 102–325, §490(b)(2)(D), struck out ''on the record'' after ''opportunity for a hearing'' in subpars. (A) and (B)(i).

Subsec. (c)(3). Pub. L. 102–325, §490(d)(7), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102–325, §490(d)(6), inserted '', after consultation with each State review entity designated under subpart 1 of part G of this subchapter,'' after ''shall publish''.

Subsec. (c)(4). Pub. L. 102–325, §490(d)(7), redesignated par. (3) as (4).

Subsec. (c)(5) to (7). Pub. L. 102–325, §490(d)(9), added pars. (5) to (7).

Subsec. (d). Pub. L. 102–325, §490(f)(3), substituted ''section 1088'' for ''section 1085(a)''.

Subsec. (e). Pub. L. 102–325, §490(e), added subsec. (e).

1991—Subsec. (a)(11). Pub. L. 102–26 substituted ''whose students receive financial assistance pursuant to section 1091(d) of this title,'' for ''which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title),''.

1990—Subsec. (a)(12). Pub. L. 101–542 added par. (12).

1989—Subsec. (a)(11). Pub. L. 101–239, §2003(c)(2), added par. (11).

Subsec. (c)(1)(D). Pub. L. 101–239, §2006(c)(2), substituted '', any regulation'' for ''or any regulation'' and inserted ''or any applicable special arrangement, agreement, or limitation,''.

Subsec. (c)(1)(E) to (G). Pub. L. 101–239, §2006(c)(3), added subpars. (E) to (G).

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 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2003(c)(3) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and section 1078–1 of this title] shall apply with respect to periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATION PROHIBITED

Pub. L. 105–244, title IV, §489(b)(2), Oct. 7, 1998, 112 Stat. 1751, provided that: ''No officer of the executive

branch is authorized to instruct the institution in the manner in which the amendment made by this subsection [amending this section] is carried out.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1015, 1027, 1070a–15, 1070b–2, 1087c, 1087nn, 1087*oo*, 1087pp, 1087qq, 1087tt, 1091, 1092, 1096, 1099c of this title; title 42 section 12604.

§ 1094a. Regulatory relief and improvement

(a) Quality Assurance Program

(1) In general

The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

(2) Criteria and consideration

The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

(3) Waiver

The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this subchapter and part C of subchapter I of chapter 34 of title 42 that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

(4) Determination

The Secretary is authorized to determine—

(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(5) Review and evaluation

The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this chapter that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(b) Regulatory improvement and streamlining experiments

(1) In general

The Secretary may continue any experimental sites in existence on October 7, 1998. Any activities approved by the Secretary prior to October 7, 1998, that are inconsistent with this section shall be discontinued not later than June 30, 1999.

(2) Report

The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before October 7, 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after October 7, 1998. Such report shall include—

(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

(B) the findings and conclusions reached regarding each of the experiments conducted; and

(C) recommendations for amendments to improve and streamline this chapter, based on the results of the experiment.

(3) Selection

(A) In general

Upon the submission of the report required by paragraph (2), the Secretary is authorized to select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(B) Consultation

Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide to such Committees—

(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

(ii) a statement of the objectives to be achieved through the experiment; and

(iii) an identification of the period of time over which the experiment is to be conducted.

(C) Waivers

The Secretary is authorized to waive, for any institution participating as an experi-

mental site under subparagraph (A), any requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules, grant and loan maximum award amounts, and need analysis requirements.

(c) "Current award year" defined

For purposes of this section, the term ''current award year'' means the award year during which the participating institution indicates the institution's intention to cease participation.

(Pub. L. 89–329, title IV, § 487A, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 629; amended Pub. L. 105–244, title IV, § 490, Oct. 7, 1998, 112 Stat. 1751.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (b)(2)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized a Quality Assurance Program for institutions to develop and implement systems for verifying student financial aid application data.

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.

§ 1094b. Assignment of identification numbers

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(Pub. L. 89–329, title IV, § 487B, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 630.)

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89–329, as added by Pub. L. 99–498, which is classified generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§ 1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b–3 of this title or section 2752 of title 42 (or both); and (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b–3 of this title. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89–329, title IV, § 488, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100–50, § 15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 492, July 23, 1992, 106 Stat. 630.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89–329, title IV, § 488, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 inserted first two sentences and struck out former first sentence which read as follows: ''Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b–3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student.''

1987—Pub. L. 100–50 substituted ''section 2752 of title 42'' for ''section 2756 of title 42''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2753.

§ 1095a. Wage garnishment requirement

(a) Garnishment requirements

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guar-

anty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) No attachment of student assistance

Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) "Disposable pay" defined

For the purpose of this section, the term ''disposable pay'' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub. L. 89–329, title IV, § 488A, as added Pub. L. 102–164, title VI, § 605(a), Nov. 15, 1991, 105 Stat. 1066; amended Pub. L. 105–244, title IV, § 490A, Oct. 7, 1998, 112 Stat. 1753.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–244 added subsec. (d) and redesignated former subsec. (d) as (e).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1078–3 of this title.

§ 1096. Administrative expenses

(a) Amount of payments

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be

necessary to pay to each institution with which he has an agreement under section 1094 of this title, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42, or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans which the institution has agreed to assign under section 1087cc(a)(6)(B)[1] of this title. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(h)[1] of this title.

(b) Purpose of payments

(1) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a) of this section.

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(Pub. L. 89–329, title IV, §489, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 99–603, title I, §121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100–50, §15(15), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §§446(c), 493, July 23, 1992, 106 Stat. 567, 630; Pub. L. 103–208, §2(h)(44), (k)(6), Dec. 20, 1993, 107 Stat. 2478, 2486.)

REFERENCES IN TEXT

Section 1087cc(a)(6)(B) of this title, referred to in subsec. (a), was redesignated section 1087cc(a)(5)(B) by Pub. L. 105–244, title IV, §463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

Section 1091(h) of this title, referred to in subsec. (a), was redesignated section 1091(g) by Pub. L. 103–208, §2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

[1] See References in Text note below.

PRIOR PROVISIONS

A prior section 1096, Pub. L. 89–329, title IV, §489, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1453; amended Pub. L. 97–35, title V, §537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, §2(k)(6), repealed Pub. L. 102–325, §446(c). See 1992 Amendment note below.

Pub. L. 103–208, §2(h)(44), substituted ''1091(h) of this title'' for ''1091(c) of this title''.

1992—Subsec. (a). Pub. L. 102–325, §493(a)(3), substituted ''subpart 3'' for ''subpart 2'' in two places.

Pub. L. 102–325, §493(a)(1), (2), struck out ''(other than section 2756a of title 42)'' before '', or under part D'' in second sentence and struck out fourth sentence which read as follows: ''The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section.''

Pub. L. 102–325, §446(c), which directed amendment identical to amendment by Pub. L. 102–325, §493(a)(1), (2), above, was repealed by Pub. L. 103–208, §2(k)(6).

Subsec. (b). Pub. L. 102–325, §493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100–50 made technical amendment to reference to section 2756a of title 42 to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99–603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) 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 section 446(c) of 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.

Amendment by section 493 of Pub. L. 102–325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102–325, set out as a note under section 1088 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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99–603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1070b–2, 1087cc of this title; title 42 sections 2753, 2756a.

§1096a. Repealed. Pub. L. 102–325, title IV, §494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89–329, title IV, §489A, as added Pub. L. 102–164, title VI, §606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

§ 1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89–329, title IV, § 490, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102–325, title IV, § 495, July 23, 1992, 106 Stat. 631.)

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89–329, title IV, § 490, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to $20,000 and $5,000 fines for provisions relating to $10,000 and $1,000 fines, respectively, in subsec. (b) substituting provisions relating to $10,000 fines for provisions relating to $1,000 fines, in subsec. (c) substituting provisions relating to $10,000 fines for provisions relating $1,000 fines, and in subsec. (d) substituting provisions relating to $20,000 fines for provisions relating to $10,000 fines.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1072 of this title.

§ 1097a. Administrative subpoenas

(a) Authority

To assist the Secretary in the conduct of investigations of possible violations of the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The production of any such records may be required from any place in a State.

(b) Enforcement

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

(Pub. L. 89–329, title IV, § 490A, as added Pub. L. 105–244, title IV, § 490B, Oct. 7, 1998, 112 Stat. 1754.)

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.

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the ''Advisory Committee'') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices

and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b)[1] of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of title 42 and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including proposed regulations;

(6) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; and

(9) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

[1] See References in Text note below.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than $800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes, including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this chapter, consistent with the Secretary's requirements under section 1099c–2 of this title.

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2004.

(Pub. L. 89–329, title IV, § 491, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100–50, § 15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 496, July 23, 1992, 106 Stat. 631; Pub. L. 103–208, § 2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, § 490C, Oct. 7, 1998, 112 Stat. 1754.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

This chapter, referred to in subsecs. (h)(2) and (j)(5), was in the original ''the Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89–329, title IV, § 491, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98–79, § 11, Aug. 15, 1983, 97

Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 490C(1), substituted ‘‘, expenditures and staffing levels’’ for ‘‘and expenditures’’ in second sentence and inserted ‘‘Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.’’ after third sentence.

Subsec. (e)(3) to (6). Pub. L. 105–244, § 490C(2), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsec. (g). Pub. L. 105–244, § 490C(3), substituted ‘‘Members of the Advisory Committee may each’’ for

‘‘(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

‘‘(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each’’.

Subsec. (h)(1). Pub. L. 105–244, § 490C(4), inserted ‘‘determined’’ after ‘‘as may be’’ and inserted at end ‘‘The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.’’

Subsec. (i). Pub. L. 105–244, § 490C(5), substituted ‘‘$800,000’’ for ‘‘$750,000’’.

Subsec. (j). Pub. L. 105–244, § 490C(6), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ‘‘The committee shall—

‘‘(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

‘‘(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including a simplified reapplication process;

‘‘(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

‘‘(4) assess the adequacy of methods of monitoring student debt burden.’’

Subsec. (k). Pub. L. 105–244, § 490C(7), substituted ‘‘2004’’ for ‘‘1998’’.

Subsec. (*l*). Pub. L. 105–244, § 490C(8), struck out heading and text of subsec. (*l*) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103–208, § 2(h)(45), struck out ‘‘sections 1070a–1 through 1070a–5 of this title and’’ after ‘‘established under’’.

Subsec. (h)(1). Pub. L. 103–208, § 2(h)(46), substituted ‘‘subchapter III’’ for ‘‘subtitle III’’ before ‘‘of chapter 53 of such title’’.

1992—Subsec. (b). Pub. L. 102–325, § 496(a), inserted after first sentence ‘‘Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee’s administration and management shall be subject to the usual and customary Federal audit procedures.’’

Subsec. (d)(3). Pub. L. 102–325, § 496(b)(1), struck out ‘‘and in assessing the impact of legislative and administrative policy proposals’’ after ‘‘student aid’’.

Subsec. (d)(4) to (9). Pub. L. 102–325, § 496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102–325, § 496(c), substituted ‘‘without regard to’’ for ‘‘in accordance with’’ and inserted before period at end ‘‘and to set pay in accordance with such section’’.

Subsec. (i). Pub. L. 102–325, § 496(d), substituted ‘‘$750,000’’ for ‘‘$500,000’’.

Subsecs. (j) to (*l*). Pub. L. 102–325, § 496(e), added subsecs. (j) to (*l*) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100–50, § 15(16), inserted at end ‘‘The Secretary’s authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.’’

Subsec. (i). Pub. L. 100–50, § 15(17), substituted ‘‘In each fiscal year not less than $500,000’’ for ‘‘An amount, not to exceed $500,000 in any fiscal year’’.

Subsec. (j). Pub. L. 100–50, § 15(18), added subsec. (j).

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 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.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1098a. Regional meetings and negotiated rulemaking

(a) Meetings

(1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter and part C of subchapter I of chapter 34 of title 42;[1] The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers,

[1] So in original. The semicolon probably should be a period.

guaranty agency servicers, and collection agencies.

(2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter and part C of subchapter I of chapter 34 of title 42, as amended by the Higher Education Amendments of 1998 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

(1) In general

After obtaining the advice and recommendations described in subsection (a)(1) of this section and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and part C of subchapter I of chapter 34 of title 42 as amended by the Higher Education Amendments of 1998 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

(2) Expansion of negotiated rulemaking

All regulations pertaining to this subchapter and part C of subchapter I of chapter 34 of title 42 that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, § 492, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105–244, title IV, § 490D, Oct. 7, 1998, 112 Stat. 1755.)

REFERENCES IN TEXT

The Higher Education Amendments of 1998, referred to in subsecs. (a)(2) and (b), is Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1001 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 490D(a)(1)(C), substituted ''The Secretary shall obtain the advice of and recommendations from'' for ''Such meetings shall include''.

Pub. L. 105–244, § 490D(a)(1)(B), which directed the substitution of ''this subchapter and part C of subchapter I of chapter 34 of title 42;'' for ''parts B, F, and G of this subchapter,'' was executed by making the substitution for ''parts B, F, and G of this subchapter.''

Pub. L. 105–244, § 490D(a)(1)(A), struck out ''convene regional meetings to'' before ''obtain public involvement''.

Subsec. (a)(2). Pub. L. 105–244, § 490D(a)(2)(B)–(D), substituted ''this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''parts B, F, and G of this subchapter'', ''1998 through such mechanisms as regional meetings and electronic exchanges of information'' for ''1992'', and ''through such mechanisms in'' for ''at such meetings in''.

Pub. L. 105–244, § 490D(a)(2)(A), which directed substitution of ''The'' for ''During such meetings the'', was executed by making the substitution for ''During such meetings, the'' before ''Secretary shall provide'', to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–244, § 490D(b), designated existing provisions as par. (1), inserted par. (1) heading, substituted ''obtaining the advice and recommendations described in subsection (a)(1) of this section'' for ''holding regional meetings'', ''this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''parts B, F, and G of this subchapter'', ''1998'' for ''1992'', ''360-day'' for ''240-day'', and ''section 1232(e)'' for ''section 1232(g)'', struck out ''The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law.'' after ''rulemaking process.'' and ''participating in the regional meetings'' after ''nominated by groups'', and added par. (2).

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.

§ 1098b. Authorization of appropriations for administrative expenses

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89–329, title IV, § 493, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

§ 1098c. Year 2000 requirements at the Department

(a) Preparations for Year 2000

In order to ensure that the processing, delivery, and administration of grant, loan, and work assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 is not interrupted due to operational problems related to the inability of computer systems to indicate accurately dates after December 31, 1999, the Secretary of Education shall—

(1) take such actions as are necessary to ensure that all internal and external systems, hardware, and data exchange infrastructure administered by the Department that are necessary for the processing, delivery, and administration of the grant, loan, and work assistance are Year 2000 compliant by March 31, 1999, such that there will be no business interruption after December 31, 1999;

(2) ensure that the Robert T. Stafford Federal Student Loan Program and the William D. Ford Federal Direct Loan Program are equal in level of priority with respect to addressing, and that resources are managed to equally provide for successful resolution of, the Year 2000 computer problem in both programs by December 31, 1999;

(3) work with the Department's various data exchange partners under this subchapter and part C of subchapter I of chapter 34 of title 42 to fully test all data exchange routes for Year 2000 compliance via end-to-end testing, and submit a report describing the parameters and results of such tests to the Comptroller General not later than March 31, 1999;

(4) ensure that the Inspector General of the Department (or an external, independent entity selected by the Inspector General) performs and publishes a risk assessment of the systems and hardware under the Department's management, that has been reviewed by an independent entity, and make such assessment publicly available not later than 60 days after October 7, 1998;

(5) not later than June 30, 1999, ensure that the Inspector General (or an external, independent entity selected by the Inspector General) conducts a review of the Department's Year 2000 compliance for the processing, delivery, and administration of grant, loan, and work assistance, and submits a report reflecting the results of that review to the Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives;

(6) develop a contingency plan to ensure the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 will continue to run uninterrupted in the event of widespread disruptions in the flow of accurate computerized data, which contingency plan shall include a prioritization of mission critical systems and strategies to allow data partners to transfer data through alternate means; and

(7) alert Congress at the earliest possible time if mission critical deadlines will not be met.

(b) Postponement authority for Year 2000

(1) Purpose

It is the purpose of this subsection to provide the Secretary with the flexibility necessary to—

(A) ensure that the resources and capabilities of institutions, lenders, and guaranty agencies are not overburdened by the combination of student aid processing and delivery requirements added or modified by the amendments made by the Higher Education Amendments of 1998 and by the changes required to ensure that the systems of the institutions, lenders and guaranty agencies are Year 2000 compliant; and

(B) avoid the disruption of grant, loan, or work assistance funds awarded to students because of Year 2000 compliance problems at a substantial number of institutions, lenders, and guaranty agencies.

(2) Authority to postpone

The Secretary may postpone, for a period of time described in paragraph (3), the implementation of any requirements under part B, C, D, or F of this subchapter that are added or modified by the amendments made by the Higher Education Amendments of 1998 related to the processing or delivery of grant, loan, and work assistance (which shall not include the determination of need for such assistance) provided under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(A) determines that—

(i) implementation of such requirements would require extensive changes to the existing systems of institutions, lenders, or guaranty agencies; and

(ii) postponement is necessary to avoid jeopardizing the ability of a substantial number of institutions, lenders, or guaranty agencies to ensure that all of the systems of the institutions, lenders, or guaranty agencies related to the processing or delivery of such assistance function successfully after December 31, 1999; and

(B) promptly publishes in the Federal Register a list of, and notifies Congress of, any provisions, the implementation of which the Secretary intends to postpone, with the reasons for such postponement.

(3) Exceptions to authority

The Secretary may not postpone the implementation of one or more provisions described in this subsection longer than the earlier of—

(A) the period of time that the Secretary determines necessary to ensure that the processing and delivery systems of the institutions, lenders, and guaranty agencies referred to in paragraph (1)(A)(ii)[1] are capable of functioning successfully after December 31, 1999; or

(B) one award year after the effective date applicable to such provision under the Higher Education Amendments of 1998.

(Pub. L. 89–329, title IV, § 493A, as added Pub. L. 105–244, title IV, § 490E, Oct. 7, 1998, 112 Stat. 1756.)

REFERENCES IN TEXT

The Higher Education Amendments of 1998, referred to in subsec. (b)(1)(A), (2), (3)(B), is Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1001 of this title and Tables.

For general effective date of the Higher Education Amendments of 1998, referred to in subsec. (b)(3)(B), see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

EFFECTIVE DATE

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

§ 1098d. Procedures for cancellations and deferments for eligible disabled veterans

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89–329, title IV, § 493B, as added Pub. L. 105–244, title IV, § 490F, Oct. 7, 1998, 112 Stat. 1758.)

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.

§ 1099. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by this subchapter shall not be subject to any disclosure requirements of any State law.

(Pub. L. 97–320, title VII, § 701(b), Oct. 15, 1982, 96 Stat. 1538.)

[1] So in original. Probably should be paragraph ''(2)(A)(ii)''.

CODIFICATION

Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97–320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

PART G—PROGRAM INTEGRITY

CODIFICATION

Pub. L. 105–244, title IV, § 491(1), Oct. 7, 1998, 112 Stat. 1758, added heading and struck out former heading.

This part was added as part H of title IV of Pub. L. 89–329 by Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 634. The letter designation of this part was changed from ''H'' to ''G'' for codification purposes. See Codification note preceding section 1087a of this title.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1002, 1093 of this title.

SUBPART 1—STATE ROLE

CODIFICATION

Subpart 1 of part H of title IV of the Higher Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Subpart 1 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 491(2), Oct. 7, 1998, 112 Stat. 1759, without reference to those intervening amendments because of the extensive revision of subpart 1 by Pub. L. 105–244.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1094, 1099c–1 of this title.

§ 1099a. State responsibilities

(a) State responsibilities

As part of the integrity program authorized by this part, each State, through one State agency or several State agencies selected by the State, shall—

(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

(A) has committed fraud in the administration of the student assistance programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42; or

(B) has substantially violated a provision of this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Institutional responsibility

Each institution of higher education shall provide evidence to the Secretary that the institu-

tion has authority to operate within a State at the time the institution is certified under subpart 3 of this part.

(Pub. L. 89–329, title IV, § 495, as added Pub. L. 105–244, title IV, § 491(2), Oct. 7, 1998, 112 Stat. 1758.)

PRIOR PROVISIONS

Prior sections 1099a to 1099a–3 were omitted in the general amendment of this subpart by Pub. L. 105–244.

Section 1099a, Pub. L. 89–329, title IV, § 494, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, authorized State postsecondary review program.

Section 1099a–1, Pub. L. 89–329, title IV, § 494A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, related to State postsecondary review entity agreements.

Section 1099a–2, Pub. L. 89–329, title IV, § 494B, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637, related to Federal reimbursement of State postsecondary review costs.

Section 1099a–3, Pub. L. 89–329, title IV, § 494C, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637; amended Pub. L. 103–208, § 2(i)(1), (2), Dec. 20, 1993, 107 Stat. 2478, related to functions of State review entities.

SUBPART 2—ACCREDITING AGENCY RECOGNITION

CODIFICATION

Pub. L. 105–244, title IV, § 492(a)(1), Oct. 7, 1998, 112 Stat. 1759, substituted ''RECOGNITION'' for ''APPROVAL'' in heading.

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1001, 1011c of this title.

§ 1099b. Recognition of accrediting agency or association

(a) Criteria required

No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter or for other Federal purposes, unless the agency or association meets criteria established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this chapter, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

(5) the standards for accreditation of the agency or association assess the institution's—

(A) success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates;

(B) curricula;

(C) faculty;

(D) facilities, equipment, and supplies;

(E) fiscal and administrative capacity as appropriate to the specified scale of operations;

(F) student support services;

(G) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(H) measures of program length and the objectives of the degrees or credentials offered;

(I) record of student complaints received by, or available to, the agency or association; and

(J) record of compliance with its program responsibilities under this subchapter and

part C of subchapter I of chapter 34 of title 42 based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association;

except that subparagraphs (A), (H), and (J) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

(B) notice of an opportunity for a hearing by any such institution;

(C) the right to appeal any adverse action against any such institution; and

(D) the right to representation by counsel for any such institution;

(7) such agency or association shall notify the Secretary and the appropriate State licensing or authorizing agency within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State licensing or authorizing agency a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) "Separate and independent" defined

For the purpose of subsection (a)(3) of this section, the term ''separate and independent'' means that—

(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) Operating procedures required

No accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (which may include unannounced site visits) with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

(2) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and

(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

(d) Length of recognition

No accrediting agency or association may be recognized by the Secretary for the purpose of this chapter for a period of more than 5 years.

(e) Initial arbitration rule

The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) Jurisdiction

Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized by the Secretary for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42 and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) Limitation on scope of criteria

Nothing in this chapter shall be construed to permit the Secretary to establish criteria for ac-

crediting agencies or associations that are not required by this section. Nothing in this chapter shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

(h) Change of accrediting agency

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) Dual accreditation rule

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this chapter.

(j) Impact of loss of accreditation

An institution may not be certified or recertified as an institution of higher education under section 1002 of this title and subpart 3 of this part or participate in any of the other programs authorized by this chapter if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) Religious institution rule

Notwithstanding subsection (j) of this section, the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 1002 of this title and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation criteria provided for in this section.

***(l)* Limitation, suspension, or termination of recognition**

(1) If the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

(A) after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association; or

(B) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

(i) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

(ii) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

(m) Limitation on Secretary's authority

The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this chapter or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) Independent evaluation

(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the criteria provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the recognition process. The Secretary shall not, under any circumstances, base decisions on the recognition or denial of recognition of accreditation agencies or associations on criteria other than those contained in this section. When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process, and, if the Secretary does not recognize any accreditation agency or association, shall make publicly available the reason for denying recognition, including reference to the specific criteria under this section which have not been fulfilled.

(*o*) Regulations

The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

(Pub. L. 89–329, title IV, § 496, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 641; amended Pub. L. 103–208, § 2(i)(3)–(8), Dec. 20, 1993, 107 Stat. 2478, 2479; Pub. L. 105–244, title I, § 102(b)(5), title IV, § 492(a)(2)–(d), Oct. 7, 1998, 112 Stat. 1622, 1759, 1760.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), (g), (i), (j), and (m), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244, § 492(a)(2), substituted ''Recognition'' for ''Approval'' in section catchline.

Subsec. (a). Pub. L. 105–244, § 492(b)(1), (2), substituted ''Criteria'' for ''Standards'' in heading and ''criteria'' for ''standards'' wherever appearing in introductory provisions.

Subsec. (a)(4). Pub. L. 105–244, § 492(b)(3), substituted ''offered by the institution'' for ''at the institution'' and inserted '', including distance education courses or programs,'' after ''higher education''.

Subsec. (a)(5). Pub. L. 105–244, § 492(b)(4)(A), (H), substituted ''for accreditation'' for ''of accreditation'' in introductory provisions and ''(A), (H), and (J)'' for ''(G), (H), (I), (J), and (L)'' in concluding provisions.

Subsec. (a)(5)(A) to (G). Pub. L. 105–244, § 492(b)(4)(C), (E), added subpar. (A) and redesignated former subpars. (A) to (F) as (B) to (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (a)(5)(H). Pub. L. 105–244, § 492(b)(4)(F), substituted ''measures of program length'' for ''program length and tuition and fees in relation to the subject matters taught''.

Pub. L. 105–244, § 492(b)(4)(C), redesignated subpar. (G) as (H).

Pub. L. 105–244, § 492(b)(4)(B), struck out subpar. (H) which read as follows: ''measures of program length in clock hours or credit hours;''.

Subsec. (a)(5)(I). Pub. L. 105–244, § 492(b)(4)(B), (D), redesignated subpar. (K) as (I) and struck out former subpar. (I) which read as follows: ''success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;''.

Subsec. (a)(5)(J). Pub. L. 105–244, § 492(b)(4)(G), inserted ''record of'' before ''compliance'', substituted ''based on the most recent student loan default rate data provided by the Secretary, the'' for '', including any'', and inserted ''any'' after ''reviews, and''.

Pub. L. 105–244, § 492(b)(4)(B), (D), redesignated subpar. (L) as (J) and struck out former subpar. (J) which read as follows: ''default rates in the student loan programs under this subchapter and part C of subchapter I of chapter 34 of title 42, based on the most recent data provided by the Secretary;''.

Subsec. (a)(5)(K), (L). Pub. L. 105–244, § 492(b)(4)(D), redesignated subpars. (K) and (L) as (I) and (J), respectively.

Subsec. (a)(7). Pub. L. 105–244, § 492(b)(5), substituted ''State licensing or authorizing agency'' for ''State postsecondary review entity''.

Subsec. (a)(8). Pub. L. 105–244, § 492(b)(6), substituted ''State licensing or authorizing agency'' for ''State postsecondary review entity of the State in which the institution of higher education is located''.

Subsec. (c). Pub. L. 105–244, § 492(c)(1), substituted ''recognized by the Secretary'' for ''approved by the Secretary'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, § 492(c)(2), substituted ''(which may include unannounced site visits)'' for ''(at least one of which inspections at each institution that provides vocational education and training shall be unannounced),''.

Subsec. (d). Pub. L. 105–244, § 492(d)(1), substituted ''recognition'' for ''approval'' in heading and ''recognized'' for ''approved'' in text.

Subsec. (f). Pub. L. 105–244, § 492(d)(2), substituted ''recognized'' for ''approved''.

Subsec. (g). Pub. L. 105–244, § 492(d)(3), substituted ''criteria'' for ''standards'' in heading and ''establish criteria'' for ''establish standards'' in text.

Subsec. (j). Pub. L. 105–244, § 102(b)(5), substituted ''section 1002'' for ''section 1088'' in introductory provisions.

Subsec. (k). Pub. L. 105–244, §§ 102(b)(5), 492(d)(4)(A), amended subsec. (k) identically, substituting ''section 1002'' for ''section 1088'' in introductory provisions.

Subsec. (k)(2). Pub. L. 105–244, § 492(d)(4)(B), substituted ''criteria'' for ''standards''.

Subsec. (*l*). Pub. L. 105–244, § 492(d)(5), substituted ''recognition'' for ''approval'' in heading, added par. (1), and struck out former par. (1) which read as follows:

''The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section.''

Subsec. (n)(1). Pub. L. 105–244, § 492(d)(6)(A), substituted ''criteria'' for ''standards'' in introductory provisions.

Subsec. (n)(3). Pub. L. 105–244, § 492(d)(6)(A), (B), substituted ''criteria'' for ''standards'' in two places, ''recognition process'' for ''approval process'', and ''recognition or denial of recognition'' for ''approval or disapproval'', and inserted at end ''When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.''

Subsec. (n)(4). Pub. L. 105–244, § 492(d)(6)(C), added par. (4) and struck out former par. (4) which read as follows: ''The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.''

1993—Subsec. (a)(2)(A)(i). Pub. L. 103–208, § 2(i)(3), inserted ''of institutions of higher education'' after ''membership''.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(i)(4), substituted ''subparagraph (A)(i)'' for ''subparagraph (A)''.

Subsec. (a)(5). Pub. L. 103–208, § 2(i)(5), substituted a semicolon for the period at end of subpar. (L) and inserted after subpar. (L) the following: ''except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;''.

Subsec. (c). Pub. L. 103–208, § 2(i)(6), substituted ''as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (*l*)(2). Pub. L. 103–208, § 2(i)(7), substituted ''institution'' for ''institutution'' and ''association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension'' for ''association leading to the suspension''.

Subsec. (n)(1)(B). Pub. L. 103–208, § 2(i)(8), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate.''

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

Section 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.

STUDY OF TRANSFER OF CREDITS

Pub. L. 105–244, title VIII, § 804, Oct. 7, 1998, 112 Stat. 1806, provided that:

''(a) STUDY REQUIRED.—The Secretary of Education shall conduct a study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another, giving particular attention to—

''(1) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by different agencies or associations and the reasons for such policies;

''(2) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by national agencies or associations and institutions of higher education which are accredited by regional agencies and associations and the reasons for such policies;

''(3) the effect of the adoption of such policies on students transferring between such institutions of higher education, including time required to matriculate, increases to the student of tuition and fees paid, and increases to the student with regard to student loan burden;

''(4) the extent to which Federal financial aid is awarded to such students for the duplication of coursework already completed at another institution; and

''(5) the aggregate cost to the Federal Government of the adoption of such policies.

''(b) REPORT.—Not later than one year after the date of enactment of this Act [Oct. 7, 1998], the Secretary of Education shall submit a report to the Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate detailing the Secretary's findings regarding the study conducted under subsection (a). The Secretary's report shall include such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deems advisable.''

SUBPART 3—ELIGIBILITY AND CERTIFICATION PROCEDURES

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 1002, 1087, 1094, 1099a, 1099b of this title.

§ 1099c. Eligibility and certification procedures

(a) General requirement

For purposes of qualifying institutions of higher education for participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) Single application form

The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, financial responsibility, and administrative capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the stu-

dent aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires—

(A) a description of the third party servicers of an institution of higher education; and

(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 with respect to eligibility, accreditation, administrative capability and financial responsibility; and

(5) provides, at the option of the institution, for participation in one or more of the programs under part B or C of this subchapter.

(c) Financial responsibility standards

(1) The Secretary shall determine whether an institution has the financial responsibility required by this subchapter and part C of subchapter I of chapter 34 of title 42 on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary regarding ratios that demonstrate financial responsibility, then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit, public, and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees that the Secretary determines are reasonable, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, including loan obligations discharged pursuant to section 1087 of this title, and to students for refunds of institutional charges, including funds under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the criteria imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the criteria.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) Administrative capacity standard

The Secretary is authorized—

(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records;

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Financial guarantees from owners

(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, and civil and criminal monetary penalties authorized under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this subchapter and part C of subchapter I of chapter 34 of title 42 for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c) of this section; and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this subchapter and part C of subchapter I of chapter 34 of title 42 in a timely fashion.

(5) For purposes of section 1094(c)(1)(G) of this title, this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) Notwithstanding any other provision of law, any individual who—

(A) the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) is required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary; and

(C) willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund,

shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of title 26 with respect to the nonpayment of taxes.

(f) Actions on applications and site visits

The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b) of this section. The personnel of the Department of Education may conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall establish priorities by which institutions are to receive site visits, and shall, to the extent practicable, coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.

(g) Time limitations on, and renewal of, eligibility

(1) General rule

After the expiration of the certification of any institution under the schedule prescribed under this section (as this section was in effect prior to October 7, 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 6 years.

(2) Notification

The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

(3) Institutions outside the United States

The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 1002(a)(1)(C) of this title and received less than $500,000 in funds under part B of this subchapter for the most recent year for which data are available.

(h) Provisional certification of institutional eligibility

(1) Notwithstanding subsections (d) and (g) of this section, the Secretary may provisionally certify an institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i) of this section, of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the recognition of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period not to exceed 18 months from the date of the withdrawal of recognition.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(i) Treatment of changes of ownership

(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 1002 of this title (other than the requirements in subsections (b)(5) and (c)(3)[1]) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(4)(A) The Secretary may provisionally certify an institution seeking approval of a change in

[1] See References in Text note below.

ownership based on the preliminary review by the Secretary of a materially complete application that is received by the Secretary within 10 business days of the transaction for which the approval is sought.

(B) A provisional certification under this paragraph shall expire not later than the end of the month following the month in which the transaction occurred, except that if the Secretary has not issued a decision on the application for the change of ownership within that period, the Secretary may continue such provisional certification on a month-to-month basis until such decision has been issued.

(j) Treatment of branches

(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, except that such branch shall not be required to meet the requirements of sections 1002(b)(1)(E) and 1002(c)(1)(C) of this title prior to seeking such certification. Such branch is required to be in existence at least 2 years after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 1001(a)(2) of this title for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this subchapter and part C of subchapter I of chapter 34 of title 42 on or before January 1, 1992.

(Pub. L. 89–329, title IV, § 498, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 647; amended Pub. L. 103–208, § 2(i)(9)–(14), Dec. 20, 1993, 107 Stat. 2479, 2480; Pub. L. 105–244, title I, § 102(a)(6)(B), (b)(6), (7), title IV, § 493(a)–(c)(1), (d)–(h), Oct. 7, 1998, 112 Stat. 1618, 1622, 1761–1763.)

REFERENCES IN TEXT

Subsections (b)(5) and (c)(3), referred to in subsec. (i)(1), originally meant subsections (b)(5) and (c)(3) of section 1088 of this title, see 1998 Amendment note below for subsec. (i)(1). Pub. L. 105–244, title I, § 101(c), Oct. 7, 1998, 112 Stat. 1617, amended section 1088 by striking out subsecs. (b) and (c) and redesignating subsecs. (e) and (f) as (b) and (c), respectively. Section 1002 of this title does not contain a subsec. (b)(5) or (c)(3), but provisions similar to those appearing in former subsecs. (b)(5) and (c)(3) of section 1088 are contained in subsecs. (b)(1)(E) and (c)(1)(C) of section 1002.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 493(a)(1), substituted ''financial responsibility, and administrative capability'' for ''and capability''.

Subsec. (b)(3). Pub. L. 105–244, § 493(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and''.

Subsec. (b)(5). Pub. L. 105–244, § 493(a)(3), (4), added par. (5).

Subsec. (c)(2). Pub. L. 105–244, § 493(b)(1)(B), inserted '', public,'' after ''for profit'' in second sentence.

Pub. L. 105–244, § 493(b)(1)(A), which directed amendment of first sentence by substituting ''regarding ratios that demonstrate financial responsibility,'' for ''with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits'', was executed by making the substitution for text which read ''asset-to-liabilities ratios'' rather than ''asset to liabilities ratios'', to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 105–244, § 493(b)(2), inserted ''that the Secretary determines are reasonable'' after ''Secretary third-party financial guarantees''.

Subsec. (c)(4). Pub. L. 105–244, § 493(b)(3)(A), substituted ''criteria'' for ''ratio of current assets to current liabilities'' in introductory provisions.

Subsec. (c)(4)(C). Pub. L. 105–244, § 493(b)(3)(B), substituted ''criteria'' for ''current operating ratio requirement''.

Subsec. (e)(6). Pub. L. 105–244, § 493(c)(1), added par. (6).

Subsec. (f). Pub. L. 105–244, § 493(d), substituted ''and site visits'' for ''; site visits and fees'' in heading, ''may'' for ''shall'' in second sentence, and ''shall establish'' for ''may establish'' and ''shall, to the extent practicable, coordinate'' for ''may coordinate'' in third sentence, and struck out at end ''The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.''

Subsec. (g). Pub. L. 105–244, § 493(e), amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows:

''(1) The eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of any institution that is participating in any such program on July 23, 1992, shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after July 23, 1992.

''(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria:

''(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of this part; or

''(B) other categories of institutions which the Secretary deems necessary.

''(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 4 years.''

Subsec. (h)(2). Pub. L. 105–244, § 493(f), substituted ''the recognition'' for ''the approval'' and ''of recognition'' for ''of approval''.

Subsec. (i)(1). Pub. L. 105–244, § 102(b)(6), substituted ''section 1002'' for ''section 1088''.

Subsec. (i)(4). Pub. L. 105–244, § 493(g), added par. (4).

Subsec. (j)(1). Pub. L. 105–244, § 493(h), inserted ''after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42,'' after ''2 years''.

Pub. L. 105–244, § 102(b)(7)(A), substituted ''sections 1002(b)(1)(E) and 1002(c)(1)(C)'' for ''sections 1088(b)(5) and 1088(c)(3)''.

Subsec. (j)(2). Pub. L. 105–244, § 102(a)(6)(B), (b)(7)(B), amended par. (2) identically, substituting ''section 1001(a)(2)'' for ''section 1141(a)(2)''.

1993—Subsec. (c)(2). Pub. L. 103–208, § 2(i)(9)(A), inserted at end ''Such criteria shall take into account

any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.''

Subsec. (c)(3). Pub. L. 103–208, § 2(i)(9)(B), substituted ''The Secretary shall determine'' for ''The Secretary may determine'' in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 103–208, § 2(i)(9)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or''.

Subsec. (c)(4) to (6). Pub. L. 103–208, § 2(i)(9)(D), (E), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f). Pub. L. 103–208, § 2(i)(10), inserted after second sentence ''The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.''

Subsec. (h)(1)(B)(iii). Pub. L. 103–208, § 2(i)(11), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.''

Subsec. (i)(1). Pub. L. 103–208, § 2(i)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purpose of certifying the eligibility of an institution, an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution (except as provided in paragraph (3)) and shall be considered a new institution for the purpose of establishing eligibility, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

Subsec. (i)(3)(A). Pub. L. 103–208, § 2(i)(13), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or''.

Subsec. (j)(1). Pub. L. 103–208, § 2(i)(14), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, a branch of an eligible institution, as defined pursuant to regulations of the Secretary, is a separate institution of higher education and shall separately meet all the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(a)(6)(B), (b)(6), (7) and 493(a), (b), (d)–(h) of 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.

Pub. L. 105–244, title IV, § 493(c)(2), Oct. 7, 1998, 112 Stat. 1762, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective with respect to any unpaid refunds that were first required to be paid to a lender or to the Secretary on or after 90 days after the date of enactment of this Act [Oct. 7, 1998].''

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

Subpart 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1087dd, 1094, 1099c–1, 5938 of this title.

§ 1099c–1. Program review and data

(a) General authority

In order to strengthen the administrative capability and financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42;

(2) shall give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this subchapter in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this subchapter which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;

(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates; and

(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all relevant information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1 of this part.

(b) Special administrative rules

In carrying out paragraphs (1) and (2) of subsection (a) of this section and any other relevant provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall—

(1) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

(2) make available to each institution participating in programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 complete copies of all review guidelines and procedures used in program reviews;

(3) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

(4) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation; and

(5) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 1099c of this title, or section 1082 of this title.

(c) Data collection rules

The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a) of this section. The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Training

The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Special rule

The provisions of section 3403(b) of this title shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(Pub. L. 89–329, title IV, § 498A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 652; amended Pub. L. 103–208, § 2(i)(15), Dec. 20, 1993, 107 Stat. 2480; Pub. L. 105–244, title IV, § 494, Oct. 7, 1998, 112 Stat. 1763.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 494(1)(A)(i), substituted ''shall'' for ''may'' in introductory provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, § 494(1)(A)(ii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;''.

Subsec. (a)(2)(D). Pub. L. 105–244, § 494(1)(A)(iii), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;''.

Subsec. (a)(2)(E). Pub. L. 105–244, § 494(1)(A)(iv), inserted ''and'' after the semicolon.

Subsec. (a)(2)(F), (G). Pub. L. 105–244, § 494(1)(A)(v), added subpar. (F) and struck out former subpars. (F) and (G) which read as follows:

''(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of this part under section 1099a–3(b) of this title; and

''(G) such other institutions as the Secretary deems necessary; and''.

Subsec. (a)(3)(A). Pub. L. 105–244, § 494(1)(B), inserted ''relevant'' after ''all''.

Subsec. (b). Pub. L. 105–244, § 494(2), amended heading and text of subsec. (b). Prior to amendment, text read as follows:

''(1) In carrying out paragraphs (1) and (2) of subsection (a) of this section, the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

''(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.''

1993—Subsec. (e). Pub. L. 103–208 struck out comma after ''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.

§ 1099c–2. Review of regulations

(a) Review required

The Secretary shall review each regulation issued under this subchapter and part C of subchapter I of chapter 34 of title 42 that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

(1) An assurance of the uniformity of interpretation and application of such regulations.

(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) Regulatory and statutory relief for small volume institutions

The Secretary shall review and evaluate ways in which regulations under and provisions of this chapter affecting institution of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to October 7, 1998, less than $200,000 in funds through this subchapter and part C of subchapter I of chapter 34 of title 42, may be improved, streamlined, or eliminated.

(c) Consultation

In carrying out subsections (a) and (b) of this section, the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Reports to Congress

(1) In general

The Secretary shall submit, not later than 1 year after October 7, 1998, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations based on the reviews conducted under subsections (a) and (b) of this section, including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.

(2) Additional reports

Not later than January 1, 2003, the Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations based on the review conducted under subsection (a) of this section, including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.

(Pub. L. 89–329, title IV, § 498B, as added Pub. L. 105–244, title IV, § 495, Oct. 7, 1998, 112 Stat. 1764.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1098 of this title.

SUBCHAPTER V—DEVELOPING INSTITUTIONS

CODIFICATION

Title V of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1254; amended Pub. L. 90–35, June 29, 1967, 81 Stat. 81; Pub. L. 90–83, Sept. 11, 1967, 81 Stat. 195; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Title V is shown herein, however, as having been added by Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1765, without reference to those intervening amendments because of the extensive revision of title V by Pub. L. 105–244.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1070a–14, 1124 of this title; title 8 section 1613.

PART A—HISPANIC-SERVING INSTITUTIONS

PRIOR PROVISIONS

A prior part A consisted of sections 1102 to 1102j and related to State and local programs for teacher excellence prior to the general amendment of this subchapter by Pub. L. 105–244.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1103a of this title.

§ 1101. Findings; purpose; and program authority

(a) Findings

Congress makes the following findings:

(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.

(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

(B) could imperil the financial and administrative stability of such institutions.

(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

(b) Purpose

The purpose of this subchapter is to—

(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

(c) Program authority

The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

(Pub. L. 89–329, title V, §501, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1765.)

PRIOR PROVISIONS

A prior section 1101, Pub. L. 89–329, title V, §500, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 653, set forth findings of Congress and purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1101, Pub. L. 89–329, title V, §501, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1495, related to statement of purpose and applicability of this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1101, Pub. L. 89–329, title V, §511, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, §3(a)(3), (b), June 29, 1967, 81 Stat. 85; Pub. L. 90–575, title II, §231 (a), (b)(1), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§804(b), 805(a), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 92–318, title I, §141(a)(1)(A), (c)(1)(C), June 23, 1972, 86 Stat. 284, 285; Pub. L. 93–380, title VIII, §835(a)(1), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§151(a)(5)(A), 152(a), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–49, §6(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §501(a), Oct. 3, 1980, 94 Stat. 1459, set forth statement of purpose and authorization of appropriations for Teacher Corps program, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 501 of Pub. L. 89–329 was classified to section 1102 of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 501 of Pub. L. 89–329 was classified to section 1091 of this title prior to repeal by Pub. L. 94–482.

EFFECTIVE DATE

Subchapter 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.

NATIONAL JOB BANK FOR TEACHER RECRUITMENT

Pub. L. 102–325, title XIV, §1412, July 23, 1992, 106 Stat. 822, authorized Secretary of Education to conduct study on feasibility of establishing national and regional clearinghouses to operate national and regional teacher job banks and to contract one or more entities to establish a national or regional teacher job bank clearinghouse, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM

Pub. L. 102–325, title XV, §1531, July 23, 1992, 106 Stat. 834, authorized Secretary of Education to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform, prior to repeal by Pub. L. 105–332, §6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103 of this title.

§1101a. Definitions; eligibility

(a) Definitions

For the purpose of this subchapter:

(1) Educational and general expenditures

The term ''educational and general expenditures'' means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

(2) Eligible institution

The term ''eligible institution'' means—

(A) an institution of higher education—

(i) that has an enrollment of needy students as required by subsection (b) of this section;

(ii) except as provided in section 1103a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii) that is—

(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor's degree; or

(II) a junior or community college;

(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation;

(v) that meets such other requirements as the Secretary may prescribe; and

(vi) that is located in a State; and

(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements con-

tained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) Endowment fund

The term ''endowment fund'' means a fund that—

(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

(B) is maintained for the purpose of generating income for the support of the institution; and

(C) does not include real estate.

(4) Full-time equivalent students

The term ''full-time equivalent students'' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(5) Hispanic-serving institution

The term ''Hispanic-serving institution'' means an institution of higher education that—

(A) is an eligible institution;

(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

(C) provides assurances that not less than 50 percent of the institution's Hispanic students are low-income individuals.

(6) Junior or community college

The term ''junior or community college'' means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which the institution awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(7) Low-income individual

The term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(b) Enrollment of needy students

For the purpose of this subchapter, the term ''enrollment of needy students'' means an enrollment at an institution with respect to which—

(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title); or

(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1103a(a) of this title.

(Pub. L. 89–329, title V, § 502, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1766.)

PRIOR PROVISIONS

A prior section 1101a, Pub. L. 89–329, title V, § 502, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, authorized appropriations for this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 502 of Pub. L. 89–329 was classified to section 1102a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 502 of Pub. L. 89–329 was classified to section 1091a of this title, prior to repeal by Pub. L. 94–482.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 1103a, 1131–1 of this title; title 42 section 5197h.

§ 1101b. Authorized activities

(a) Types of activities authorized

Grants awarded under this subchapter shall be used by Hispanic-serving institutions of higher education to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions' capacity to serve Hispanic students and other low-income students.

(b) Authorized activities

Grants awarded under this section shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow's field of instruction.

(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(5) Tutoring, counseling, and student service programs designed to improve academic success.

(6) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(7) Joint use of facilities, such as laboratories and libraries.

(8) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(9) Establishing or improving an endowment fund.

(10) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(11) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary schools and secondary schools.

(12) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(13) Expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

(14) Other activities proposed in the application submitted pursuant to section 1101c of this title that—

(A) contribute to carrying out the purposes of this subchapter; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(c) Endowment fund limitations

(1) Portion of grant

A Hispanic-serving institution may not use more than 20 percent of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund.

(2) Matching required

A Hispanic-serving institution that uses any portion of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund shall provide from non-Federal funds an amount equal to or greater than the portion.

(3) Comparability

The provisions of part C of subchapter III of this chapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title V, § 503, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1768.)

PRIOR PROVISIONS

A prior section 503 of Pub. L. 89–329 was classified to section 1102b of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 503 of Pub. L. 89–329 was classified to section 1091b of this title prior to repeal by Pub. L. 94–482.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103c of this title.

§ 1101c. Duration of grant

(a) Award period

(1) In general

The Secretary may award a grant to a Hispanic-serving institution under this subchapter for 5 years.

(2) Waitout period

A Hispanic-serving institution shall not be eligible to secure a subsequent 5-year grant award under this subchapter until 2 years have elapsed since the expiration of the institution's most recent 5-year grant award under this subchapter, except that for the purpose of this subsection a grant under section 1103c(a) of this title shall not be considered a grant under this subchapter.

(b) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to a Hispanic-serving institution under this subchapter for a period of 1 year for the purpose of preparation of plans and applications for a grant under this subchapter.

(Pub. L. 89–329, title V, § 504, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1769.)

PRIOR PROVISIONS

A prior section 504 of Pub. L. 89–329 was classified to section 1102c of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 504 of Pub. L. 89–329 was classified to section 1091c of this title prior to repeal by Pub. L. 94–482.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101b of this title.

§ 1101d. Special rule

No Hispanic-serving institution that is eligible for and receives funds under this subchapter may receive funds under part A or B of subchapter III of this chapter during the period for which funds under this subchapter are awarded.

(Pub. L. 89–329, title V, § 505, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1770.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 89–329 was classified to section 1102d of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 505 of Pub. L. 89–329 was classified to section 1091d of this title prior to repeal by Pub. L. 94–482.

Prior sections 1102 to 1102j were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1102, Pub. L. 89–329, title V, § 501, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 655, related to authority and allocation of funds and defined terms.

Another prior section 1102, Pub. L. 89–329, title V, § 512, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, § 3(a)(3),

(4), June 29, 1967, 81 Stat. 85; Pub. L. 92–318, title I, § 142, June 23, 1972, 86 Stat. 286; Pub. L. 94–482, title I, § 151(a)(5)(B), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–88, title III, § 301(b)(2), title V, § 508(*l*)(3), Oct. 17, 1979, 93 Stat. 677, 694; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to establishment and administration of program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1102a, Pub. L. 89–329, title V, § 502, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 656, related to State applications for allotments.

Section 1102b, Pub. L. 89–329, title V, § 503, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 658, related to local applications and use of funds.

Section 1102c, Pub. L. 89–329, title V, § 504, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 661, related to State uses of funds.

Section 1102d, Pub. L. 89–329, title V, § 505, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 663; amended Pub. L. 103–208, § 2(j)(1), Dec. 20, 1993, 107 Stat. 2480, related to State Academies for teachers.

Section 1102e, Pub. L. 89–329, title V, § 506, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 666, related to State Academies for school leaders.

Section 1102f, Pub. L. 89–329, title V, § 507, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 669, related to uses of funds by institutions of higher education.

Section 1102g, Pub. L. 89–329, title V, § 508, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 670, related to professional development academies.

Section 1102h, Pub. L. 89–329, title V, § 509, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673, required that Federal funds supplement, not supplant, regular non-Federal funds.

Section 1102i, Pub. L. 89–329, title V, § 510, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673, related to coordination with other programs.

Section 1102j, Pub. L. 89–329, title V, § 510A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674, authorized appropriations for State and local programs for teacher excellence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103c of this title.

PART B—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior part B consisted of sections 1103 to 1103g and related to National Teacher Academies prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1103. Eligibility; applications

(a) Institutional eligibility

Each Hispanic-serving institution desiring to receive assistance under this subchapter shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 1101a of this title, along with such other data and information as the Secretary may by regulation require.

(b) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section; and

(B) the institution is eligible for assistance in accordance with the provisions of this subchapter under which the assistance is sought.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by Hispanic-serving institutions applying under this subchapter prior to the submission of the principal application.

(c) Contents

A Hispanic-serving institution, in the institution's application for a grant, shall—

(1) set forth, or describe how the institution will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) include a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals;

(3) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1101(b) of this title, and in no case supplant those funds;

(4) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the institution under this subchapter;

(6) provide that the institution will comply with the limitations set forth in section 1103e of this title;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project that consists of several components (as described by the institution pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the institution);

(C) an evaluation by the institution of the priority given any proposed project for

which funds are sought in relation to any other projects for which funds are sought by the institution under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the institution pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the institution; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D);

(8) provide for making reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded and for keeping such records and affording such access to such records, as the Secretary may find necessary to assure the correctness and verification of such reports; and

(9) include such other information as the Secretary may prescribe.

(d) Priority

With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this subchapter) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

(e) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations and shall advance the base-year for the determinations forward following each annual grant cycle.

(Pub. L. 89–329, title V, §511, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1770.)

PRIOR PROVISIONS

A prior section 1103, Pub. L. 89–329, title V, §511, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, established program of grants for National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103, Pub. L. 89–329, title V, §511, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1496, set forth statement of purpose for former part A of this subchapter relating to midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1103, Pub. L. 89–329, title V, §513, Nov. 8, 1965, 79 Stat. 1256; Pub. L. 90–35, §3(a)(3), (c)–(f), June 29, 1967, 81 Stat. 85, 86; Pub. L. 91–230, title VIII, §§803, 804(c), (d), 805(b), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 93–380, title VIII, §835(a)(2), (3), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§151(a)(5)(C), 152(b)–(d), Oct. 12, 1976, 90 Stat. 2152, 2153; Pub. L. 96–374, title V, §502(a)–(d), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, related to recruitment, enrollment, training, etc., of members for program, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480.

A prior section 511 of Pub. L. 89–329 was classified to section 1101 of this title prior to repeal by Pub. L. 97–35.

§1103a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(i) of this title in the case of an institution—

(1) that is extensively subsidized by the State in which the institution is located and charges low or no tuition;

(2) that serves a substantial number of low-income students as a percentage of the institution's total student population;

(3) that is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions; or

(5) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans.

(b) Waiver determinations; expenditures

(1) Waiver determinations

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(ii) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet the requirements is due to factors which, when used in the determination of compliance with the requirements, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of this subchapter.

(2) Expenditures

The Secretary shall submit to Congress every other year a report concerning the institutions that, although not satisfying the requirements of section 1101a(a)(2)(A)(ii) of this title, have been determined to be eligible institutions under part A of this subchapter. Such report shall—

(A) identify the factors referred to in paragraph (1) that were considered by the Secretary as factors that distorted the determination of compliance with clauses (i) and (ii) of section 1101a(a)(2)(A) of this title; and

(B) contain a list of each institution determined to be an eligible institution under

part A of this subchapter including a statement of the reasons for each such determination.

(Pub. L. 89–329, title V, § 512, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1772.)

PRIOR PROVISIONS

A prior section 1103a, Pub. L. 89–329, title V, § 512, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674, related to eligible recipients, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103a, Pub. L. 89–329, title V, § 512, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, related to selection procedures for grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 512 of Pub. L. 89–329 was classified to section 1102 of this title prior to repeal by Pub. L. 97–35.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101a of this title.

§ 1103b. Application review process

(a) Review panel

All applications submitted under this subchapter by Hispanic-serving institutions shall be read by a panel of readers composed of individuals who are selected by the Secretary and who include individuals representing Hispanic-serving institutions. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

(b) Instruction

All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter that are consistent with the provisions of this subchapter, including—

(1) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(2) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(c) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(d) Notification

Not later than June 30 of each year, the Secretary shall notify each Hispanic-serving institution making an application under this subchapter of—

(1) the scores given the institution by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(Pub. L. 89–329, title V, § 513, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1772.)

PRIOR PROVISIONS

A prior section 1103b, Pub. L. 89–329, title V, § 513, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103b, Pub. L. 89–329, title V, § 513, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1497, related to review of applications for grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 513 of Pub. L. 89–329 was classified to section 1103 of this title prior to repeal by Pub. L. 97–35.

§ 1103c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements with funds available to carry out this subchapter, between Hispanic-serving institutions eligible for assistance under this subchapter, and between such institutions and institutions not receiving assistance under this subchapter, for the activities described in section 1101b of this title so that the resources of the cooperating institutions might be combined and shared in order to achieve the purposes of this subchapter, to avoid costly duplicative efforts, and to enhance the development of Hispanic-serving institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant Hispanic-serving institution.

(c) Duration

Grants to Hispanic-serving institutions having a cooperative arrangement may be made under this section for a period determined under section 1101d of this title.

(Pub. L. 89–329, title V, § 514, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1773.)

PRIOR PROVISIONS

A prior section 1103c, Pub. L. 89–329, title V, § 514, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 675, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103c, Pub. L. 89–329, title V, § 514, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1497, related to amount of grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 514 of Pub. L. 89–329 was classified to section 1104 of this title prior to repeal by Pub. L. 97–35.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1101c of this title.

§ 1103d. Assistance to institutions under other programs

(a) Assistance eligibility

Each Hispanic-serving institution that the Secretary determines to be an institution eligi-

ble under this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) In general

Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a Hispanic-serving institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) Programs

The provisions of this section shall apply to any program authorized by subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or section 1124 of this title.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title V, §515, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1773.)

PRIOR PROVISIONS

A prior section 1103d, Pub. L. 89–329, title V, §515, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 676, related to State delegations to National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103d, Pub. L. 89–329, title V, §515, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, required reports to Secretary from institutions receiving grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 515 of Pub. L. 89–329 was classified to section 1105 of this title prior to repeal by Pub. L. 97–35.

§1103e. Limitations

The funds appropriated under section 1103g of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to a Hispanic-serving institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to a Hispanic-serving institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to a Hispanic-serving institution.

(Pub. L. 89–329, title V, §516, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103e, Pub. L. 89–329, title V, §516, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 676, related to selection of participants in National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 516 of Pub. L. 89–329 was classified to section 1106 of this title prior to repeal by Pub. L. 97–35.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103 of this title.

§1103f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds that are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title V, §517, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103f, Pub. L. 89–329, title V, §517, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, related to evaluation of system of National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 517 of Pub. L. 89–329 was classified to section 1107 of this title prior to repeal by Pub. L. 97–35.

§1103g. Authorizations of appropriations

(a) Authorizations

There are authorized to be appropriated to carry out this subchapter $62,500,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any Hispanic-serving institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the institution.

(Pub. L. 89–329, title V, §518, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103g, Pub. L. 89–329, title V, §518, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, authorized appropriations for National Teacher Academies program, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 518 of Pub. L. 89–329 was classified to section 1108 of this title prior to repeal by Pub. L. 94–482.

Prior sections 1104 to 1104k, 1105 to 1105i, 1106 to 1106g, and 1107 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1104, Pub. L. 89–329, title V, §521, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 677, related to purpose of Paul Douglas Teacher Scholarship program and provided that scholarships be referred to as ''Paul Douglas Teacher Scholarships''.

A prior section 1104, Pub. L. 89–329, title V, §514, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, §3(a)(3), (g)(1), June 29, 1967, 81 Stat. 85, 86; Pub. L. 90–575, title II, §232, Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§804(e), 805(c), Apr. 13, 1970, 84 Stat. 191, 192; Pub. L. 93–380, title VIII, §835(a)(4), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §152(e), Oct. 12, 1976, 90 Stat. 2153; Pub. L. 96–374, title V, §502(e), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, set forth provisions respecting com-

pensation of program members, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1104a, Pub. L. 89–329, title V, § 522, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677, related to allocation among States.

Section 1104b, Pub. L. 89–329, title V, § 523, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 678, related to State applications for grants.

Section 1104c, Pub. L. 89–329, title V, § 524, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680, related to amount and duration of scholarships and relation to other assistance.

Section 1104d, Pub. L. 89–329, title V, § 525, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680; amended Pub. L. 103–208, § 2(j)(2), Dec. 20, 1993, 107 Stat. 2480, related to selection of Paul Douglas Teacher Scholars.

Section 1104e, Pub. L. 89–329, title V, § 526, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to scholarship conditions.

Section 1104f, Pub. L. 89–329, title V, § 527, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to scholarship repayment provisions.

Section 1104g, Pub. L. 89–329, title V, § 528, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to exceptions to repayment provisions.

Section 1104h, Pub. L. 89–329, title V, § 529, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682, related to Federal administration of State programs and judicial review.

Section 1104i, Pub. L. 89–329, title V, § 530, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682, related to evaluation of scholarship recipients.

Section 1104j, Pub. L. 89–329, title V, § 530A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683; amended Pub. L. 103–208, § 2(j)(3), Dec. 20, 1993, 107 Stat. 2481, related to designation of shortage areas.

Section 1104k, Pub. L. 89–329, title V, § 530B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683, authorized appropriations for Paul Douglas Teacher Scholarship program.

Section 1105, Pub. L. 89–329, title V, § 531, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, related to purpose of Christa McAuliffe fellowship program and provided that fellowship recipients be known as ''Christa McAuliffe fellows''.

A prior section 1105, Pub. L. 89–329, title V, § 521, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, provided that the purpose of former part B of this subchapter was to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1105, Pub. L. 89–329, title V, § 515, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, § 3(h), June 29, 1967, 81 Stat. 87; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223, related to applicability of other provisions of laws to members of the Teacher Corps, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1105a, Pub. L. 89–329, title V, § 532, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, authorized grants to State education agencies for Christa McAuliffe fellowship program.

A prior section 1105a, Pub. L. 89–329, title V, § 522, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to partnership agreements between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105b, Pub. L. 89–329, title V, § 533, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, related to award and use of Christa McAuliffe fellowships.

A prior section 1105b, Pub. L. 89–329, title V, § 523, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to grants to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105c, Pub. L. 89–329, title V, § 534, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 685, related to selection of Christa McAuliffe fellows.

A prior section 1105c, Pub. L. 89–329, title V, § 524, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to application for grants to encourage the partnership between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105d, Pub. L. 89–329, title V, § 535, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 685; amended Pub. L. 103–208, § 2(j)(4), Dec. 20, 1993, 107 Stat. 2481, related to evaluation of applications.

A prior section 1105d, Pub. L. 89–329, title V, § 525, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to the community college pilot project, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105e, Pub. L. 89–329, title V, § 536, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686, related to fellowship repayment provisions.

Section 1105f, Pub. L. 89–329, title V, § 537, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686; amended Pub. L. 103–208, § 2(j)(5), Dec. 20, 1993, 107 Stat. 2481, related to Secretary's responsibilities.

Section 1105g, Pub. L. 89–329, title V, § 538, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686, related to State applications for grants.

Section 1105h, Pub. L. 89–329, title V, § 539, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, related to evaluation of Christa McAuliffe fellows and their impact.

Section 1105i, Pub. L. 89–329, title V, § 540, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, authorized appropriations to carry out Christa McAuliffe fellowship program.

Section 1106, Pub. L. 89–329, title V, § 541, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, authorized Teacher Corps program.

A prior section 1106, Pub. L. 89–329, title V, § 516, Nov. 8, 1965, 79 Stat. 1258, related to supervision and control of members by local educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1106a, Pub. L. 89–329, title V, § 542, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 688, related to use of funds.

Section 1106b, Pub. L. 89–329, title V, § 543, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 689, related to selection of Teacher Corps members.

Section 1106c, Pub. L. 89–329, title V, § 544, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690, related to State applications for funds.

Section 1106d, Pub. L. 89–329, title V, § 545, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690; amended Pub. L. 103–208, § 2(j)(6), Dec. 20, 1993, 107 Stat. 2481, related to Teacher Corps scholarships.

Section 1106e, Pub. L. 89–329, title V, § 546, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 691, related to scholarship conditions.

Section 1106f, Pub. L. 89–329, title V, § 547, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693, related to publication and recruitment.

Section 1106g, Pub. L. 89–329, title V, § 548, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693, authorized appropriations for Teacher Corps program.

Section 1107, Pub. L. 89–329, title V, § 551, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693; amended Pub. L. 103–227, title X, § 1013, Mar. 31, 1994, 108 Stat. 265, related to National Board for Professional Teaching Standards.

A prior section 1107, Pub. L. 89–329, title V, § 531, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1500, related to purpose and authority for professional development resource centers program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1107, Pub. L. 89–329, title V, § 517, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 3(a)(3),

June 29, 1967, 81 Stat. 85, prohibited members of the Teacher Corps from acting as replacements for teachers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Prior sections 1107a to 1107d were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1107a, Pub. L. 89–329, title V, §532, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to geographical distribution of grants to establish and operate professional development resource centers.

Another prior section 1107a, Pub. L. 89–329, title V, §517A, as added Pub. L. 90–35, §3(i), June 29, 1967, 81 Stat. 87, related to teaching children of migratory agricultural workers, prior to repeal by Pub. L. 97–35, title V, §587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1107b, Pub. L. 89–329, title V, §533, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1501, related to grant requirements for professional development resource centers.

Section 1107c, Pub. L. 89–329, title V, §534, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to requirement for professional development policy boards.

Section 1107d, Pub. L. 89–329, title V, §535, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1502, related to submission and approval of applications for grants to establish and operate professional development resource centers.

Prior sections 1108 to 1108g were repealed by Pub. L. 102–325, title V, §501(b), July 23, 1992, 106 Stat. 719, effective July 1, 1995.

Section 1108, Pub. L. 89–329, title V, §552, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, provided that subpart 2 of former part D of this subchapter could be cited as the ''Alternative Routes to Teacher Certification and Licensure Act of 1992''.

A prior section 1108, Pub. L. 89–329, title V, §518, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 87; amended Pub. L. 90–575, title II, §§231(a), 233(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286, authorized a program for making grants to States to alleviate teacher shortages, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1108a, Pub. L. 89–329, title V, §553, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, provided congressional findings concerning alternative teacher certification and licensure.

Section 1108b, Pub. L. 89–329, title V, §554, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 698, stated purpose of subpart 2 of former part D of this subchapter.

Section 1108c, Pub. L. 89–329, title V, §555, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 699, provided for allotments of funds to States.

Section 1108d, Pub. L. 89–329, title V, §556, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 699; amended Pub. L. 103–382, title II, §261(i)(2), Oct. 20, 1994, 108 Stat. 3929, related to State applications for grants under subpart 2 of former part D of this subchapter.

Section 1108e, Pub. L. 89–329, title V, §557, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, outlined permissible uses of funds.

Section 1108f, Pub. L. 89–329, title V, §558, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, defined ''State'' for purposes of subpart 2 of former part D of this subchapter.

Section 1108g, Pub. L. 89–329, title V, §559, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, authorized appropriations for fiscal year 1993 to carry out subpart 2 of former part D of this subchapter.

Prior sections 1109 to 1109e, 1110 to 1110e, 1111 to 1111h, 1112 to 1112e, and 1113 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1109, Pub. L. 89–329, title V, §561, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, set forth purpose of class size demonstration grant program.

A prior section 1109, Pub. L. 89–329, title V, §541, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1503; amended Pub. L. 100–50, §16(1), June 3, 1987, 101 Stat. 358; Pub. L. 101–226, §20, Dec. 12, 1989, 103 Stat. 1936, related to purpose of, and regulations under, leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1109, Pub. L. 89–329, title V, §519, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, §234(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(c)(2)(B), June 23, 1972, 86 Stat. 285, authorized allotments and reallotments to States, etc., for grants for implementation of program and set forth criteria for determination of amounts, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1109a, Pub. L. 89–329, title V, §562, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 700, authorized program of grants for demonstration projects that demonstrate methods of reducing class size.

A prior section 1109a, Pub. L. 89–329, title V, §542, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(2), June 3, 1987, 101 Stat. 358, related to allocation of appropriations for leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109b, Pub. L. 89–329, title V, §563, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 701, related to program requirements.

A prior section 1109b, Pub. L. 89–329, title V, §543, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, §16(3), June 3, 1987, 101 Stat. 358, related to technical assistance centers under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109c, Pub. L. 89–329, title V, §564, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 701, related to applications for grants.

A prior section 1109c, Pub. L. 89–329, title V, §544, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, §16(4), June 3, 1987, 101 Stat. 359, related to general criteria for grants under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109d, Pub. L. 89–329, title V, §565, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 702, related to evaluation of demonstration projects and dissemination of information.

A prior section 1109d, Pub. L. 89–329, title V, §545, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, §16(5), June 3, 1987, 101 Stat. 359, defined terms for purposes of leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109e, Pub. L. 89–329, title V, §565A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 702, authorized appropriations for class size demonstration grant program.

Section 1110, Pub. L. 89–329, title V, §566, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 703, stated purpose of middle school teaching demonstration grant program.

A prior section 1110, Pub. L. 89–329, title V, §520, as added Pub. L. 90–35, §4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, §233(b), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§143(a)(2), (3), 144(a), 145(a), 146(a), June 23, 1972, 86 Stat. 286, 287, set forth requirements for State plans as prerequisite for receipt of grant by State, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110a, Pub. L. 89–329, title V, §567, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat.

703, defined ''developmentally appropriate'' and ''middle school''.

A prior section 1110a, Pub. L. 89–329, title V, § 520A, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth manner of repayment of amounts expended by each State for implementation of State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110b, Pub. L. 89–329, title V, § 568, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, authorized program of grants for development of model programs with specialized focus on teaching grades 6 through 9.

A prior section 1110b, Pub. L. 89–329, title V, § 520B, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth requirements for disapproval of State plans by Commissioner, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110c, Pub. L. 89–329, title V, § 569, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, related to applications for grants.

A prior section 1110c, Pub. L. 89–329, title V, § 520C, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 90, set forth procedure for judicial review of determinations of Commissioner with respect to State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110d, Pub. L. 89–329, title V, § 570, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, related to submission of reports and other information by grant recipients.

Section 1110e, Pub. L. 89–329, title V, § 570A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, authorized appropriations for middle school teaching demonstration grant program.

Section 1111, Pub. L. 89–329, title V, § 571, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, stated purpose of new teaching careers grant program.

A prior section 1111, Pub. L. 89–329, title V, § 551, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(a), June 3, 1987, 101 Stat. 359, set forth purpose of Congressional teacher scholarship program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1111, Pub. L. 89–329, title V, § 521, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 5(b), June 29, 1967, 81 Stat. 90; Pub. L. 90–247, title VII, § 704(a), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 235, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 91–230, title VIII, § 806(a), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 146A, June 23, 1972, 86 Stat. 287, set forth Congressional declaration of policy and statement of purpose, and definitions for fellowship program for teachers and related educational personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1111a, Pub. L. 89–329, title V, § 572, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704; amended Pub. L. 103–382, title III, § 391(e)(5), Oct. 20, 1994, 108 Stat. 4022, authorized grants to States.

A prior section 1111a, Pub. L. 89–329, title V, § 552, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506, related to allocation of funds among the States for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111b, Pub. L. 89–329, title V, § 573, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705, related to agreements with grant recipients.

A prior section 1111b, Pub. L. 89–329, title V, § 553, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(b), June 3, 1987, 101 Stat. 359, related to grant applications for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111c, Pub. L. 89–329, title V, § 574, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705, related to applications for grants.

A prior section 1111c, Pub. L. 89–329, title V, § 554, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to amount and duration of assistance under Congressional teacher fellowships and relationship of such assistance to other assistance, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111d, Pub. L. 89–329, title V, § 575, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 706, related to requirements of recipients of student financial assistance under programs.

A prior section 1111d, Pub. L. 89–329, title V, § 555, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to the selection of Congressional teacher scholars, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111e, Pub. L. 89–329, title V, § 576, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, related to special considerations in awarding grants.

A prior section 1111e, Pub. L. 89–329, title V, § 556, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509, related to conditions for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111f, Pub. L. 89–329, title V, § 576A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, related to use of funds by grant recipients.

A prior section 1111f, Pub. L. 89–329, title V, § 557, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(c), June 3, 1987, 101 Stat. 359, related to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111g, Pub. L. 89–329, title V, § 576B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, defined terms.

A prior section 1111g, Pub. L. 89–329, title V, § 558, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(d), June 3, 1987, 101 Stat. 359, related to exceptions to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111h, Pub. L. 89–329, title V, § 576C, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708, authorized appropriations for new teaching careers grant program.

A prior section 1111h, Pub. L. 89–329, title V, § 559, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to Federal administration of State programs and judicial review of Congressional teacher scholarship programs, prior to the general of this subchapter by Pub. L. 102–325.

Section 1112, Pub. L. 89–329, title V, § 577, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708, stated purpose of grant program to encourage minority students to become teachers.

A prior section 1112, Pub. L. 89–329, title V, § 522, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 5(c), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, § 704(b), Jan. 2, 1968, 81 Stat. 820, authorized Commissioner to award fellowships for graduate study by teaching personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1112a, Pub. L. 89–329, title V, § 578, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708, authorized grants for partnerships.

Section 1112b, Pub. L. 89–329, title V, § 579, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708, related to partnership agreements.

Section 1112c, Pub. L. 89–329, title V, § 580, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 709, related to applications for teacher partnership program grants.

Section 1112d, Pub. L. 89–329, title V, § 580A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 710, authorized grants for teacher training and placement programs.

Section 1112e, Pub. L. 89–329, title V, § 580B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat.

710; amended Pub. L. 103–208, §2(j)(7), Dec. 20, 1993, 107 Stat. 2481, authorized appropriations for programs under sections 1112a and 1112d of this title.

Section 1113, Pub. L. 89–329, title V, §581, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 711; amended Pub. L. 103–208, §2(j)(8), Dec. 20, 1993, 107 Stat. 2481; Pub. L. 103–382, title III, §391(e)(6), (7), Oct. 20, 1994, 108 Stat. 4022, 4023, authorized grants for partnerships to carry out National Mini Corps Program.

A prior section 1113, Pub. L. 89–329, title V, §561, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1510, related to purpose of Christa McAuliffe fellowship program and to designation of fellowships under such program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1113, Pub. L. 89–329, title V, §523, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(d), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §236, Oct. 16, 1968, 82 Stat. 1040, required allocation of fellowships to institutions with approved programs and set forth criteria for approval of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Prior sections 1113a to 1113e were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1113a, Pub. L. 89–329, title V, §562, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to use of funds for Christa McAuliffe fellowship program.

Section 1113b, Pub. L. 89–329, title V, §563, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to award, distribution, and use of Christa McAuliffe fellowships.

Section 1113c, Pub. L. 89–329, title V, §564, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to selection of Christa McAuliffe teacher fellowships.

Section 1113d, Pub. L. 89–329, title V, §565, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to evaluation of applications for Christa McAuliffe fellowships.

Section 1113e, Pub. L. 89–329, title V, §566, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to repayment of Christa McAuliffe fellowships.

Prior sections 1114, 1114a, 1115, 1116, and 1117 to 1117c were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1114, Pub. L. 89–329, title V, §586, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 712; amended Pub. L. 103–382, title III, §391(e)(8), (9), Oct. 20, 1994, 108 Stat. 4023, authorized demonstration grants for critical language and area studies.

A prior section 1114, Pub. L. 89–329, title V, §524, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(e), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §237, Oct. 16, 1968, 82 Stat. 1040, set forth prerequisites for approval of graduate programs to develop and strengthen training of educational personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1114a, Pub. L. 89–329, title V, §587, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, related to development of foreign language and culture instructional materials.

Section 1115, Pub. L. 89–329, title V, §591, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, authorized grants for development of model programs for educational excellence, teacher training, and educational reform.

A prior section 1115, Pub. L. 89–329, title V, §571, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to State task forces on teacher training, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1115, Pub. L. 89–329, title V, §525, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(f), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §238, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 92–318, title I, §141(c)(3), June 23, 1972, 86 Stat. 285, authorized Commissioner to pay stipends to individuals awarded fellowships and additional amounts to institutions of higher education for support of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1116, Pub. L. 89–329, title V, §593, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 715, authorized grants for development of model programs of development and training of faculty who teach students with disabilities.

A prior section 1116, Pub. L. 89–329, title V, §526, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 92–318, title I, §131(d)(2)(C), June 23, 1972, 86 Stat. 260, prohibited award of fellowships for study at divinity school or department, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117, Pub. L. 89–329, title V, §596, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 716, authorized grants for programs to recruit and train students for careers in early childhood education and violence counseling.

A prior section 1117, Pub. L. 89–329, title V, §527, Nov. 8, 1965, 79 Stat. 1260, set forth conditions imposed upon fellowship recipient, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117a, Pub. L. 89–329, title V, §597, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 717; amended Pub. L. 103–208, §2(j)(9), Dec. 20, 1993, 107 Stat. 2481, authorized grants for early childhood staff training and professional enhancement.

Section 1117b, Pub. L. 89–329, title V, §598, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, required reports by grant recipients.

Section 1117c, Pub. L. 89–329, title V, §599, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, authorized appropriations for activities described in sections 1117 and 1117a of this title.

A prior section 1118, Pub. L. 89–329, title V, §528, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, §704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, §231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1966 to 1974 to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under fellowships, prior to repeal by Pub. L. 92–318, title I, §141(c)(1)(E), June 23, 1972, 86 Stat. 285, eff. on and after July 1, 1972.

Prior sections 1119 to 1119e–5 provided for teacher training programs, training for elementary and secondary school teachers to teach handicapped children in areas with a shortage, coordination of education professional development, Carl D. Perkins Scholarship program, and National Talented Teacher Fellowship program, prior to the general amendment of this subchapter by Pub. L. 99–498.

Section 1119 Pub. L. 89–329, title V, §531, as added Pub. L. 94–482, title I, §153, formerly §153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, §1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, §1321(a), Nov. 1, 1978, 92 Stat. 2362; Pub. L. 96–49, §6(b), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §§501(b), 503(a), Oct. 3, 1980, 94 Stat. 1459, authorized appropriations for fiscal years 1981 to 1985 to carry out teacher training programs.

Another prior section 1119, Pub. L. 89–329, title V, §531, as added Pub. L. 90–35, §6, June 29, 1967, 81 Stat. 91; amended Pub. L. 90–247, title VII, §704(d), Jan. 2, 1968, 81 Stat. 820; Pub. L. 92–318, title I, §§147(a), 148(a), June 23, 1972, 86 Stat. 287, authorized training and retraining programs for education personnel other than higher education personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119a, Pub. L. 89–329, title V, §532, as added Pub. L. 94–482, title I, §153, formerly §153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, §1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, §1321(b), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374,

title V, § 503(b), (c), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1459, 1460, 1503, related to grants, functions, etc., of teacher centers, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 92–318, title IV, § 451(b), June 23, 1972, 86 Stat. 344, authorized teachers for Indian children as part of the training and retraining program, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 92; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

Section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 94–482, title I, § 153, Oct. 12, 1976, 90 Stat. 2155; amended Pub. L. 95–43, § 1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218; Pub. L. 96–374, title V, § 504, Oct. 3, 1980, 94 Stat. 1460; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357, related to grants for training higher education personnel.

Another prior section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 90–575, title II, § 239, Oct. 16, 1968, 82 Stat. 1040, required an equitable distribution with respect to geography for training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1461, authorized grants to State educational agencies to train teachers for handicapped children.

Another prior section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized grants or contracts with institutions of higher education for training programs and projects for higher education personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, related to applications for grants for training teachers for handicapped children.

Another prior section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized the payment of stipends to persons participating in authorized training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, provided for stipends and allowances for participants in program of training teachers for handicapped children.

Another prior section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(G), June 23, 1972, 86 Stat. 285.

Section 1119b–3, Pub. L. 89–329, title V, § 544, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, set out conditions for maintaining fellowships in training teachers for handicapped children.

Section 1119b–4, Pub. L. 89–329, title V, § 545, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, defined ''special education''.

Section 1119b–5, Pub. L. 89–329, title V, § 546, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, authorized appropriations for fiscal years 1981 to 1985 to carry out grant program for training teachers for handicapped children.

Section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1463, stated Congressional findings concerning Federal programs to train education professionals.

Another prior section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1091, set forth Congressional declaration of purpose, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional declaration of policy concerning Federal programs to support education professional development.

Another prior section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1092, related to leadership development awards, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–386, title I, § 103(b), Aug. 22, 1986, 100 Stat. 821, established Office of Education Professional Development.

Another prior section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1093, related to exchange programs, institutes, and in-service education for vocational education teachers, supervisors, coordinators, and administrators, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–3, Pub. L. 89–329, title V, § 554, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094, related to familiarizing teachers with new curricular methods, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–4, Pub. L. 89–329, title V, § 555, as added Pub. L. 94–482, title I, § 151(a)(4)(B), Oct. 12, 1976, 90 Stat. 2152, authorized appropriation for the fiscal years ending prior to Oct. 1, 1977, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

An identical section 555 of Pub. L. 89–329, as added Pub. L. 94–482, title II, § 201(q), Oct. 12, 1976, 90 Stat. 2169, was also classified to section 1119c–4, and was repealed by Pub. L. 94–482, title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2215.

Another prior section 1119c–4, Pub. L. 89–329, title V, § 555, as added by Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094; amended by Pub. L. 91–230, title VII, § 708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section 1119d, Pub. L. 89–329, title V, § 561, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, stated purpose and authorized appropriations for Carl D. Perkins Scholarship program.

Section 1119d–1, Pub. L. 89–329, title V, § 562, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for allocation among States of funds appropriated for Carl D. Perkins Scholarship program.

Section 1119d–2, Pub. L. 89–329, title V, § 563, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for form, content, and processing of applications for grants to States under Carl D. Perkins Scholarship program.

Section 1119d–3, Pub. L. 89–329, title V, § 564, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, related to amount and duration of Carl D. Perkins Scholarships and the relationship of Scholarships to other forms of assistance.

Section 1119d–4, Pub. L. 89–329, title V, § 565, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, provided for selection of Carl D. Perkins Scholars.

Section 1119d–5, Pub. L. 89–329, title V, § 566, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided conditions for continued receipt of Carl D. Perkins Scholarship assistance.

Section 1119d–6, Pub. L. 89–329, title V, § 567, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided for repayment of Carl D. Perkins Scholarship assistance in case of noncompliance with program agreement.

Section 1119d–7, Pub. L. 89–329, title V, § 568, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided exceptions to repayment requirements.

Section 1119d–8, Pub. L. 89–329, title V, § 569, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, related to Federal administration of State programs to make available Carl D. Perkins Scholarships and judicial review thereof.

Section 1119e, Pub. L. 89–329, title V, § 571, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, stated purpose of establishing national fellowship program for outstanding teachers.

Section 1119e–1, Pub. L. 89–329, title V, § 572, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, authorized appropriations for fiscal years 1986 to 1989 for fellowships to outstanding teachers.

Section 1119e–2, Pub. L. 89–329, title V, § 573, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for program of talented teacher fellowships.

Section 1119e–3, Pub. L. 89–329, title V, § 574, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for selection of recipients of talented teacher fellowships.

Section 1119e–4, Pub. L. 89–329, title V, § 575, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for submission and evaluation of applications for talented teacher fellowship assistance.

Section 1119e–5, Pub. L. 89–329, title V, § 576, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2900, provided for repayment of awards to Federal Government in case of fraud or gross noncompliance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103e of this title.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAMS

CODIFICATION

Title VI of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979; 93 Stat. 351. Title VI (except for part A) is shown herein, however, as having been added by Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464, without reference to those intervening amendments because of the extensive revision of the title's provisions by Pub. L. 96–374.

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

CODIFICATION

Part A of title VI of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–375, Dec. 21, 1982, 96 Stat. 1819; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Part A is shown herein, however, as having been added by Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1774, without reference to those intervening amendments because of the extensive revision of part A by Pub. L. 105–244.

§ 1121. Findings and purposes

(a) Findings

Congress finds as follows:

(1) The security, stability, and economic vitality of the United States in a complex global era depend upon American experts in and citizens knowledgeable about world regions, foreign languages, and international affairs, as well as upon a strong research base in these areas.

(2) Advances in communications technology and the growth of regional and global problems make knowledge of other countries and the ability to communicate in other languages more essential to the promotion of mutual understanding and cooperation among nations and their peoples.

(3) Dramatic post-Cold War changes in the world's geopolitical and economic landscapes are creating needs for American expertise and knowledge about a greater diversity of less commonly taught foreign languages and nations of the world.

(4) Systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

(A) producing graduates with international and foreign language expertise and knowledge; and

(B) research regarding such expertise and knowledge.

(5) Cooperative efforts among the Federal Government, institutions of higher education, and the private sector are necessary to promote the generation and dissemination of information about world regions, foreign languages, and international affairs throughout education, government, business, civic, and nonprofit sectors in the United States.

(b) Purposes

The purposes of this part are—

(1)(A) to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies;

(B) to develop a pool of international experts to meet national needs;

(C) to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing (but not limited to) the less commonly taught languages;

(D) to promote access to research and training overseas; and

(E) to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education;

(2) to support cooperative efforts promoting access to and the dissemination of international and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and

(3) to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

(Pub. L. 89–329, title VI, § 601, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1121, Pub. L. 89–329, title VI, § 601, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–498, title VI, § 601, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720, set out findings of Congress and purpose of this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1121, Pub. L. 89–329, title VI, § 601, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 89–752, § 3(b), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title II, §§ 241, 242(a), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 92–318, title I, § 151(a), June 23, 1972, 86 Stat. 288; Pub. L. 94–482, title I, § 156, Oct. 12, 1976, 90 Stat. 2155; Pub. L. 96–49, § 7, Aug. 13, 1979, 93 Stat. 353, set out the Congressional statement of purpose and the authorization of appropriations for the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part 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.

NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES

Pub. L. 99–498, title XIII, § 1302, Oct. 17, 1986, 100 Stat. 1580, as amended by Pub. L. 100–50, § 23(2), June 3, 1987, 101 Stat. 362, required Secretary of Education, in consultation with Director of United States Information Agency, Director of the Agency for International Development, Secretary of State, and Secretary of Defense, to conduct a study on establishment of a National Endowment for International Studies, such study to develop a program, a funding plan, and priorities for such an Endowment, with the Secretary to prepare and submit to Congress, not later than one year after Oct. 17, 1986, a report on the study, together with such recommendations, including recommendations for legislation, as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

§ 1122. Graduate and undergraduate language and area centers and programs

(a) National language and area centers and programs authorized

(1) Centers and programs

(A) In general

The Secretary is authorized—

(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive foreign language and area or international studies centers and programs; and

(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate foreign language and area or international studies centers and programs.

(B) National resources

The centers and programs referred to in paragraph (1) shall be national resources for—

(i) teaching of any modern foreign language;

(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

(iv) instruction and research on issues in world affairs that concern one or more countries.

(2) Authorized activities

Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

(A) teaching and research materials;

(B) curriculum planning and development;

(C) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) professional development of the center's faculty and staff;

(F) projects conducted in cooperation with other centers addressing themes of world regional, cross-regional, international, or global importance;

(G) summer institutes in the United States or abroad designed to provide language and area training in the center's field or topic; and

(H) support for faculty, staff, and student travel in foreign areas, regions, or countries, and for the development and support of educational programs abroad for students.

(3) Grants to maintain library collections

The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

(4) Outreach grants and summer institutes

The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, or other international fields, and professional schools and colleges.

(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

(C) Programs of linkage or outreach with departments or agencies of Federal and State governments.

(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(E) Summer institutes in foreign area, foreign language, and other international fields designed to carry out the programs of linkage and outreach described in subparagraphs (A), (B), (C), and (D).

(b) Graduate fellowships for foreign language and area or international studies

(1) In general

The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose

of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

(2) Eligible students

Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program, including predissertation level studies, preparation for dissertation research, dissertation research abroad, and dissertation writing.

(c) Special rule with respect to travel

No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(d) Allowances

Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(Pub. L. 89–329, title VI, § 602, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1775.)

PRIOR PROVISIONS

A prior section 1122, Pub. L. 89–329, title VI, § 602, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1465; amended Pub. L. 99–498, title VI, § 602, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 100–50, § 18, June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720; Pub. L. 103–208, § 2(j)(10), (11), Dec. 20, 1993, 107 Stat. 2481, authorized grants for graduate and undergraduate language and area centers and programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1122, Pub. L. 89–329, title VI, § 602, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372, related to the allotment to States of funds under the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1127, 1128 of this title.

§ 1123. Language resource centers

(a) Language resource centers authorized

The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

(b) Authorized activities

The activities carried out by the centers described in subsection (a) of this section—

(1) shall include effective dissemination efforts, whenever appropriate; and

(2) may include—

(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(E) a significant focus on the teaching and learning needs of the less commonly taught languages, including an assessment of the strategic needs of the United States, the determination of ways to meet those needs nationally, and the publication and dissemination of instructional materials in the less commonly taught languages;

(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

(G) the operation of intensive summer language institutes to train advanced foreign language students, to provide professional development, and to improve language instruction through preservice and inservice language training for teachers.

(c) Conditions for grants

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(Pub. L. 89–329, title VI, § 603, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1777.)

PRIOR PROVISIONS

A prior section 1123, Pub. L. 89–329, title VI, § 603, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 603, Oct. 17, 1986, 100 Stat. 1515; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722; Pub. L. 103–208, § 2(j)(12), Dec. 20, 1993, 107 Stat. 2481, authorized grants for language resource centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1123, Pub. L. 89–329, title VI, § 603, Nov. 8, 1965, 79 Stat. 1262, related to the State plans for carrying out the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1124. Undergraduate international studies and foreign language programs

(a) Incentives for creation of new programs and strengthening of existing programs in undergraduate international studies and foreign language programs

(1) Authority

The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and

institutions of higher education, to assist such institutions, combinations or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, combinations or partnerships seeking to create new programs or to strengthen existing programs in foreign languages, area studies, and other international fields.

(2) Use of funds

Grants made under this section may be used for Federal share of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including—

(i) the expansion of library and teaching resources; and

(ii) preservice and inservice teacher training;

(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(E) programs designed to develop or enhance linkages between 2- and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

(F) the development of undergraduate educational programs—

(i) in locations abroad where such opportunities are not otherwise available or that serve students for whom such opportunities are not otherwise available; and

(ii) that provide courses that are closely related to on-campus foreign language and international curricula;

(G) the integration of new and continuing education abroad opportunities for undergraduate students into curricula of specific degree programs;

(H) the development of model programs to enrich or enhance the effectiveness of educational programs abroad, including predeparture and postreturn programs, and the integration of educational programs abroad into the curriculum of the home institution;

(I) the development of programs designed to integrate professional and technical education with foreign languages, area studies, and other international fields;

(J) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational programs assisted under this subsection;

(K) the conduct of summer institutes in foreign area, foreign language, and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(L) the development of partnerships between—

(i) institutions of higher education; and

(ii) the private sector, government, or elementary and secondary education institutions,

in order to enhance international knowledge and skills; and

(M) the use of innovative technology to increase access to international education programs.

(3) Non-Federal share

The non-Federal share of the cost of the programs assisted under this subsection—

(A) may be provided in cash from the private sector corporations or foundations in an amount equal to one-third of the total cost of the programs assisted under this section; or

(B) may be provided as an in-cash or in-kind contribution from institutional and noninstitutional funds, including State and private sector corporation or foundation contributions, equal to one-half of the total cost of the programs assisted under this section.

(4) Special rule

The Secretary may waive or reduce the required non-Federal share for institutions that—

(A) are eligible to receive assistance under part A or B of subchapter III of this chapter or under subchapter V of this chapter; and

(B) have submitted a grant application under this section.

(5) Priority

In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, combinations or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

(6) Grant conditions

Grants under this subsection shall be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

(7) Application

Each application for assistance under this subsection shall include—

(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection; and

(D) an assurance that each institution, combination or partnership will use the Federal assistance provided under this subsection to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages.

(8) Evaluation

The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

(b) Programs of national significance

The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

(c) Funding support

The Secretary may use not more than 10 percent of the total amount appropriated for this part for carrying out the purposes of this section.

(Pub. L. 89–329, title VI, § 604, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1778.)

PRIOR PROVISIONS

A prior section 1124, Pub. L. 89–329, title VI, § 604, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 604, Oct. 17, 1986, 100 Stat. 1516; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722, authorized grants for undergraduate international studies and foreign language programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1124, Pub. L. 89–329, title VI, § 604, Nov. 8, 1965, 79 Stat. 1263; Pub. L. 89–752, § 14, Nov. 3, 1966, 80 Stat. 1244; Pub. L. 90–575, title II, § 242(b)–(d), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 94–482, title I, § 157, Oct. 12, 1976, 90 Stat. 2156, provided for grants to institutions of higher education for projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1124a, Pub. L. 89–329, title VI, § 605, as added Pub. L. 99–498, title VI, § 605(2), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725, authorized grants for intensive summer language institutes, prior to the general amendment of this part by Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1103d of this title.

§ 1125. Research; studies; annual report

(a) Authorized activities

The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this subchapter by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) evaluation of the extent to which programs assisted under this subchapter that address national needs would not otherwise be offered;

(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(5) research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

(7) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs;

(8) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools; and

(9) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

(b) Annual report

The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

(Pub. L. 89–329, title VI, § 605, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1780.)

PRIOR PROVISIONS

A prior section 1125, Pub. L. 89–329, title VI, § 606, formerly § 605, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 97–375, title II, § 204, Dec. 21, 1982, 96 Stat. 1823; Pub. L. 99–386, title I, § 103(c), Aug. 22, 1986, 100 Stat. 821; renumbered § 606 and amended Pub. L. 99–498, title VI, §§ 605(1), 606, Oct. 17, 1986, 100 Stat. 1517; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725, authorized research and studies and required annual report, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1125, Pub. L. 89–329, title VI, § 605, Nov. 8, 1965, 79 Stat. 1264; Pub. L. 90–575, title II, § 242(a), (e), Oct. 16, 1968, 82 Stat. 1041, related to the applications by institutions of higher education for grants under the program of equipment grants, prior to

the general amendment of this subchapter by Pub. L. 96–374.

A prior section 605 of Pub. L. 89–329 was classified to section 1124a of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1125a and 1125b were omitted in the general amendment of this part by Pub. L. 105–244.

Section 1125a, Pub. L. 89–329, title VI, § 607, as added Pub. L. 99–498, title VI, § 607, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 726; Pub. L. 103–208, § 2(j)(13), Dec. 20, 1993, 107 Stat. 2481, related to periodicals and other research materials published outside the United States.

Section 1125b, Pub. L. 89–329, title VI, § 608, as added Pub. L. 99–498, title VI, § 608, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727, related to selection of certain grant recipients.

§ 1126. Technological innovation and cooperation for foreign information access

(a) Authority

The Secretary is authorized to make grants to institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries, to develop innovative techniques or programs using new electronic technologies to collect, organize, preserve, and widely disseminate information on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

(b) Authorized activities

Grants under this section may be used—

(1) to facilitate access to or preserve foreign information resources in print or electronic forms;

(2) to develop new means of immediate, full-text document delivery for information and scholarship from abroad;

(3) to develop new means of shared electronic access to international data;

(4) to support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

(5) to develop methods for the wide dissemination of resources written in non-Roman language alphabets;

(6) to assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use; and

(7) to promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this subchapter.

(c) Application

Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(d) Match required

The Federal share of the total cost of carrying out a program supported by a grant under this section shall not be more than 66⅔ percent. The non-Federal share of such cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

(Pub. L. 89–329, title VI, § 606, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1781.)

PRIOR PROVISIONS

A prior section 1126, Pub. L. 89–329, title VI, § 609, formerly § 606, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 609, Pub. L. 99–498, title VI, § 605(1), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727, related to equitable distribution of grants, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1126, Pub. L. 89–329, title VI, § 606, Nov. 8, 1965, 79 Stat. 1265, related to reservation and payment of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 606 of Pub. L. 89–329 was classified to section 1125 of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1127. Selection of certain grant recipients

(a) Competitive grants

The Secretary shall award grants under section 1122 of this title competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

(b) Selection criteria

The Secretary shall set criteria for grants awarded under section 1122 of this title by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

(c) Equitable distribution of grants

The Secretary shall, to the extent practicable, award grants under this part (other than section 1122 of this title) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

(Pub. L. 89–329, title VI, § 607, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 1127, Pub. L. 89–329, title VI, § 610, formerly § 607, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 610 and amended Pub. L. 99–498, title VI, §§ 605(1), 609, Oct. 17, 1986, 100 Stat. 1517, 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728, authorized grants and contracts for American overseas research centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1127, Pub. L. 89–329, title VI, § 607, Nov. 8, 1965, 79 Stat. 1265, provided procedures to be followed in event of disapproval of a State plan under equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 607 of Pub. L. 89–329 was classified to section 1125a of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1128. Equitable distribution of certain funds

(a) Selection criteria

The Secretary shall make excellence the criterion for selection of grants awarded under section 1122 of this title.

(b) Equitable distribution

To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 1122 of this title) in such a manner as will achieve an equitable distribution of funds throughout the United States.

(c) Support for undergraduate education

The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

(Pub. L. 89–329, title VI, § 608, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 1128, Pub. L. 89–329, title VI, § 610A, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728, authorized appropriations for this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1128, Pub. L. 89–329, title VI, § 608, Nov. 8, 1965, 79 Stat. 1265, provided the process of judicial review in event of State dissatisfaction in equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 608 of Pub. L. 89–329 was classified to section 1125b of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1128a. American overseas research centers

(a) Centers authorized

The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a ''center'') to enable such center to promote postgraduate research, exchanges and area studies.

(b) Use of grants

Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

(1) the cost of faculty and staff stipends and salaries;

(2) the cost of faculty, staff, and student travel;

(3) the cost of the operation and maintenance of overseas facilities;

(4) the cost of teaching and research materials;

(5) the cost of acquisition, maintenance, and preservation of library collections;

(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

(7) the cost of organizing and managing conferences; and

(8) the cost of publication and dissemination of material for the scholarly and general public.

(c) Limitation

The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of title 26 which are exempt from taxation under section 501(a) of such title.

(d) Development grants

The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c) of this section.

(Pub. L. 89–329, title VI, § 609, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 609 of Pub. L. 89–329 was classified to section 1126 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 609 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship and was classified to section 1129 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1128b. Authorization of appropriations

There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VI, § 610, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 610 of Pub. L. 89–329 was classified to section 1127 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1129 and 1129a were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1129, Pub. L. 89–329, title VI, § 609, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship.

Section 1129a, Pub. L. 89–329, title VI, § 610, as added Pub. L. 90–575, title II, § 243, Oct. 16, 1968, 82 Stat. 1041, provided for consultation with the National Science Foundation in regard to the purchase of laboratory equipment.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

§ 1130. Findings and purposes

(a) Findings

The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United

States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) Purposes

It is the purpose of this part—

(1) to enhance the broad objective of this chapter by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(Pub. L. 89–329, title VI, § 611, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 99–498, title VI, § 610, Oct. 17, 1986, 100 Stat. 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728; Pub. L. 105–244, title VI, § 602(a), Oct. 7, 1998, 112 Stat. 1783.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline generally.

1992—Pub. L. 102–325 amended section generally, inserting subsec. headings and reenacting text without substantial change.

1986—Subsec. (a)(1). Pub. L. 99–498 inserted ''and educational'' after ''skills in the business''.

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 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.

§ 1130–1. Centers for international business education

(a) Program authorized

(1) In general

The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(2) Special rule

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) Authorized expenditures

Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) Authorized activities

(1) Mandatory activities

Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and degree candidates;

(C) programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of busi-

ness and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) Permissible activities

Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, foreign language studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs; and

(F) other eligible activities prescribed by the Secretary.

(d) Advisory council

(1) Establishment

In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) Membership on advisory council

The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate, such as a representative of a community college in the region served by the center.

(3) Meetings

In addition to the initial planning activities required under subsection (d)(1) of this section, the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) Grant duration; Federal share

(1) Duration of grants

The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) Federal share

The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) Non-Federal share

The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) Waiver of non-Federal share

In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with subsection (c)(2)(E) of this section, the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) Grant conditions

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1) of this section;

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1) of this section.

(Pub. L. 89–329, title VI, § 612, as added Pub. L. 100–418, title VI, § 6261(2), Aug. 23, 1988, 102 Stat. 1520; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 729; Pub. L. 105–244, title VI, § 602(b), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 612 of Pub. L. 89–329 was renumbered section 613 and is classified to section 1130a of this title.

AMENDMENTS

1998—Subsec. (c)(1)(B). Pub. L. 105–244, § 602(b)(1)(A)(i), struck out ''advanced'' after ''faculty and''.

Subsec. (c)(1)(C). Pub. L. 105–244, § 602(b)(1)(A)(ii), struck out ''evening or summer'' before ''programs, such''.

Subsec. (c)(2)(C). Pub. L. 105–244, § 602(b)(1)(B), inserted ''foreign language studies,'' after ''area studies,''.

Subsec. (d)(2)(G). Pub. L. 105–244, § 602(b)(2), inserted '', such as a representative of a community college in the region served by the center'' before the period.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions relating to grants for establishing and operating international business education centers in subsec. (a), costs to be covered by Federal funds in subsec. (b), scope of programs and activities in subsec. (c), center advisory council in subsec. (d), duration of grants and allotment of Federal and non-Federal shares in subsec. (e), and conditions for grants in subsec. (f).

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1130b of this title.

§ 1130a. Education and training programs

(a) Program authorized

The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Authorized activities

Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) Applications

No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic ac-

tivity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b) of this section.

(d) Federal share

The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

(Pub. L. 89–329, title VI, § 613, formerly § 612, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1468; amended Pub. L. 99–498, title VI, § 611, Oct. 17, 1986, 100 Stat. 1519; renumbered § 613 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6263, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 732.)

PRIOR PROVISIONS

A prior section 613 of Pub. L. 89–329 was renumbered section 614 and is classified to section 1130b of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, adding provisions relating to establishment of linkages overseas with institutions of higher education and organizations that contribute to educational objectives of this section and relating to summer institutes in international business, foreign area and other international studies designed to carry out purposes of this section.

1988—Subsecs. (a), (c), (d). Pub. L. 100–418 substituted ''section'' for ''part'' wherever appearing.

1986—Subsec. (b)(10). Pub. L. 99–498 added par. (10).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1130b of this title.

§ 1130b. Authorization of appropriations

(a) Centers for international business education

There are authorized to be appropriated $11,000,000 for the fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

(b) Education and training programs

There are authorized to be appropriated $7,000,000 for fiscal year 1999, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.

(Pub. L. 89–329, title VI, § 614, formerly § 613, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 99–498, title VI, § 612, Oct. 17, 1986, 100 Stat. 1519; renumbered § 614 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6262, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 101–600, § 7, Nov. 16, 1990, 104 Stat. 3046; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 733; Pub. L. 105–244, title VI, § 602(c), Oct. 7, 1998, 112 Stat. 1783.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''1999'' for ''1993'' in subsecs. (a) and (b).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) There are authorized to be appropriated $7,500,000 for the fiscal year 1988 and for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

''(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.''

1990—Subsec. (a). Pub. L. 101–600 substituted ''$7,500,000'' for ''$5,000,000'' and ''4 succeeding'' for ''3 succeeding''.

1988—Pub. L. 100–418, § 6262, amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

1986—Pub. L. 99–498 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.''

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 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.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

§ 1131. Minority foreign service professional development program

(a) Establishment

The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the ''Institute''). The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) "Eligible recipient" defined

(1) In general

For the purpose of this part, the term ''eligible recipient'' means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of subchapter III of this chapter.

(B) An institution of higher education which serves substantial numbers of African American or other underrepresented minority students.

(C) An institution of higher education with programs in training foreign service professionals.

(2) Host institution

Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) Application

Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) Duration

Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) Match required

The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-half the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VI, § 621, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734; amended Pub. L. 105–244, title VI, § 603(a), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 1131, Pub. L. 89–329, title VI, § 621, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 97–241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–498, title VI, § 613, Oct. 17, 1986, 100 Stat. 1519, related to advisory board on the conduct of programs under this subchapter, prior to repeal by Pub. L. 101–392, title VI, §§ 612, 702(a), Sept. 25, 1990, 104 Stat. 842, 843, effective July 1, 1991.

Another prior section 1131, Pub. L. 89–329, title VI, § 621, Nov. 8, 1965, 79 Stat. 1266, related to grants for operating faculty development program workshops and institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–244 substituted ''one-half'' for ''one-fourth''.

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

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.

§ 1131–1. Institutional development

(a) In general

The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges or Universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs programs.

(b) Application

No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

(c) Definitions

In this section—

(1) the term ''historically Black college and university'' has the meaning given the term in section 1061 of this title;

(2) the term ''Hispanic-serving institution'' has the meaning given the term in section 1101a of this title;

(3) the term ''Tribally Controlled College or University'' has the meaning given the term in section 1801 of title 25; and

(4) the term ''minority institution'' has the meaning given the term in section 1067k of this title.

(Pub. L. 89–329, title VI, § 622, as added Pub. L. 105–244, title VI, § 603(b)(2), Oct. 7, 1998, 112 Stat. 1784.)

PRIOR PROVISIONS

A prior section 622 of Pub. L. 89–329 was renumbered section 623 and is classified to section 1131a of this title.

Another prior section 622 of Pub. L. 89–329, title VI, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, § 614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325. For definitions, see section 1132 of this title.

Another prior section 622 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

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.

§ 1131a. Study abroad program

(a) Program authority

The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.], and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed

to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) "Eligible student" defined

For the purpose of this section, the term ''eligible student'' means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study, or completing the third year of study in the case of a summer abroad program, at an institution of higher education which nominates such student for participation in the study abroad program.

(c) Special rule

An institution of higher education desiring to send a student on the study abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the study abroad or internship programs;

(2) pay one-third the cost of each student it nominates for participation in the study abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

(Pub. L. 89–329, title VI, § 623, formerly § 622, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734; renumbered § 623 and amended Pub. L. 105–244, title VI, § 603(b)(1), (c), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1783, 1784, 1828.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 623 of Pub. L. 89–329 was renumbered section 624 and is classified to section 1131b of this title.

AMENDMENTS

1998—Pub. L. 105–244, § 603(c)(1), substituted ''Study'' for ''Junior year'' in section catchline.

Subsec. (a). Pub. L. 105–244, § 901(d), substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

Subsec. (b)(2). Pub. L. 105–244, § 603(c)(2), inserted '', or completing the third year of study in the case of a summer abroad program,'' after ''year of study'' and substituted ''study abroad'' for ''junior year abroad''.

Subsec. (c). Pub. L. 105–244, § 603(c)(3)(A), substituted ''study abroad'' for ''junior year abroad'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, § 603(c)(3)(B), substituted ''study abroad'' for ''junior year abroad''.

Subsec. (c)(2). Pub. L. 105–244, § 603(c)(3)(C), substituted ''one-third'' for ''one-half'' and ''study abroad'' for ''junior year abroad''.

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.

§ 1131b. Masters degree in international relations

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

(Pub. L. 89–329, title VI, § 624, formerly § 623, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735; renumbered § 624, Pub. L. 105–244, title VI, § 603(b)(1), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 624 of Pub. L. 89–329 was renumbered section 625 and is classified to section 1131c of this title.

§ 1131c. Internships

(a) In general

The Institute shall enter into agreements with historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.], other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government organizations or agencies, including the Agency for International Development, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(b) Postbaccalaureate internships

The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) of this section to conduct internships for students who have completed study for a baccalaureate degree. The internship program authorized by this subsection shall—

(1) assist the students to prepare for a master's degree program;

(2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars;

(3) contain work experience for the students designed to contribute to the students' preparation for a master's degree program; and

(4) be assisted by the Interagency Committee on Minority Careers in International Affairs established under subsection (c) of this section.

(c) Interagency Committee on Minority Careers in International Affairs

(1) Establishment

There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

(A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary's designee;

(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General's designee;

(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary's designee;

(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary's designee;

(E) the Director General of the Foreign Service of the Department of State, or the Director General's designee;

(F) the General Counsel of the Agency for International Development, or the General Counsel's designee; and

(G) the Associate Director for Educational and Cultural Affairs of the United States Information Agency, or the Associate Director's designee.

(2) Functions

The Interagency Committee established by this section shall—

(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.

(Pub. L. 89–329, title VI, § 625, formerly § 624, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735; renumbered § 625, and amended Pub. L. 105–244, title VI, § 603(b)(1), (d), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1783, 1784, 1828; Pub. L. 105–277, div. G, subdiv. A, title XIII, § 1335(j), Oct. 21, 1998, 112 Stat. 2681–788.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 625 of Pub. L. 89–329 was renumbered section 626 and is classified to section 1131d of this title.

AMENDMENTS

1998—Pub. L. 105–244, § 603(d), designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

Subsec. (a). Pub. L. 105–277, which directed the amendment of ''section 624 of Pub. L. 89–329 (20 U.S.C. 1131c)'' by striking ''the United States Information Agency,'' after ''Agency for International Development,'', was executed by making the amendment in subsec. (a) of this section, to reflect the probable intent of Congress and the intervening amendments by Pub. L. 105–244 which renumbered section 624 of Pub. L. 89–329 as section 625 and redesignated existing provisions as subsec. (a). See above.

Pub. L. 105–244, § 901(d), substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22.

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.

§ 1131d. Report

The Institute shall annually prepare a report on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

(Pub. L. 89–329, title VI, § 626, formerly § 625, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735; renumbered § 626, Pub. L. 105–244, title VI, § 603(b)(1), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 626 of Pub. L. 89–329 was renumbered section 627 and is classified to section 1131e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1131e of this title.

§ 1131e. Gifts and donations

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report described in section 1131d of this title.

(Pub. L. 89–329, title VI, § 627, formerly § 626, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736; renumbered § 627, and amended Pub. L. 105–244, title VI, § 603(b)(1), (f), Oct. 7, 1998, 112 Stat. 1783, 1785.)

PRIOR PROVISIONS

A prior section 627 of Pub. L. 89–329 was renumbered section 628 and is classified to section 1131f of this title.

AMENDMENTS

1998—Pub. L. 105–244, § 603(f), made technical amendment to reference in original act which appears in text as reference to section 1131d 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.

§ 1131f. Authorization of appropriations

There is authorized to be appropriated $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VI, § 628, formerly § 627, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736; renumbered § 628, and amended Pub. L. 105–244, title VI, § 603(b)(1), (g), Oct. 7, 1998, 112 Stat. 1783, 1786.)

AMENDMENTS

1998—Pub. L. 105–244, § 603(g), substituted ''1999'' for ''1993''.

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.

PART D—GENERAL PROVISIONS

§ 1132. Definitions

(a) Definitions

As used in this subchapter—

(1) the term ''area studies'' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term ''international business'' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(3) the term ''export education'' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(4) the term ''internationalization of curricula'' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(5) the term ''comprehensive language and area center'' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

(6) the term ''undergraduate language and area center'' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

(7) the term ''critical languages'' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this subchapter;

(8) the term ''institution of higher education'' means, in addition to institutions which meet the definition of section 1001 of this title, institutions which meet the requirements of section 1001 of this title except that (1) they are not located in the United States, and (2) they apply for assistance under this subchapter in consortia with institutions which meet the definition of section 1001 of this title; and

(9) the term ''educational programs abroad'' means programs of study, internships, or service learning outside the United States which are part of a foreign language or other international curriculum at the undergraduate or graduate education levels.

(b) Special conditions

All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(Pub. L. 89–329, title VI, § 631, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736; amended Pub. L. 105–244, title I, § 102(b)(8), title VI, § 604(a), Oct. 7, 1998, 112 Stat. 1622, 1786.)

REFERENCES IN TEXT

Section 212(d) of the Education for Economic Security Act, referred to in subsec. (a)(7), is section 212(d) of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1281, as

amended, which was classified to section 3972(d) of this title and was repealed by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

PRIOR PROVISIONS

A prior section 1132, Pub. L. 89–329, title VI, § 622, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, § 614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1132, Pub. L. 89–329, title VI, § 622, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1998—Subsec. (a)(8). Pub. L. 105–244, § 102(b)(8), substituted ''section 1001'' for ''section 1141(a)'' in two places and ''of section 1001'' for ''of 1141(a)''.

Subsec. (a)(9). Pub. L. 105–244, § 604(a), added par. (9).

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

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.

§ 1132–1. Repealed. Pub. L. 105–244, title VI, § 604(b), Oct. 7, 1998, 112 Stat. 1786

Section, Pub. L. 89–329, title VI, § 632, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 737, related to preservation of pre-1992 programs.

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.

SUBCHAPTER VII—GRADUATE AND POST-SECONDARY IMPROVEMENT PROGRAMS

CODIFICATION

Title VII of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VII, Nov. 8, 1965, 79 Stat. 1266; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 100–203, Dec. 22, 1987, 101 Stat. 1330; Pub. L. 100–369, July 18, 1988, 102 Stat. 835; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009. Title VII is shown herein, however, as having been added by Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1786, without reference to those intervening amendments because of the extensive revision of title VII by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1132a, Pub. L. 89–329, title VII, § 701, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1520; amended Pub. L. 100–50, § 19(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, § 701, July 23, 1992, 106 Stat. 737, authorized programs of assistance for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132a, Pub. L. 89–329, title VII, § 701, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1472, related to purpose of programs of financial assistance to institutions of higher education and to higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132a, Pub. L. 89–329, title VII, § 701, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §§ 161(a), 162(a)(3), (b), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, § 8(a), Aug. 13, 1979, 93 Stat. 353, authorized appropriations for a program of grants for the construction, reconstruction, and renovation of undergraduate facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132a–1, Pub. L. 89–329, title VII, § 702, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1521; amended Pub. L. 100–50, § 19(2), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, § 702, July 23, 1992, 106 Stat. 738, related to prior rights and obligations prior to the general amendment of this subchapter by Pub. L. 105–244. For similar provisions, see section 1011j of this title.

Another prior section 1132a–1, Pub. L. 89–329, title VII, § 702, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1472, authorized appropriations for fiscal years 1981 to 1985 to carry out programs for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132a–1 to 1132a–7 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132a–1, Pub. L. 89–329, title VII, § 702, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, § 162(a)(3), Oct. 12, 1976, 90 Stat. 2156, provided for allotments of funds to public community colleges and technical institutes.

Section 1132a–2, Pub. L. 89–329, title VII, § 703, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, § 162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to allotments to institutions of higher education other than public community colleges and public technical institutes.

Section 1132a–3, Pub. L. 89–329, title VII, § 704, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, § 162(a)(3), (c), Oct. 12, 1976, 90 Stat. 2156, 2157, set out the requirements of State plans.

Section 1132a–4, Pub. L. 89–329, title VII, § 705, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 291; amended Pub. L. 94–482, title I, § 162(a)(3), (4), (d), Oct. 12, 1976, 90 Stat. 2156, 2157, related to the eligibility of institutions for grants.

Section 1132a–5, Pub. L. 89–329, title VII, § 706, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, § 162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to the basic criteria to be applied to State plans.

Section 1132a–6, Pub. L. 89–329, title VII, § 707, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, § 162(a)(3), (5), Oct. 12, 1976, 90 Stat. 2156, 2157, related to applications for grants for construction, renovation, and reconstruction of undergraduate facilities.

Section 1132a–7, Pub. L. 89–329, title VII, § 708, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 293, related to the disapproval of State plans and to judicial review.

A prior section 1132b, Pub. L. 89–329, title VII, § 711, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 738, provided that former part A of this subchapter could be cited as the ''Higher Education Facilities Act of 1992'', prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b, Pub. L. 89–329, title VII, § 711, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1522, related to State plans for construction, reconstruction, and renovation of undergraduate academic facilities, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b, Pub. L. 89–329, title VII, § 711, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1473, required submission of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b, Pub. L. 89–329, title VII, § 721, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 294; amended Pub. L. 94–482, title I, §§ 161(b), 162(e), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, § 8(b), Aug. 13, 1979, 93 Stat. 353, set out Congressional declaration of purpose, grant of authority, and authorization of appropriations for the program of grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–1, Pub. L. 89–329, title VII, § 712, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 738, stated findings of Congress, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–1, Pub. L. 89–329, title VII, § 712, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1522, related to basic criteria for consideration of State plans, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–1, Pub. L. 89–329, title VII, § 712, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1473, related to basic criteria for consideration of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b–1, Pub. L. 89–329, title VII, § 722, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 294, related to authority to make grants to eligible institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–2, Pub. L. 89–329, title VII, § 713, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 738, related to distribution of assistance, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–2, Pub. L. 89–329, title VII, § 713, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1522, related to allotment of funds, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–2, Pub. L. 89–329, title VII, § 713, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1473, related to allotment of appropriations among States, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132b–3 to 1132b–5 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132b–3, Pub. L. 89–329, title VII, § 714, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, § 2(j)(14), Dec. 20, 1993, 107 Stat. 2481, related to use of funds.

Section 1132b–4, Pub. L. 89–329, title VII, § 715, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, § 2(j)(15), Dec. 20, 1993, 107 Stat. 2481, related to applications for allotments and grants.

Section 1132b–5, Pub. L. 89–329, title VII, § 716, as added Pub. L. 102–325, title VII, § 703, July 23, 1992, 106 Stat. 741, authorized appropriations for former part A of this subchapter.

A prior section 1132c, Pub. L. 89–329, title VII, § 721, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 741, which stated findings of Congress, was renumbered section 341 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066 of this title.

Another prior section 1132c, Pub. L. 89–329, title VII, § 721, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1524, related to grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of part B of this subchapter by Pub. L. 102–325.

Another prior section 1132c, Pub. L. 89–329, title VII, § 721, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, authorized grants to graduate institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132c, Pub. L. 89–329, title VII, § 741, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §§ 161(c), 162(a)(3), Oct. 12, 1976, 90 Stat. 2156; Pub. L. 96–49, § 8(c)(1), Aug. 13, 1979, 93 Stat. 353, set out grant of authority and authorization of appropriations for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–1, Pub. L. 89–329, title VII, § 722, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 742, which defined terms, was renumbered section 342 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066a of this title.

Another prior section 1132c–1, Pub. L. 89–329, title VII, § 742, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, § 162(a)(3), (6), Oct. 12, 1976, 90 Stat. 2156, 2157, related to eligibility, conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–2, Pub. L. 89–329, title VII, § 723, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 743, and amended, which related to Federal insurance for bonds, was renumbered section 343 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066b of this title.

Another prior section 1132c–2, Pub. L. 89–329, title VII, § 743, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 296; amended Pub. L. 94–482, title I, § 162(f), Oct. 12, 1976, 90 Stat. 2157, contained general provisions covering programs of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–3, Pub. L. 89–329, title VII, § 724, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745, which related to limitations on Federal insurance for bonds issued by designated bonding authority, was renumbered section 344 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066c of this title.

Another prior section 1132c–3, Pub. L. 89–329, title VII, § 744, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 296, provided for creation of Revolving Loan Fund and Insurance Fund, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–4, Pub. L. 89–329, title VII, § 725, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745, and amended, which related to authority of Secretary, was renumbered section 345 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066d of this title.

Another prior section 1132c–4, Pub. L. 89–329, title VII, § 745, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 297; amended Pub. L. 94–482, title I, §§ 161(d), 162(a)(3), (g), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, § 1(b)(6), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, § 8(c)(2), Aug. 13, 1979, 93 Stat. 353, related to annual interest grants, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–5, Pub. L. 89–329, title VII, § 726, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 746, and amended, which restricted receipt of grants under former part A of this subchapter, was renumbered section 346 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, transferred to section 1066e of this title, and subsequently repealed.

Another prior section 1132c–5, Pub. L. 89–329, title VII, § 746, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 298; amended Pub. L. 94–482, title I, § 162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to aca-

demic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–6, Pub. L. 89–329, title VII, § 727, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 746, which related to HBCU Capital Financing Advisory Board, was renumbered section 347 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066f of this title.

A prior section 1132c–7, Pub. L. 89–329, title VII, § 728, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 747, which related to minority business enterprise utilization, was renumbered section 348 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066g of this title.

A prior section 1132d, Pub. L. 89–329, title VII, § 731, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 747; amended Pub. L. 103–208, § 2(j)(18), (19), Dec. 20, 1993, 107 Stat. 2481, related to Federal assistance in form of loans, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d, Pub. L. 89–329, title VII, § 731, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1525; amended Pub. L. 100–50, § 19(3), June 3, 1987, 101 Stat. 360, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d, Pub. L. 89–329, title VII, § 731, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d, Pub. L. 89–329, title VII, § 761, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299, authorized appropriations for the program of assistance to major disaster areas, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–1, Pub. L. 89–329, title VII, § 732, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 748, contained general provisions relating to functions, powers, and duties of the Secretary under former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–1, Pub. L. 89–329, title VII, § 732, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1526; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837, set out general provisions for loan program, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–1, Pub. L. 89–329, title VII, § 732, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1475, set out general provisions for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–1, Pub. L. 89–329, title VII, § 762, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 299; amended Pub. L. 94–482, title I, §§ 161(e), 162(h), Oct. 12, 1979, 90 Stat. 2156, 2157, provided for disaster assistance for replacement or restoration of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–2, Pub. L. 89–329, title VII, § 733, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 750, related to apportionment of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–2, Pub. L. 89–329, title VII, § 733, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1527; amended Pub. L. 100–50, § 19(4), June 3, 1987, 101 Stat. 360, related to revolving loan fund, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–2, Pub. L. 89–329, title VII, § 733, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1476, related to revolving loan and insurance fund, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–2, Pub. L. 89–329, title VII, § 763, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to grants for the purchase of equipment and supplies, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–3, Pub. L. 89–329, title VII, § 734, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 751; amended Pub. L. 103–208, § 2(j)(20), Dec. 20, 1993, 107 Stat. 2481, defined terms, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–3, Pub. L. 89–329, title VII, § 734, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1477, related to annual interest grants to assist institutions of higher education and higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–3, Pub. L. 89–329, title VII, § 764, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to repayable assistance in lieu of a grant, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–4, Pub. L. 89–329, title VII, § 735, as added Pub. L. 102–325, title VII, § 705, July 23, 1992, 106 Stat. 753, authorized appropriations for former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–4, Pub. L. 89–329, title VII, § 735, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1477, related to academic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–4, Pub. L. 89–329, title VII, § 765, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, related to applications for assistance to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132d–5 and 1132d–11 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132d–5, Pub. L. 89–329, title VII, § 766, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300, defined ''major disaster'' and ''public institution of higher education''.

Section 1132d–11, Pub. L. 89–329, title VII, § 771, as added Pub. L. 94–482, title I, § 162(i), Oct. 12, 1976, 90 Stat. 2157; amended Pub. L. 95–43, § 1(a)(43), June 15, 1977, 91 Stat. 217, provided for a program of grants or loans for reconstruction or renovation of academic facilities.

A prior section 1132e, Pub. L. 89–329, title VII, § 741, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1528, provided for annual interest grants to assist institutions of higher education in reducing the cost of borrowing money, prior to repeal by Pub. L. 102–325, § 2, title VII, § 706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Another prior section 1132e, Pub. L. 89–329, title VII, § 741, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1478, related to recovery of payments of grants and use of projects, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e, Pub. L. 89–329, title VII, § 781, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 300; amended Pub. L. 94–482, title I, § 162(a)(3), (4), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, § 1(a)(44), June 15, 1977, 91 Stat. 218, related to the recovery of payments, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132e–1, Pub. L. 89–329, title VII, § 742, as added Pub. L. 96–374, title VII, § 701, Oct. 3, 1980, 94 Stat. 1479, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e–1, Pub. L. 89–329, title VII, § 782, as added Pub. L. 92–318, title I, § 161(a), June 23, 1972, 86 Stat. 301; amended Pub. L. 94–482, title I,

§ 162(a)(3), (4), (j), Oct. 12, 1976, 90 Stat. 2156–2158, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132f to 1132f–9 were repealed by Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.

Section 1132f, Pub. L. 89–329, title VII, § 751, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1528, related to congressional declaration of purpose of this part to authorize participation of United States Government and Student Loan Marketing Association in private, for profit corporation known as College Construction Loan Insurance Association, and defined ''education facilities purpose''.

Section 1132f–1, Pub. L. 89–329, title VII, § 752, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1529; amended Pub. L. 102–325, title VII, § 707(b), July 23, 1992, 106 Stat. 753, related to criteria used by Corporation for providing guarantees and insurance on obligations issued for education facilities purposes.

Section 1132f–2, Pub. L. 89–329, title VII, § 753, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1530, related to process of organizing Corporation.

Section 1132f–3, Pub. L. 89–329, title VII, § 754, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1531, related to operation and election of Corporation's Board of Directors.

Section 1132f–4, Pub. L. 89–329, title VII, § 755, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1531, related to initial capitalization of Corporation.

Section 1132f–5, Pub. L. 89–329, title VII, § 756, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, related to issuance of nonvoting stock and debt to public.

Section 1132f–6, Pub. L. 89–329, title VII, § 757, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, provided that no obligation which is insured, guaranteed, or otherwise backed by Corporation be deemed to be guaranteed by full faith and credit of United States or guaranteed by Student Loan Marketing Association, with provision that this section not affect determination of whether such obligation is guaranteed for purposes of Federal income taxes.

Section 1132f–7, Pub. L. 89–329, title VII, § 758, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1532, related to authority of Secretary to sell common stock of Corporation and Student Loan Marketing Association's right of first refusal.

Section 1132f–8, Pub. L. 89–329, title VII, § 759, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1533, related to use of stock sale proceeds.

Section 1132f–9, Pub. L. 89–329, title VII, § 760, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1533, provided for audits and reports to President and Congress.

A prior section 1132f–10, Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290, which related to Connie Lee privatization, was transferred to section 1155 of this title.

Prior sections 1132g to 1132g–3 and 1132h to 1132h–6 were repealed by Pub. L. 102–325, § 2, title VII, § 706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Section 1132g, Pub. L. 89–329, title VII, § 761, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1533, related to Federal assistance to undergraduate postsecondary educational institutions in form of loans.

Section 1132g–1, Pub. L. 89–329, title VII, § 762, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1535; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837, set out general provisions applicable to loans, including budget and accounting, use of funds, legal powers of Secretary in loan program, and limitations.

Section 1132g–2, Pub. L. 89–329, title VII, § 763, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1537, directed that not more than 12.5 percent of loan funds be made available in any one State and set priorities as to types of projects to be approved.

Section 1132g–3, Pub. L. 89–329, title VII, § 764, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1537; amended Pub. L. 100–50, § 19(5), June 3, 1987, 101 Stat. 360, defined terms used in sections 1132g to 1132g–3 of this title.

Section 1132h, Pub. L. 89–329, title VII, § 771, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for renovation and restoration of Welch Hall.

Section 1132h–1, Pub. L. 89–329, title VII, § 772, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Rochester Institute of Technology in Rochester, New York, for Federal share of construction and related costs of Academic Health Education Center facility.

Section 1132h–2, Pub. L. 89–329, title VII, § 773, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1540, provided financial assistance to Shaw University of Raleigh, North Carolina, for renovation and restoration of Estey Hall.

Section 1132h–3, Pub. L. 89–329, title VII, § 774, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1540, provided for an electronic instructional network for gifted and talented students.

Section 1132h–4, Pub. L. 89–329, title VII, § 775, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance to Bethune-Cookman College in Volusia County, Florida, for establishment of Mary McLeod Bethune Memorial Fine Arts Center.

Section 1132h–5, Pub. L. 89–329, title VII, § 776, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for University of Connecticut Behavioral Science Facility at Storrs, Connecticut.

Section 1132h–6, Pub. L. 89–329, title VII, § 777, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for the establishment of a business administration program at University of Rhode Island in Kingston, Rhode Island.

Prior sections 1132i to 1132i–2 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132i, Pub. L. 89–329, title VII, § 781, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 102–325, title VII, § 708(b), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, § 2(j)(21), Dec. 20, 1993, 107 Stat. 2481, related to recovery of payments upon cessation of public benefit. See section 1011k of this title.

Section 1132i–1, (Pub. L. 89–329, title VII, § 782, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 100–50, § 19(6), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, § 708(c), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, § 2(j)(22), Dec. 20, 1993, 107 Stat. 2481, defined terms used in this subchapter.

Section 1132i–2, Pub. L. 89–329, title VII, § 783, as added Pub. L. 99–498, title VII, § 701, Oct. 17, 1986, 100 Stat. 1545; amended Pub. L. 100–203, title III, § 3101, Dec. 22, 1987, 101 Stat. 1330–39; Pub. L. 102–325, title VII, § 708(d), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, § 2(j)(23), Dec. 20, 1993, 107 Stat. 2481, related to forgiveness of certain loans.

A prior section 1132j, Pub. L. 89–329, title VII, § 795, as added Pub. L. 100–418, title VI, § 6211, Aug. 23, 1988, 102 Stat. 1517, provided for a program of agricultural, strategic metals, minerals, forestry, and oceans college and university research facilities and instrumentation modernization, prior to repeal by Pub. L. 102–325, § 2, title VII, § 706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

§ 1133. Purpose

It is the purpose of this subchapter—

(1) to authorize national graduate fellowship programs—

(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into

high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

(B) that are designed to—

(i) sustain and enhance the capacity for graduate education in areas of national need; and

(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

(2) to promote postsecondary programs.

(Pub. L. 89–329, title VII, § 700, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1786.)

PRIOR PROVISIONS

Prior sections 1133 to 1133c, which comprised a prior subchapter VIII of this chapter, were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755, stated purpose of former subchapter VIII of this chapter and defined ''cooperative education''.

Another prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2144; amended Pub. L. 96–374, title VIII, § 801(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1481, 1482, 1503, authorized appropriations for fiscal years 1976 to 1985 for grants and contracts for cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 92–318, title I, § 172(a), June 23, 1972, 86 Stat. 304, authorized projects and grants for sharing educational and related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755; Pub. L. 103–208, § 2(j)(24), Dec. 20, 1993, 107 Stat. 2482, authorized appropriations for former subchapter VIII of this chapter.

Another prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2145; amended Pub. L. 96–374, title VIII, § 801(c), (d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, authorized grants for programs of cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043; amended Pub. L. 92–318, title I, § 171, June 23, 1972, 86 Stat. 304, authorized appropriations for projects and grants for sharing educational and related resources, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1548; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 756; Pub. L. 103–208, § 2(j)(25), (26), Dec. 20, 1993, 107 Stat. 2482, authorized grants for cooperative education.

Another prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2146; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized grants and contracts for training and research related to cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043, authorized free or reduced rates for sharing educational or related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133c, Pub. L. 89–329, title VIII, § 804, as added Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 759, authorized grants and contracts for demonstration and innovation projects, training and resource centers, and research.

CONTINUATION OF CHAPTER 21 PROGRAMS

Pub. L. 92–318, title I, § 161(b)(1), June 23, 1972, 86 Stat. 303, provided that: ''The programs authorized by title VII of the Higher Education Act of 1965 [this subchapter] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [former section 701 et seq. of this title].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1137 of this title.

PART A—GRADUATE EDUCATION PROGRAMS

SUBPART 1—JACOB K. JAVITS FELLOWSHIP PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1137 of this title.

§ 1134. Award of Jacob K. Javits fellowships

(a) Authority and timing of awards

The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement, financial need, and exceptional promise. The fellowships shall be awarded to students who are eligible to receive any grant, loan, or work assistance pursuant to section 1091 of this title and intend to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is the terminal highest degree awarded in the area of study. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year following the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) Designation of fellows

Students receiving awards under this subpart shall be known as ''Jacob K. Javits Fellows''.

(c) Interruptions of study

The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

(d) Process and timing of competition

The Secretary shall make applications for fellowships under this part available not later than

October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

(e) Authority to contract

The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.

(Pub. L. 89–329, title VII, §701, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134h of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1549; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 760; Pub. L. 103–208, §2(j)(27), Dec. 20, 1993, 107 Stat. 2482, stated purpose of former subchapter IX of this chapter and contained administrative provisions, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304; amended Pub. L. 94–482, title I, §171(a)(1), (2), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–49, §9(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title IX, §901(a), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, set forth Congressional declaration of purpose and authorized appropriations for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134, Pub. L. 89–329, title IX, §901, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1043, set forth Congressional declaration of purpose respecting education for the public service, prior to repeal by Pub. L. 92–318.

A prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§1134a. Allocation of fellowships

(a) Fellowship Board

(1) Appointment

The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this subpart referred to as the ''Board'') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences.

(2) Duties

The Board shall—

(A) establish general policies for the program established by this subpart and oversee the program's operation;

(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this subpart, by such nongovernmental entity;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) Consultations

In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) Term

The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) Initial meeting; vacancy

The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of the appointment of the Chairperson and Vice Chairperson. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) Quorum; additional meetings

(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out the Board's responsibilities.

(7) Compensation

Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel time, and while so serving away from their homes or regular places of

business, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(b) Use of selection panels

The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) Fellowship portability

Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(Pub. L. 89–329, title VII, § 702, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1787.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a)(7), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134i of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134a, Pub. L. 89–329, title IX, § 911, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761, authorized grants to encourage women and minority participation in graduate education, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to submission and contents of applications, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(3), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to applications for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134a, Pub. L. 89–329, title IX, § 903, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, related to project grants and contracts to strengthen and improve education for the public service, prior to repeal by Pub. L. 92–318.

A prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1134b. Stipends

(a) Award by Secretary

The Secretary shall pay to individuals awarded fellowships under this subpart such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need determined in accordance with part E of subchapter IV of this chapter.

(b) Institutional payments

(1) In general

(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 under section 1134j(b) of this title (as such section was in effect on the day before October 7, 1998) adjusted for 1999–2000 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) Special rules

(A) Beginning March 1, 1992, any applicant for a fellowship under this subpart who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

(Pub. L. 89–329, title VII, § 703, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1789.)

REFERENCES IN TEXT

Section 1134j of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134j of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134b, Pub. L. 89–329, title IX, § 912, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106

Stat. 761, related to submission and contents of application for assistance, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to use of award funds, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(4), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–374, title IX, § 901(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, related to the uses of funds appropriated to make grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134b, Pub. L. 89–329, title IX, § 904, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, related to application for grants or contracts to strengthen and improve education for the public service, providing in subsec. (a) for requisites of application, subsec. (b) for allocation of grants and contracts, and subsec. (c) for payment of compensation of students employed in public service and participation of Federal agencies and departments, prior to repeal by Pub. L. 92–318.

A prior section 703 of Pub. L. 89–329 was classified to section 1132a–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1134c, 1137 of this title.

§ 1134c. Fellowship conditions

(a) Requirements for receipt

An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 1134b of this title only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) Reports from recipients

The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(Pub. L. 89–329, title VII, § 704, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1789.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134c, Pub. L. 89–329, title IX, § 913, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, related to use of funds by grant recipients, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134c, Pub. L. 89–329, title IX, § 904, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized studies and research activities on the need for, and improvement of, graduate programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134c, Pub. L. 89–329, title IX, § 911, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, provided for authorization to award public service fellowships, prior to repeal by Pub. L. 92–318.

A prior section 704 of Pub. L. 89–329 was classified to section 1132a–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134c–1 and 1134c–2 were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134c–1, Pub. L. 89–329, title IX, § 914, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, related to information collection.

Section 1134c–2, Pub. L. 89–329, title IX, § 915, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, authorized appropriations for part A of former subchapter IX of this chapter.

§ 1134d. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, § 705, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1790.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, stated purpose of the Patricia Roberts Harris Fellowship program and provided that a recipient of an award under that program be known as a ''Patricia Roberts Harris Graduate Fellow'', prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, set forth Congressional statement of purpose, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, authorized appropriations for carrying out the program of fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134d, Pub. L. 89–329, title IX, § 912, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for allocation of public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

A prior section 705 of Pub. L. 89–329 was classified to section 1132a–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134e to 1134w were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23,

1992, 106 Stat. 763; Pub. L. 103–208, § 2(j)(28), Dec. 20, 1993, 107 Stat. 2482, authorized Patricia Roberts Harris Fellowship program.

Another prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, authorized program of grants to assist graduate and professional study, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–49, § 9(b), Aug. 13, 1979, 93 Stat. 353, related to the authorization, duration, and extension of the period of fellowships, the awarding of vacated fellowships, and the question of the interruption of studies of fellowship recipients, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134e, Pub. L. 89–329, title IX, § 913, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for approval of programs, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 764; Pub. L. 103–208, § 2(j)(29)–(31), Dec. 20, 1993, 107 Stat. 2482, 2483, related to award of fellowships.

Another prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, related to award of fellowships to graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, related to the award of fellowships and the approval of graduate programs, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134f, Pub. L. 89–329, title IX, § 914, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for stipends for public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; amended Pub. L. 103–208, § 2(j)(32), Dec. 20, 1993, 107 Stat. 2483, authorized appropriations for Patricia Roberts Harris Fellowship program.

Another prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, authorized appropriations for fiscal years 1981 to 1985 for grant program to assist graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2161, related to fellowship stipends, additional allowances to institutions of higher education, and deductions, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134g, Pub. L. 89–329, title IX, § 915, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for public service fellowship conditions, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134h, Pub. L. 89–329, title IX, § 931, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 100–50, § 20(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; Pub. L. 103–208, § 2(j)(33), Dec. 20, 1993, 107 Stat. 2483, authorized award of Jacob K. Javits fellowships and provided that award recipients be known as ''Jacob K. Javits Fellows''. See section 1134 of this title.

Another prior section 1134h, Pub. L. 89–329, title IX, § 931, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1484; amended Pub. L. 99–159, title VIII, § 802, Nov. 22, 1985, 99 Stat. 908, authorized award of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134h, Pub. L. 89–329, title IX, § 925, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2162, set out conditions attached to fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134h, Pub. L. 89–329, title IX, § 921, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, defined ''State'', ''institution of higher education'', ''public service'' and ''academic year'', prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134i, Pub. L. 89–329, title IX, § 932, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1553; amended Pub. L. 100–50, § 20(2), (3), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 766; Pub. L. 103–208, § 2(j)(34), (35), Dec. 20, 1993, 107 Stat. 2483, related to Jacob K. Javits Fellows Program Fellowship Board and to allocation of fellowships. See section 1134a of this title.

Another prior section 1134i, Pub. L. 89–329, title IX, § 932, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1485, related to allocation of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134i, Pub. L. 89–329, title IX, § 941, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(1), Oct. 12, 1976, 90 Stat. 2162; Pub. L. 96–49, § 9(c), Aug. 13, 1979, 93 Stat. 353, related to award of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134i, Pub. L. 89–329, title IX, § 922, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, related to coordination of Federal assistance respecting education for the public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134j, Pub. L. 89–329, title IX, § 933, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 100–50, § 20(4), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767; Pub. L. 103–208, § 2(j)(36), Dec. 20, 1993, 107 Stat. 2483, related to payment of stipends to award recipients. See section 1134b of this title.

Another prior section 1134j, Pub. L. 89–329, title IX, § 933, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1486, related to stipends paid to individuals awarded fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134j, Pub. L. 89–329, title IX, § 942, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(2), Oct. 12, 1976, 90 Stat. 2163, related to the allocation of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134j, Pub. L. 89–329, title IX, § 923, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046; amended Pub. L. 92–318, title I, § 131(d)(2)(E), June 23, 1972, 86 Stat. 260, prohibited any grant, contract, or fellowship for study at schools or departments of divinity, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134k, Pub. L. 89–329, title IX, § 934, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767, related to fellowship conditions. See section 1134c of this title.

Another prior section 1134k, Pub. L. 89–329, title IX, § 934, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980,

94 Stat. 1486, related to conditions on continuance of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134k, Pub. L. 89–329, title IX, § 943, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(3), Oct. 12, 1976, 90 Stat. 2163, related to requisite approval of programs of graduate or professional study, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134k, Pub. L. 89–329, title IX, § 924, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, provided for annual report of the Secretary to Congress of activities relating to education for public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134k–1, Pub. L. 89–329, title IX, § 935, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768, authorized appropriations for Jacob K. Javits Fellowship program. See section 1134d of this title.

Section 1134*l*, Pub. L. 89–329, title IX, § 941, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768; Pub. L. 103–208, § 2(j)(37), Dec. 20, 1993, 107 Stat. 2484, stated purpose of graduate assistance in areas of national need grant program.

Another prior section 1134*l*, Pub. L. 89–329, title IX, § 941, as added Pub. L. 96–374, title IX, § 904, Oct. 3, 1980, 94 Stat. 1486, authorized assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134*l*, Pub. L. 89–329, title IX, § 944, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, § 171(c)(4), Oct. 12, 1976, 90 Stat. 2163, related to payments to persons awarded public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134*l*, Pub. L. 89–329, title IX, § 925, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, authorized appropriations for education for the public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134m, Pub. L. 89–329, title IX, § 942, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 768, authorized grants to academic departments and programs to provide assistance to graduate students. See section 1135 of this title.

Another prior section 1134m, Pub. L. 89–329, title IX, § 942, as added Pub. L. 96–374, title IX, § 904, Oct. 3, 1980, 94 Stat. 1487, authorized appropriations for fiscal years 1981 to 1985 for program of assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134m, Pub. L. 89–329, title IX, § 945, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309, related to conditions attached to public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134n, Pub. L. 89–329, title IX, § 943, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 769; Pub. L. 103–208, § 2(j)(38), Dec. 20, 1993, 107 Stat. 2484, related to institutional eligibility for grants. See section 1135a of this title.

Another prior section 1134n, Pub. L. 89–329, title IX, § 951, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1487, authorized assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134n, Pub. L. 89–329, title IX, § 961, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, § 171(d)(1)–(3), Oct. 12, 1976, 90 Stat. 2163; Pub. L. 96–49, § 9(d), Aug. 13, 1979, 93 Stat. 353, provided for a program of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134*o*, Pub. L. 89–329, title IX, § 944, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 770, related to criteria for applications for grants. See section 1135b of this title.

Another prior section 1134*o*, Pub. L. 89–329, title IX, § 952, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, related to applications for assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134*o*, Pub. L. 89–329, title IX, § 962, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310, related to the award of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134p, Pub. L. 89–329, title IX, § 945, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1557; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 770; Pub. L. 103–208, § 2(j)(39), Dec. 20, 1993, 107 Stat. 2484, related to awards to graduate students. See section 1135c of this title.

Another prior section 1134p, Pub. L. 89–329, title IX, § 953, as added Pub. L. 96–374, title IX, § 905, Oct. 3, 1980, 94 Stat. 1488, authorized appropriations for fiscal years 1981 to 1985 for providing assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134p, Pub. L. 89–329, title IX, § 963, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 310; amended Pub. L. 94–482, title I, § 171(d)(4), Oct. 12, 1976, 90 Stat. 2163, related to the amount of payments to persons awarded fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134q, Pub. L. 89–329, title IX, § 946, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 771; Pub. L. 103–208, § 2(j)(40), Dec. 20, 1993, 107 Stat. 2484, related to additional assistance for cost of education. See section 1135d of this title.

Another prior section 1134q, Pub. L. 89–329, title IX, § 964, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311, related to fellowship conditions in program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134q–1, Pub. L. 89–329, title IX, § 947, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 771, authorized appropriations for graduate assistance in areas of national need grant program.

Section 1134r, Pub. L. 89–329, title IX, § 951, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 772; Pub. L. 103–208, § 2(j)(41), Dec. 20, 1993, 107 Stat. 2484, authorized grants for faculty development fellowship awards and provided that fellowship recipients be known as ''Faculty Development Fellows''.

Another prior section 1134r, Pub. L. 89–329, title IX, § 965, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 311, authorized appropriations for program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–1, Pub. L. 89–329, title IX, § 952, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 773, related to amount of fellowships.

Another prior section 1134r–1, Pub. L. 89–329, title IX, § 966, as added Pub. L. 93–380, title VIII, § 836(a), Aug. 21, 1974, 88 Stat. 605; amended Pub. L. 94–482, title I, § 171(d)(5), Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, § 9(e), Aug. 13, 1979, 93 Stat. 353, related to a program of assistance for training in legal profession, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–2, Pub. L. 89–329, title IX, § 953, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 773, related to applications required for grants.

Another prior section 1134r–2, Pub. L. 89–329, title IX, § 971, as added Pub. L. 94–482, title I, § 171(e), Oct. 12,

1976, 90 Stat. 2164, related to an annual report on graduate and assistance program, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980, and also by Pub. L. 96–470, title I, § 106(b), Oct. 19, 1980, 94 Stat. 2238.

Section 1134r–3, Pub. L. 89–329, title IX, § 954, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774, related to fellowship agreements.

Section 1134r–4, Pub. L. 89–329, title IX, § 955, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774, related to fellowship repayment provisions.

Section 1134r–5, Pub. L. 89–329, title IX, § 956, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 774, related to exceptions to repayment provisions.

Section 1134r–6, Pub. L. 89–329, title IX, § 957, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775, authorized appropriations for faculty development fellowship program.

Section 1134s, Pub. L. 89–329, title IX, § 961, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775, authorized program for assistance for training in legal profession.

Another prior section 1134s, Pub. L. 89–329, title IX, § 981, as added Pub. L. 92–318, title X, § 1001(b), June 23, 1972, 86 Stat. 380, related to a program of general assistance to graduate schools, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980. Subsequent to repeal, subsec. (f) of that section was repealed by Pub. L. 96–470, title I, § 106(c), Oct. 19, 1980, 94 Stat. 2238.

Section 1134t, Pub. L. 89–329, title IX, § 962, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1559; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776, authorized appropriations for program for assistance for training in legal profession.

Section 1134u, Pub. L. 89–329, title IX, § 971, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1560; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776, authorized grants and contracts for programs to provide law school clinical experience programs.

Section 1134v, Pub. L. 89–329, title IX, § 972, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777, related to applications for grants or contracts.

Section 1134w, Pub. L. 89–329, title IX, § 973, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777, authorized appropriations for law school clinical experience programs.

SUBPART 2—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1137 of this title.

§ 1135. Grants to academic departments and programs of institutions

(a) Grant authority

(1) In general

The Secretary shall make grants to academic departments, programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

(2) Additional grants

The Secretary may also make grants to such departments, programs and other academic units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of title 26, and is exempt from tax under section 501(a) of such title;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) Award and duration of grants

(1) Awards

The principal criterion for the award of grants shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in awarding such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) Duration and amount

(A) Duration

The Secretary shall award a grant under this subpart for a period of 3 years.

(B) Amount

The Secretary shall award a grant to an academic department, program or unit of an institution of higher education under this subpart for a fiscal year in an amount that is not less than $100,000 and not greater than $750,000.

(3) Reallotment

Whenever the Secretary determines that an academic department, program or unit of an institution of higher education is unable to use all of the amounts available to the department, program or unit under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments, programs and units of institutions which can use the grants authorized by this subpart.

(c) Preference to continuing grant recipients

(1) In general

The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient under this subpart has received continued funding in accordance with subsection (b)(2)(A) of this section.

(2) Ratable reduction

To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded under subsection (b)(2)(A) of this section.

(Pub. L. 89–329, title VII, § 711, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1790.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134m of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 778, related to Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138 of this title.

Another prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 312; amended Pub. L. 93–380, title VIII, §837, Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title I, §176(a)(3)–(5), title V, §501(a)(20), Oct. 12, 1976, 90 Stat. 2165, 2236; Pub. L. 95–180, §1(c), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, §53(a), Aug. 13, 1979, 93 Stat. 354, related to development plans for expansion or improvement of postsecondary education programs in community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135, Pub. L. 89–329, title X, §1001, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1047, contained Congressional statement of purpose respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

§1135a. Institutional eligibility

(a) Eligibility criteria

Any academic department, program or unit of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b) of this section) may apply for a grant under this subpart. No department, program or unit shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

(b) Designation of areas of national need

After consultation with appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into account the extent to which the interest in the area is compelling, the extent to which other Federal programs support postbaccalaureate study in the area concerned, and an assessment of how the program could achieve the most significant impact with available resources.

(Pub. L. 89–329, title VII, §712, as added Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1791.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134n of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135a, Pub. L. 89–329, title X, §1002, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 778, related to National Board of the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138a of this title.

Another prior section 1135a, Pub. L. 89–329, title X, §1011, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, §176(b)(2), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 96–49, §53(b), Aug. 13, 1979, 93 Stat. 354, authorized appropriations for a program of establishment and expansion of community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135a, Pub. L. 89–329, title X, §1002, as added Pub. L. 90–575, title II, §271, Oct. 16, 1968, 82 Stat. 1047, authorized appropriations, provided for types of programs, and prescribed limitations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135a–1, Pub. L. 89–329, title X, §1003, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 99–498, title X, §1001(a), Oct. 17, 1986, 100 Stat. 1560; Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 779, contained administrative provisions, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138b of this title.

Another prior section 1135a–1, Pub. L. 89–329, title X, §1012, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, §176(b)(3), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 95–180, §1(c), Nov. 15, 1977, 91 Stat. 1372, related to the apportionment of funds in the program of establishing and expanding community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–2, Pub. L. 89–329, title X, §1004, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 102–325, title X, §1001, July 23, 1992, 106 Stat. 779; Pub. L. 103–208, §2(j)(42), Dec. 20, 1993, 107 Stat. 2484, authorized appropriations for the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, §3, title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138d of this title.

Another prior section 1135a–2, Pub. L. 89–329, title X, §1013, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314, provided for establishment grants and defined the term ''new community college'', prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–3, Pub. L. 89–329, title X, §1005, as added Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1491; amended Pub. L. 99–498, title X, §1001(b), Oct. 17, 1986, 100 Stat. 1561, authorized appropriations to carry out part A of former subchapter X of this chapter for fiscal years 1987 to 1991, prior to the general amendment of that part by Pub. L. 102–325.

Another prior section 1135a–3 and prior sections 1135a–4 to 1135a–7 were repealed by Pub. L. 96–374, title X, §1001(a), Oct. 3, 1980, 94 Stat. 1489, eff. Oct. 1, 1980.

Section 1135a–3, Pub. L. 89–329, title X, §1014, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314; amended Pub. L. 94–482, title I, §177, Oct. 12, 1976, 90 Stat. 2165, related to expansion grants.

Section 1135a–4, Pub. L. 89–329, title X, §1015, as added Pub. L. 92–318, title I, §186(a)(1), June 23, 1972, 86 Stat. 314, related to leasing of facilities.

Section 1135a–5, Pub. L. 89–329, title X, § 1016, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, related to establishment and expansion grants.

Section 1135a–6, Pub. L. 89–329, title X, § 1017, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, authorized payment to approved applicants.

Section 1135a–7, Pub. L. 89–329, title X, § 1018, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315; amended Pub. L. 94–482, title I, § 178, Oct. 12, 1976, 90 Stat. 2166, defined the term ''community college''.

A prior section 1135a–11, Pub. L. 89–329, title X, § 1011, as added Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 780; amended Pub. L. 103–208, § 2(j)(43), Dec. 20, 1993, 107 Stat. 2484, authorized grants for special projects in areas of national need, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138c of this title.

§ 1135b. Criteria for applications

(a) Selection of applications

The Secretary shall make grants to academic departments, programs and units of institutions of higher education on the basis of applications submitted in accordance with subsection (b) of this section. Applications shall be ranked on program quality by review panels of nationally recognized scholars and evaluated on the quality and effectiveness of the academic program and the achievement and promise of the students to be served. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) Contents of applications

An academic department, program or unit of an institution of higher education, in the department, program or unit's application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal sources, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart, which contribution may be in cash or in kind, fairly valued;

(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;

(5) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

(A) have financial need, as determined under part E of subchapter IV of this chapter;

(B) have excellent academic records in their previous programs of study; and

(C) plan to pursue the highest possible degree available in their course of study;

(6) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

(7) provide assurances that, in the event that funds made available to the academic department, program or unit under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department, program or unit and the student, the academic department, program or unit will, from any funds available to the department, program or unit, fulfill the commitment to the student;

(8) provide that the applicant will comply with the limitations set forth in section 1135d of this title;

(9) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(10) include such other information as the Secretary may prescribe.

(Pub. L. 89–329, title VII, § 713, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1791.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134*o* of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135b, Pub. L. 89–329, title X, § 1021, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561, and amended, which related to purpose of and authority for minority science improvement program, was renumbered section 351 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067a of this title.

Another prior section 1135b, Pub. L. 89–329, title X, § 1051, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, authorized appropriations for occupational education programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Another prior section 1135b, Pub. L. 89–329, title X, § 1003, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, related to selection of grant recipients for improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135b–1, Pub. L. 89–329, title X, § 1022, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561, which related to grant recipient selection, was renumbered section 352 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067b of this title.

Another prior section 1135b–1, Pub. L. 89–329, title X, § 1052, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, set forth allotment and reallotment requirements for funds appropriated for programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

A prior section 1135b–2, Pub. L. 89–329, title X, § 1023, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100

Stat. 1562, which related to use of funds, was renumbered section 353 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067c of this title.

Another prior section 1135b–2, Pub. L. 89–329, title X, § 1053, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth requirements for administration of programs by Secretary, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1987, Oct. 1, 1977.

A prior section 1135b–3, Pub. L. 89–329, title X, § 1024, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562, and amended, which required multiagency study of minority science programs, was renumbered section 1024 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), Oct. 7, 1998, 112 Stat. 1636, transferred to section 1067d of this title, and omitted from the Code.

Another prior section 1135b–3 and prior sections 1135b–4 to 1135b–9 were repealed by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Section 1135b–3, Pub. L. 89–329, title X, § 1054, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth responsibilities of Commissioner of Education in the administration of programs.

Section 1135b–4, Pub. L. 89–329, title X, § 1055, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, set forth requirements for State participation and administration of programs.

Section 1135b–5, Pub. L. 89–329, title X, § 1056, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, authorized planning grants for State occupational education programs and set forth criteria for State participation.

Section 1135b–6, Pub. L. 89–329, title X, § 1057, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 319, authorized program grants for State occupational education programs and set forth criteria for State administration of grants.

Section 1135b–7, Pub. L. 89–329, title X, § 1058, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 320, set forth prerequisites and procedures for program grants by Commissioner and provided for judicial review of actions of Commissioner.

Section 1135b–8, Pub. L. 89–329, title X, § 1059, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 321, authorized technical assistance to the States by Commissioner and the establishment of model programs.

Section 1135b–9, Pub. L. 89–329, title X, § 1060, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, defined the terms ''State'' and ''postsecondary occupational education'' for purposes of occupational education programs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1135c of this title.

§ 1135c. Awards to graduate students

(a) Commitments to graduate students

(1) In general

An academic department, program or unit of an institution of higher education shall make commitments to graduate students who are eligible students under section 1091 of this title (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) Special rule

No such commitments shall be made to students under this subpart unless the academic department, program or unit has determined adequate funds are available to fulfill the commitment from funds received or anticipated under this subpart, or from institutional funds.

(b) Amount of stipends

The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of the program under this subpart to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need as determined under part E of subchapter IV of this chapter.

(c) Treatment of institutional payments

An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this subpart in amounts that exceed the institutional payments made by the Secretary pursuant to section 1135d(a)[1] of this title may count such excess toward the amounts the institution is required to provide pursuant to section 1135b(b)(2)[1] of this title.

(d) Academic progress required

Notwithstanding the provisions of subsection (a) of this section, no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(Pub. L. 89–329, title VII, § 714, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1792.)

REFERENCES IN TEXT

Section 1135d(a) of this title, referred to in subsec. (c), was in the original ''section 716(a)'', meaning section 716(a) of Pub. L. 89–329, which was translated as reading section 715(a) of that Act to reflect the probable intent of Congress, because section 715(a) relates to institutional payments, and section 716, which is classified to section 1135e of this title, does not relate to institutional payments and does not contain a subsec. (a).

Section 1135b(b)(2) of this title, referred to in subsec. (c), was in the original ''section 714(b)(2)'', meaning section 714(b)(2) of Pub. L. 89–329, which was translated as reading section 713(b)(2) of that Act to reflect the probable intent of Congress, because section 713(b)(2) relates to amounts that institutions are required to provide

[1] See References in Text note below.

from non-Federal sources, and section 714, which is classified to this section, does not relate to amounts that institutions are required to provide and does not contain a subsec. (b)(2).

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134p of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135c, Pub. L. 89–329, title X, § 1031, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563, related to minority support in science and engineering programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c, Pub. L. 89–329, title X, § 1021, formerly § 1071, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, established Bureau of Occupational and Adult Education and set forth functions, personnel etc., of the Bureau, prior to repeal by Pub. L. 94–482, title II, § 204(c)(3), Oct. 12, 1976, 90 Stat. 2215, eff. Oct. 1, 1977. Subsequent to repeal, this prior section 1135c was renumbered section 1021 of Pub. L. 89–329 and amended by deleting ''this title'' by Pub. L. 96–374, title X, § 1001(b), Oct. 3, 1980, 94 Stat. 1491.

Another prior section 1135c, Pub. L. 89–329, title X, § 1004, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, provided for consultations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 714 of Pub. L. 89–329 was classified to section 1132b–3 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135c–1, Pub. L. 89–329, title X, § 1032, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563, related to the special service projects program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c–1, Pub. L. 89–329, title X, § 1022, formerly § 1072, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 323; amended Pub. L. 96–88, title III, § 301(b)(2), Oct. 17, 1979, 93 Stat. 678, renumbered and amended Pub. L. 96–374, title X, § 1001(b)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1491, 1503; Pub. L. 98–524, § 4(c)(3), Oct. 19, 1984, 98 Stat. 2488, established a Community College Unit in Department of Education, prior to the general amendment of part B of subchapter X of this chapter by Pub. L. 99–498.

A prior section 1135c–2, Pub. L. 89–329, title X, § 1033, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563; amended Pub. L. 102–325, title X, § 1002(c), July 23, 1992, 106 Stat. 780, related to supportable activities, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

§ 1135d. Additional assistance for cost of education

(a) Institutional payments

(1) In general

The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) Reduction

The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) Use for overhead prohibited

Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

(Pub. L. 89–329, title VII, § 715, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1793.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134q of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135d, Pub. L. 89–329, title X, § 1041, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which related to eligibility for grants, was renumbered section 361 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067g of this title.

A prior section 715 of Pub. L. 89–329 was classified to section 1132b–4 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135d–1, Pub. L. 89–329, title X, § 1042, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which related to grant applications, was renumbered section 362 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067h of this title.

A prior section 1135d–2, Pub. L. 89–329, title X, § 1043, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, and amended, which related to cross program and cross agency cooperation, was renumbered section 363 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067i of this title.

A prior section 1135d–3, Pub. L. 89–329, title X, § 1044, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which contained administrative provisions, was renumbered section 364 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067j of this title.

A prior section 1135d–4, Pub. L. 89–329, title X, § 1045, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1565, related to establishment of Advisory Board for the Minority Science and Engineering Improvement Programs, prior to repeal by Pub. L. 102–325, § 2, title X, § 1002(e), July 23, 1992, 106 Stat. 458, 780, effective Oct. 1, 1992.

A prior section 1135d–5, Pub. L. 89–329, title X, § 1046, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1566, which defined terms, was renumbered section 365 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067k of this title.

A prior section 1135d–6, Pub. L. 89–329, title X, § 1047, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, § 6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, § 1002(f), July 23, 1992, 106 Stat. 780, which authorized appropriations, was renumbered section 366 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067*l* of this title, and repealed by section 301(a)(8) of Pub. L. 105–244.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1135b, 1135c, 1137 of this title.

§ 1135e. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for fiscal year 1999 and such sums as

may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, § 716, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1794.)

PRIOR PROVISIONS

A prior section 1135e, Pub. L. 89–329, title X, § 1061, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, stated purpose of women and minorities science and engineering outreach demonstration program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 716 of Pub. L. 89–329 was classified to section 1132b–5 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Prior sections 1135e–1 to 1135g were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1135e–1, Pub. L. 89–329, title X, § 1062, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, authorized grants for programs to encourage female and minority elementary and secondary school students to pursue higher education for careers in science and engineering.

Section 1135e–2, Pub. L. 89–329, title X, § 1063, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, defined ''eligible institution'' and related to availability of funds.

Section 1135e–3, Pub. L. 89–329, title X, § 1064, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to amount, duration, and use of funds.

Section 1135e–4, Pub. L. 89–329, title X, § 1065, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to applications for grants.

Section 1135e–5, Pub. L. 89–329, title X, § 1066, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to evaluation of assisted activities.

Section 1135e–6, Pub. L. 89–329, title X, § 1067, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, related to Federal share of costs.

Section 1135e–7, Pub. L. 89–329, title X, § 1068, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, related to use of funds to supplement and not supplant other funds.

Section 1135e–8, Pub. L. 89–329, title X, § 1069, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, authorized appropriations for women and minorities science and engineering outreach demonstration program.

Section 1135f, Pub. L. 89–329, title X, § 1081, formerly § 1181, as added Pub. L. 102–325, title X, § 1004, July 23, 1992, 106 Stat. 783; renumbered § 1081 and amended Pub. L. 103–208, § 2(j)(44), (45), Dec. 20, 1993, 107 Stat. 2485, established Dwight D. Eisenhower Leadership Program and provided that part D of former subchapter X of this chapter could be cited as the ''Dwight D. Eisenhower Leadership Development Act of 1992''.

Section 1135g, Pub. L. 89–329, title X, § 1091, as added Pub. L. 103–382, title III, § 360D, Oct. 20, 1994, 108 Stat. 3972, authorized grants to States for workplace and community transition training for incarcerated youth offenders.

SUBPART 3—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 1137 of this title.

§ 1136. Legal educational opportunity program

(a) Program authority

The Secretary shall carry out a program to be known as the ''Thurgood Marshall Legal Educational Opportunity Program'' designed to provide low-income, minority, or disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

(b) Eligibility

A college student is eligible for assistance under this section if the student is—

(1) from a low-income family;

(2) a minority; or

(3) from an economically or otherwise disadvantaged background.

(c) Contract or grant authorized

The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

(1) to identify college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3) of this section;

(2) to prepare such students for study at accredited law schools;

(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies; and

(5) to motivate and prepare such students with respect to law school studies and practice in low-income communities.

(d) Services provided

In carrying out the purposes described in subsection (c) of this section, the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

(1) information and counseling regarding—

(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

(B) course work offered and required for graduation;

(C) faculty specialties and areas of legal emphasis; and

(D) undergraduate preparatory courses and curriculum selection;

(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

(5) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

(6) midyear seminars and other educational activities that are designed to reinforce read-

ing, writing, and studying skills of Thurgood Marshall Fellows.

(e) Duration of provision of services

The services described in subsection (d) of this section may be provided—

(1) prior to the period of law school study;

(2) during the period of law school study; and

(3) during the period following law school study and prior to taking a bar examination.

(f) Subcontracts and subgrants

For the purposes of planning, developing, or delivering one or more of the services described in subsection (d) of this section, the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

(g) Stipends

The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Thurgood Marshall Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 721, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1794.)

PRIOR PROVISIONS

A prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 784, stated findings of Congress, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1139 of this title.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, stated Congressional findings and purpose relating to partnerships for economic development, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, stated Congressional findings and declaration of purpose, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), (b), June 23, 1972, 86 Stat. 323, authorized a program for grants and contracts covering the establishment of a law school clinical experiences regimen, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

A prior section 721 of Pub. L. 89–329 was renumbered section 341 and is classified to section 1066 of this title.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1136a to 1136h were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 785, stated purpose of and authorized program for urban community service assistance. See section 1139a of this title.

A prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, related to use of economic development funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, authorized appropriations for fiscal years 1981 to 1985 for urban grant university program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), June 23, 1972, 86 Stat. 323, related to required applications for participation in law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

Section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 785, related to applications for urban community service grants. See section 1139b of this title.

A prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1569, related to requirements for economic development grant applications, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, authorized grants to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 92–318, title I, § 191(c), June 23, 1972, 86 Stat. 323; Pub. L. 94–482, title I, § 172, Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, § 11, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for the law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

Section 1136c, Pub. L. 89–329, title XI, § 1104, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786, related to allowable activities. See section 1139c of this title.

Another prior section 1136c, Pub. L. 89–329, title XI, § 1104, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, placed geographical limitations on assistance to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Section 1136d, Pub. L. 89–329, title XI, § 1105, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786, related to peer review. See section 1139d of this title.

Another prior section 1136d, Pub. L. 89–329, title XI, § 1105, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Section 1136e, Pub. L. 89–329, title XI, § 1106, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786; amended Pub. L. 103–208, § 2(j)(46), Dec. 20, 1993, 107 Stat. 2485, related to disbursement of funds. See section 1139e of this title.

Section 1136f, Pub. L. 89–329, title XI, § 1107, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, related to designation of Urban Grant Institutions. See section 1139f of this title.

Section 1136g, Pub. L. 89–329, title XI, § 1108, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, defined terms ''urban area'' and ''eligible institution''. See section 1139g of this title.

Section 1136h, Pub. L. 89–329, title XI, § 1109, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, authorized appropriations for urban community service program. See section 1139h of this title.

SUBPART 4—GENERAL PROVISIONS

§ 1137. Administrative provisions for subparts 1, 2, and 3

(a) Coordinated administration

In carrying out the purpose described in section 1133(1) of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under subparts 1, 2, and 3 of this part with other Federal programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

(b) Hiring authority

For purposes of carrying out subparts 1, 2, and 3 of this part, the Secretary shall appoint, without regard to the provisions of title 5 that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts[1]. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) Use for religious purposes prohibited

No institutional payment or allowance under section 1134b(b) or 1135d(a) of this title shall be paid to a school or department of divinity as a result of the award of a fellowship under subpart 1 or 2 of this part, respectively, to an individual who is studying for a religious vocation.

(d) Evaluation

The Secretary shall evaluate the success of assistance provided to individuals under subpart 1, 2, or 3 of this part with respect to graduating from their degree programs, and placement in faculty and professional positions.

(e) Continuation awards

The Secretary, using funds appropriated to carry out subparts 1 and 2 of this part, and before awarding any assistance under such parts[1] to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to October 7, 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance.

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

(Pub. L. 89–329, title VII, § 731, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1795.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Parts C and D of title IX (as such parts were in effect prior to October 7, 1998), referred to in subsec. (e), means parts C and D of title IX of the Higher Education Act of 1965, as added by Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552, as amended, which were classified generally to parts C (§ 1134h et seq.) and D (§ 1134*l* et seq.), respectively, of subchapter IX of this chapter prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PRIOR PROVISIONS

A prior section 1137, Pub. L. 89–329, title XI, § 1121, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788, related to purpose of innovative projects for community service program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137, Pub. L. 89–329, title XI, § 1111, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to the purpose of urban community service program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1137a, Pub. L. 89–329, title XI, § 1122, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788; amended Pub. L. 103–82, title I, § 111(b)(4), Sept. 21, 1993, 107 Stat. 860, authorized program for innovative projects for community service, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137a and prior section 1137b were omitted in the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1137a, Pub. L. 89–329, title XI, § 1112, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to use of urban community service funds.

Section 1137b, Pub. L. 89–329, title XI, § 1113, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to contents for applications for urban community services projects.

PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

§ 1138. Fund for the Improvement of Postsecondary Education

(a) Authority

The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies, to enable such institutions, combinations, and agencies to improve postsecondary education opportunities by—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and

providing equal educational opportunity for all;

(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, and combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out, in postsecondary educational institutions, of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) Planning grants

The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(Pub. L. 89–329, title VII, § 741, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1796.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138, Pub. L. 89–329, title XI, § 1141, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788, related to purpose to assist development of student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138, Pub. L. 89–329, title XI, § 1121, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, related to administrative provisions, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to repeal by Pub. L. 102–325.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138a. National Board of the Fund for the Improvement of Postsecondary Education

(a) Establishment

There is established a National Board of the Fund for the Improvement of Postsecondary Education (in this part referred to as the ''Board''). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) Membership

(1) In general

The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(2) Appointment of Director

The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the ''Director'').

(c) Duties

The Board shall—

(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) Information and assistance

The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(Pub. L. 89–329, title VII, § 742, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1797.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138a, Pub. L. 89–329, title XI, § 1142, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–208, § 2(j)(47), Dec. 20, 1993, 107 Stat. 2485, authorized grants for student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138a, Pub. L. 89–329, title XI, § 1122, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, authorized appropriations to carry out parts A and B of subchapter XI of this chapter,

prior to the general amendment of such subchapter by Pub. L. 102–325.

A prior section 742 of Pub. L. 89–329 was classified to section 1132e–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 742 of Pub. L. 89–329 was classified to section 1132c–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138b. Administrative provisions

(a) Technical employees

The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures

The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(Pub. L. 89–329, title VII, § 743, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1797.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138b, Pub. L. 89–329, title XI, § 1143, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789, related to use of funds, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138b, Pub. L. 89–329, title XI, § 1123, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 743 of Pub. L. 89–329 was classified to section 1132c–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138c. Special projects

(a) Grant authority

The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

(b) Application

No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) Areas of national need

Areas of national need shall initially include, but shall not be limited to, the following:

(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

(2) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2- to 4-year institutions of higher education.

(3) Evaluation and dissemination of model programs.

(4) International cooperation and student exchange among postsecondary educational institutions.

(Pub. L. 89–329, title VII, § 744, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–11 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138c, Pub. L. 89–329, title XI, § 1144, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–382, title III, § 391(e)(10), Oct. 20, 1994, 108 Stat. 4023, related to applications for grants, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 744 of Pub. L. 89–329 was classified to section 1132c–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138d. Authorization of appropriations

There are authorized to be appropriated to carry out this part $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 745, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

A prior section 1138d, Pub. L. 89–329, title XI, § 1145, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791, related to technical assistance and coordination contract, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 745 of Pub. L. 89–329 was classified to section 1132c–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1138e, Pub. L. 89–329, title XI, § 1146, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791, defined terms ''institution of higher education'' and ''public community agency'', prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PART C—URBAN COMMUNITY SERVICE

§ 1139. Findings

The Congress finds that—

(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

(Pub. L. 89–329, title VII, § 751, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139, Pub. L. 89–329, title XI, § 1151, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 792, authorized appropriations for the innovative projects for community service program, student literacy corps program, and student mentoring corps program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1139, Pub. L. 89–329, title XI, § 1131, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, stated purpose of providing assistance to establish Robert F. Wagner, Sr., Institute of Urban Public Policy, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 751 of Pub. L. 89–329 was classified to section 1132f of this title, prior to repeal by Pub. L. 104–208.

§ 1139a. Purpose; program authorized

(a) Purpose

It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

(b) Program authorized

The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 1139c of this title in accordance with the provisions of this part.

(Pub. L. 89–329, title VII, § 752, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136a of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139a, Pub. L. 89–329, title XI, § 1132, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, related to application for and use of funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 752 of Pub. L. 89–329 was classified to section 1132f–1 of this title, prior to repeal by Pub. L. 104–208.

§ 1139b. Application for urban community service grants

(a) Application

(1) In general

An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services for which assistance is sought; and

(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

(i) A community college.

(ii) An urban school system.

(iii) A local government.

(iv) A business or other employer.

(v) A nonprofit institution.

(3) Waiver

The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

(b) Priority in selection of applications

The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs. In addition, the Secretary shall give priority to eligible institutions submitting applications that demonstrate the eligible institution's commitment to urban community service.

(c) Selection procedures

The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

(Pub. L. 89–329, title VII, § 753, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1799.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136b of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139b, Pub. L. 89–329, title XI, § 1133, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1573, authorized appropriations, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 753 of Pub. L. 89–329 was classified to section 1132f–2 of this title, prior to repeal by Pub. L. 104–208.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1139c, 1139g of this title.

§ 1139c. Allowable activities

Funds made available under this part shall be used to support planning, applied research,

training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

(1) Work force preparation.

(2) Urban poverty and the alleviation of such poverty.

(3) Health care, including delivery and access.

(4) Underperforming school systems and students.

(5) Problems faced by the elderly and individuals with disabilities in urban settings.

(6) Problems faced by families and children.

(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

(8) Urban housing.

(9) Urban infrastructure.

(10) Economic development.

(11) Urban environmental concerns.

(12) Other problem areas which participants in the consortium described in section 1139b(a)(2)(B) of this title concur are of high priority in the urban area.

(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities in their community.

(14) Improving access to technology in local communities.

(Pub. L. 89–329, title VII, § 754, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1799.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136c of this title, prior to repeal by Pub. L. 105–244.

A prior section 754 of Pub. L. 89–329 was classified to section 1132f–3 of this title, prior to repeal by Pub. L. 104–208.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1139a of this title.

§ 1139d. Peer review

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in urban community service or in education.

(Pub. L. 89–329, title VII, § 755, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136d of this title, prior to repeal by Pub. L. 105–244.

A prior section 755 of Pub. L. 89–329 was classified to section 1132f–4 of this title, prior to repeal by Pub. L. 104–208.

§ 1139e. Disbursement of funds

(a) Multiyear availability

Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive such a grant for more than 5 years.

(b) Equitable geographic distribution

The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

(c) Matching requirement

An applicant under this part and the local governments associated with the application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VII, § 756, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136e of this title, prior to repeal by Pub. L. 105–244.

A prior section 756 of Pub. L. 89–329 was classified to section 1132f–5 of this title, prior to repeal by Pub. L. 104–208.

§ 1139f. Designation of Urban Grant Institutions

The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as ''Urban Grant Institutions''. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated, and applied throughout the Nation. The information developed as a result of this section shall be made available to Urban Grant Institutions and to any other interested institution of higher education by any appropriate means.

(Pub. L. 89–329, title VII, § 757, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136f of this title, prior to repeal by Pub. L. 105–244.

A prior section 757 of Pub. L. 89–329 was classified to section 1132f–6 of this title, prior to repeal by Pub. L. 104–208.

§ 1139g. Definitions

As used in this part:

(1) Urban area

The term ''urban area'' means a metropolitan statistical area having a population of not

less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the eligible entity in the State submitting an application under section 1139b of this title, or, if no such entity submits an application, the Secretary, shall designate one urban area for the purposes of this part.

(2) Eligible institution

The term ''eligible institution'' means—

(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of July 23, 1992, under that authority; or

(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

(i) is located in an urban area;

(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

(Pub. L. 89–329, title VII, § 758, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136g of this title, prior to repeal by Pub. L. 105–244.

A prior section 758 of Pub. L. 89–329 was classified to section 1132f–7 of this title, prior to repeal by Pub. L. 104–208.

§ 1139h. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VII, § 759, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136h of this title, prior to repeal by Pub. L. 105–244.

A prior section 759 of Pub. L. 89–329 was classified to section 1132f–8 of this title, prior to repeal by Pub. L. 104–208.

PART D—DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION

§ 1140. Purposes

It is the purpose of this part to support model demonstration projects to provide technical assistance or professional development for faculty and administrators in institutions of higher education in order to provide students with disabilities a quality postsecondary education.

(Pub. L. 89–329, title VII, § 761, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

A prior section 761 of Pub. L. 89–329 was classified to section 1132g of this title, prior to repeal by Pub. L. 102–325.

Another prior section 761 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140a. Grants authorized

(a) Competitive grants authorized

The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education, of which at least two such grants shall be awarded to institutions that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

(b) Duration; activities

(1) Duration

Grants under this part shall be awarded for a period of 3 years.

(2) Authorized activities

Grants under this part shall be used to carry out one or more of the following activities:

(A) Teaching methods and strategies

The development of innovative, effective, and efficient teaching methods and strategies to provide faculty and administrators with the skills and supports necessary to teach students with disabilities. Such methods and strategies may include inservice training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

(B) Synthesizing research and information

Synthesizing research and other information related to the provision of postsecondary educational services to students with disabilities.

(C) Professional development and training sessions

Conducting professional development and training sessions for faculty and administrators from other institutions of higher education to enable the faculty and administrators to meet the postsecondary educational needs of students with disabilities.

(3) Mandatory evaluation and dissemination

Grants under this part shall be used for evaluation, and dissemination to other institu-

tions of higher education, of the information obtained through the activities described in subparagraphs (A) through (C).[1]

(c) Considerations in making awards

In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall consider the following:

(1) Geographic distribution

Providing an equitable geographic distribution of such grants.

(2) Rural and urban areas

Distributing such grants to urban and rural areas.

(3) Range and type of institution

Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

(4) Prior experience or exceptional programs

Institutions of higher education with demonstrated prior experience in, or exceptional programs for, meeting the postsecondary educational needs of students with disabilities.

(Pub. L. 89–329, title VII, § 762, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

A prior section 762 of Pub. L. 89–329 was classified to section 1132g–1 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 762 of Pub. L. 89–329 was classified to section 1132d–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140b. Applications

Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

(1) a description of how such institution plans to address each of the activities required under this part;

(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought; and

(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution.

(Pub. L. 89–329, title VII, § 763, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1802.)

PRIOR PROVISIONS

A prior section 763 of Pub. L. 89–329 was classified to section 1132g–2 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 763 of Pub. L. 89–329 was classified to section 1132d–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140c. Rule of construction

Nothing in this part shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution's faculty, administrators, or staff than are required by section 794 of title 29 and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

(Pub. L. 89–329, title VII, § 764, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1803.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in text, is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 764 of Pub. L. 89–329 was classified to section 1132g–3 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 764 of Pub. L. 89–329 was classified to section 1132d–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140d. Authorization of appropriations

There are authorized to be appropriated for this part $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 765, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1803.)

PRIOR PROVISIONS

A prior section 765 of Pub. L. 89–329 was classified to section 1132d–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1141 and 1142 were repealed by Pub. L. 105–244, § 3, title I, § 101(b), title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Section 1141, Pub. L. 89–329, title XII, § 1201, formerly title VIII, § 801, Nov. 8, 1965, 79 Stat. 1269; renumbered title XII, § 1201, and amended Pub. L. 90–575, title II, §§ 251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91–230, title VIII, § 806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94–482, title I, § 181(a), formerly § 181, Oct. 12, 1976, 90 Stat. 2167, renumbered Pub. L. 95–43, § 1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95–180, § 1(a), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–374, title XIII, § 1391(a)(1), (b), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 100–50, § 21(a), June 3, 1987, 101 Stat. 360; Pub. L. 102–26, § 2(a)(4), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title XII, § 1201, July 23, 1992, 106 Stat. 792; Pub. L. 102–394, title III, § 308(a), Oct. 6, 1992, 106 Stat. 1820; Pub. L. 103–82, title I, § 111(b)(5), Sept. 21, 1993, 107 Stat. 861; Pub. L. 103–208, § 2(j)(48), Dec. 20, 1993, 107 Stat. 2485, defined terms for purposes of this chapter. See sections 1001 and 1003 of this title.

Section 1142, Pub. L. 89–329, title XII, § 1202, formerly § 1207, as added Pub. L. 94–482, title I, § 182, Oct. 12, 1976, 90 Stat. 2167; renumbered § 1202, Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493; amended Pub. L. 102–325, title XII, § 1202, July 23, 1992, 106 Stat. 793, related to antidiscrimination requirements for institutions of higher education receiving Federal assistance. See section 1011 of this title.

Another prior section 1142, Pub. L. 89–329, title XII, § 1202, formerly title VIII, § 802, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1202, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, related to method of payment pursuant to grants, loans, or contracts under this chapter, prior to repeal by section 1201 of Pub. L. 96–374.

Prior sections 1142a and 1142b were repealed by Pub. L. 96–374, title XII, § 1201, title XIII, § 1393(a), Oct. 3, 1980, 94 Stat. 1493, 1504, effective Oct. 1, 1980.

[1] So in original. Probably should refer to subparagraphs (A) through (C) of paragraph (2).

Section 1142a, Pub. L. 89–329, title XII, § 1202, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 324, related to designation of a State postsecondary education commission.

Section 1142b, Pub. L. 89–329, title XII, § 1203, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 325; amended Pub. L. 94–482, title I, § 179, Oct. 12, 1976, 90 Stat. 2166; Pub. L. 96–49, § 12, Aug. 13, 1979, 93 Stat. 354, related to comprehensive statewide planning.

Prior sections 1143 to 1145g were repealed by Pub. L. 105–244, § 3, title I, § 101(b), title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Section 1143, Pub. L. 89–329, title XII, § 1203, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, related to State agreements.

Another prior section 1143, Pub. L. 89–329, title XII, § 1203, formerly title VIII, § 803, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1203, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, provided for delegation of functions by Commissioner of Education and utilization of services and facilities of other agencies, prior to repeal by Pub. L. 91–230, title IV, § 401(c)(5), Apr. 13, 1970, 84 Stat. 173.

Section 1144, Pub. L. 89–329, title XII, § 1204, formerly title VIII, § 804, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1204, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 91–230, title IV, § 401(f)(6), Apr. 13, 1970, 84 Stat. 173, prohibited Federal control over education.

Section 1144a, Pub. L. 89–329, title XII, § 1204, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, § 1201, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–73, title VIII, § 801(c), July 25, 1991, 105 Stat. 360; Pub. L. 103–208, § 2(j)(49), Dec. 20, 1993, 107 Stat. 2485, related to treatment of territories and territorial student assistance. See section 1011b of this title.

Another prior section 1144a, Pub. L. 92–318, title V, § 510, June 23, 1972, 86 Stat. 353, set forth sense of Congress that governing boards of institutions of higher education give consideration to student participation on such boards, prior to being omitted from the Code.

Section 1145, Pub. L. 89–329, title XII, § 1205, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, § 1202, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–325, title XII, § 1203, July 23, 1992, 106 Stat. 793; Pub. L. 103–208, § 2(j)(50)–(53), Dec. 20, 1993, 107 Stat. 2485, related to National Advisory Committee on Institutional Quality and Integrity. See section 1011c of this title.

Another prior section 1145, Pub. L. 89–329, title XII, § 1205, as added Pub. L. 90–575, title II, § 291(a), Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, established an Advisory Council on Graduate Education in the Office of Education, prior to repeal by section 1201 of Pub. L. 96–374.

Section 1145a, Pub. L. 89–329, title XII, § 1206, as added Pub. L. 99–498, title XII, § 1203, Oct. 17, 1986, 100 Stat. 1573, related to Commission to study postsecondary institutional and programmatic recognition process.

Another prior section 1145a, Pub. L. 89–329, title XII, § 1206, as added Pub. L. 92–318, title I, § 197, June 23, 1972, 86 Stat. 325, related to supplying cost-of-education data by institutions of higher education, prior to repeal by Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145b, Pub. L. 89–329, title XII, § 1207, as added Pub. L. 99–498, title XII, § 1204, Oct. 17, 1986, 100 Stat. 1576, related to student representation in connection with administration of this chapter. See section 1011d of this title.

Another prior section 1145b, Pub. L. 89–329, title XII, § 1202, formerly § 1207, as added Pub. L. 94–482, title I, § 182, Oct. 12, 1976, 90 Stat. 2167; renumbered title XII, § 1202, Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, which related to antidiscrimination requirements for institutions of higher education receiving Federal assistance, was transferred to section 1142 of this title and subsequently repealed by Pub. L. 105–244.

Section 1145c, Pub. L. 89–329, title XII, § 1208, as added Pub. L. 99–498, title XII, § 1205, Oct. 17, 1986, 100 Stat. 1577, related to financial responsibility of foreign students. See section 1011e of this title.

Another prior section 1145c, Pub. L. 89–329, title XII, § 1208, as added Pub. L. 94–482, title I, § 183, Oct. 12, 1976, 90 Stat. 2167, related to availability of appropriations, prior to repeal by Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145d, Pub. L. 89–329, title XII, § 1209, as added Pub. L. 102–325, title XII, § 1204, July 23, 1992, 106 Stat. 794; amended Pub. L. 103–208, § 2(j)(54), Dec. 20, 1993, 107 Stat. 2485, related to disclosures of foreign gifts. See section 1011f of this title.

Another prior section 1145d, Pub. L. 89–329, title XII, § 1209, as added Pub. L. 99–498, title XII, § 1206(a), Oct. 17, 1986, 100 Stat. 1577, related to disclosures of foreign gifts, prior to repeal by Pub. L. 99–498, title XII, § 1206(b), Oct. 17, 1986, 100 Stat. 1579, as amended by Pub. L. 100–50, § 22(f), June 3, 1987, 101 Stat. 362, effective Aug. 1, 1989.

Section 1145d–1, Pub. L. 89–329, title XII, § 1210, as added Pub. L. 100–50, § 21(b), June 3, 1987, 101 Stat. 360, related to application of peer review process. See section 1011g of this title.

Section 1145e, Pub. L. 89–329, title XII, § 1211, formerly § 1210, as added Pub. L. 99–498, title XII, § 1207, Oct. 17, 1986, 100 Stat. 1579; renumbered § 1211, Pub. L. 100–50, § 21(b), June 3, 1987, 101 Stat. 360, related to aggregate limit of authorization of appropriations.

Section 1145f, Pub. L. 89–329, title XII, § 1212, formerly § 1211, as added Pub. L. 100–418, title VI, § 6231, Aug. 23, 1988, 102 Stat. 1518; renumbered § 1212 and amended Pub. L. 103–208, § 2(j)(55), (56), Dec. 20, 1993, 107 Stat. 2485, related to technology transfer centers.

Section 1145g, Pub. L. 89–329, title XII, § 1213, as added Pub. L. 101–226, § 22(a)(1), Dec. 12, 1989, 103 Stat. 1938, related to drug and alcohol abuse prevention. See section 1011i of this title.

A prior section 1145h, Pub. L. 102–325, title XV, § 1541, July 23, 1992, 106 Stat. 834; Pub. L. 103–208, § 2(k)(13), Dec. 20, 1993, 107 Stat. 2486, authorized grants for campus sexual offense education, prior to repeal by Pub. L. 105–332, § 6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

A prior section 1146, Pub. L. 96–374, title XIII, § 1392, Oct. 3, 1980, 94 Stat. 1504, which related to contract authority, was transferred to section 1154 of this title.

Another prior section 1146, Pub. L. 89–329, title XII, § 1206, as added Pub. L. 90–575, title II, § 292, Oct. 16, 1968, 82 Stat. 1050, provided for dissemination of information and authorization of $2,000,000 for fiscal year ending June 30, 1970, and such amount as Congress might authorize for fiscal year ending June 30, 1971, prior to repeal by Pub. L. 91–230, title IV, § 401(d)(5), Apr. 13, 1970, 84 Stat. 173.

A prior section 1146a, Pub. L. 99–498, § 3, Oct. 17, 1986, 100 Stat. 1278, which provided that contracting authority be subject to appropriations, was transferred, and is set out as a Contracting Authority Subject to Appropriations note under section 1154 of this title.

Prior sections 1147 to 1150, Pub. L. 89–329, title XII, §§ 1207–1210, as added Pub. L. 90–575, title II, § 295, Oct. 16, 1968, 82 Stat. 1051, 1052, provided for program planning and evaluation for higher education programs; advance funding; evaluation reports and Congressional review; and availability of appropriations on academic or school year basis, prior to repeal by Pub. L. 91–230, title IV, § 401(b), Apr. 13, 1970, 84 Stat. 172.

SUBCHAPTER VIII—MISCELLANEOUS

§ 1151. Grants to States for workplace and community transition training for incarcerated youth offenders

(a) Findings

Congress makes the following findings:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) "Youth offender" defined

For purposes of this section, the term ''youth offender'' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) Grant program

The Secretary of Education (in this section referred to as the ''Secretary'') shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the States under subsection (i) of this section, to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) Application

To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, which methods and measures—

(A) shall be appropriate to meet the goals and objectives of the proposal; and

(B) shall include measures of—

(i) program completion;

(ii) student academic and vocational skill attainment;

(iii) success in job placement and retention; and

(iv) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) of this section will be enrolled in postsecondary programs.

(e) Program requirements

Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) of this section not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) Student eligibility

A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) Length of participation

A State correctional education agency receiving a grant under this section shall provide edu-

cational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma or its recognized equivalent. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education delivery systems

State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) Allocation of funds

From the funds appropriated pursuant to subsection (j) of this section for each fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) of this section in such State bears to the total number of such students in all States.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section $17,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 105–244, title VIII, § 821, Oct. 7, 1998, 112 Stat. 1813.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

§ 1152. Grants to combat violent crimes against women on campuses

(a) Grants authorized

(1) In general

The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, and to develop and strengthen victim services in cases involving violent crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) Award basis

The Attorney General shall award grants and contracts under this section on a competitive basis.

(3) Equitable participation

The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section; and

(B) the equitable geographic distribution of grants under this section among the various regions of the United States.

(b) Use of grant funds

Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing violent crimes against women on campus.

(2) To train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards to more effectively identify and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, domestic violence, and dating violence.

(3) To implement and operate education programs for the prevention of violent crimes against women.

(4) To develop, enlarge, or strengthen support services programs, including medical or psychological counseling, for victims of sexual offense crimes.

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action, including assistance to victims in immigration matters.

(6) To develop and implement more effective campus policies, protocols, orders, and services specifically devoted to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, domestic violence, and dating violence.

(7) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including the crimes of sexual assault, stalking, domestic violence, and dating violence.

(8) To develop, enlarge, or strengthen victim services programs for the campus and to improve delivery of victim services on campus.

(9) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address violent crimes against women on campus, including the crimes of sexual assault, stalking, domestic violence, and dating violence.

(10) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

(c) Applications

(1) In general

In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time

and in such manner as the Attorney General shall prescribe.

(2) Contents

Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b) of this section;

(B) describe how the campus authorities shall consult and coordinate with nonprofit and other victim services programs, including sexual assault, domestic violence and dating violence victim services programs;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grant funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b) of this section; and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) Compliance with campus crime reporting required

No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 1092(f) of this title.

(d) General terms and conditions

(1) Nonmonetary assistance

In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) Grantee reporting

(A) Annual report

Each institution of higher education receiving a grant under this section shall submit an annual performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit an annual performance report.

(B) Final report

Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b) of this section.

(3) Report to Congress

Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and crime, a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part,[1] including information obtained from reports submitted pursuant to section 1092(f) of this title.

(4) Regulations or guidelines

Not later than 120 days after October 7, 1998, the Attorney General, in consultation with the Secretary of Education, shall publish proposed regulations or guidelines implementing this section. Not later than 180 days after October 7, 1998, the Attorney General shall publish final regulations or guidelines implementing this section.

(f)[2] Definitions

In this section—

(1) the term ''dating violence'' means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) the length of the relationship;

(ii) the type of relationship; and

(iii) the frequency of interaction between the persons involved in the relationship.[3]

(2) the term ''domestic violence'' includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim under the domestic, dating or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic, dating or family violence laws of the jurisdiction;

(3) the term ''sexual assault'' means any conduct proscribed by chapter 109A of title 18, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison, in-

[1] See References in Text note below.

[2] So in original. No subsec. (e) has been enacted.

[3] So in original. The period probably should be a semicolon.

cluding both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

(4) the term ''victim services'' means a nonprofit, nongovernmental organization or a public, nonprofit organization acting in a nongovernmental capacity that assists domestic violence, dating violence or sexual assault victims, including campus women's centers, rape crisis centers, battered women's shelters, and other sexual assault, domestic violence or dating violence programs, including campus counseling support and victim advocate organizations with domestic violence, dating violence, stalking, and sexual assault programs, whether or not organized and staffed by students.

(g) Authorization of appropriations

For the purpose of carrying out this part,[1] there are authorized to be appropriated $10,000,000 for each of fiscal years 2001 through 2005.

(Pub. L. 105–244, title VIII, § 826, Oct. 7, 1998, 112 Stat. 1815; Pub. L. 106–386, div. B, title I, § 1108(a), title V, § 1512(d), Oct. 28, 2000, 114 Stat. 1500, 1533.)

REFERENCES IN TEXT

This part, referred to in subsecs. (d)(3)(D) and (g), is part E (§§ 826, 827) of title VIII of Pub. L. 105–244, which enacted this section and provisions set out as a note under this section.

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

AMENDMENTS

2000—Subsec. (b)(2). Pub. L. 106–386, § 1108(a)(1), substituted ''domestic violence, and dating violence'' for ''and domestic violence''.

Subsec. (b)(5). Pub. L. 106–386, § 1512(d), inserted '', including assistance to victims in immigration matters'' before period at end.

Subsec. (b)(6), (7), (9). Pub. L. 106–386, § 1108(a)(1), substituted ''domestic violence, and dating violence'' for ''and domestic violence''.

Subsec. (c)(2)(B). Pub. L. 106–386, § 1108(a)(2), substituted '', domestic violence and dating violence'' for ''and domestic violence''.

Subsec. (f)(1). Pub. L. 106–386, § 1108(a)(3)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (f)(2). Pub. L. 106–386, § 1108(a)(3)(C), which directed the amendment of par. (2) by inserting '', dating'' after ''domestic'' wherever appearing, was executed by inserting '', dating'' after ''domestic'' the second and third places appearing, to reflect the probable intent of Congress.

Pub. L. 106–386, § 1108(a)(3)(A), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (f)(3). Pub. L. 106–386, § 1108(a)(3)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 106–386, § 1108(a)(3)(A), (D), redesignated par. (3) as (4), inserted ''or a public, nonprofit organization acting in a nongovernmental capacity'' after ''organization'', '', dating violence'' after ''assists domestic violence'', and ''dating violence,'' before ''stalking,'' and substituted '', domestic violence or dating violence'' for ''or domestic violence''.

Subsec. (g). Pub. L. 106–386, § 1108(a)(4), substituted ''each of fiscal years 2001 through 2005'' for ''fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years''.

STUDY OF INSTITUTIONAL PROCEDURES TO REPORT SEXUAL ASSAULTS

Pub. L. 105–244, title VIII, § 827, Oct. 7, 1998, 112 Stat. 1819, provided that:

''(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national study to examine procedures undertaken after an institution of higher education receives a report of sexual assault.

''(b) REPORT.—The study required by subsection (a) shall include an analysis of—

''(1) the existence and publication of the institution of higher education's and State's definition of sexual assault;

''(2) the existence and publication of the institution's policy for campus sexual assaults;

''(3) the individuals to whom reports of sexual assault are given most often and—

''(A) how the individuals are trained to respond to the reports; and

''(B) the extent to which the individuals are trained;

''(4) the reporting options that are articulated to the victim or victims of the sexual assault regarding—

''(A) on-campus reporting and procedure options; and

''(B) off-campus reporting and procedure options;

''(5) the resources available for victims' safety, support, medical health, and confidentiality, including—

''(A) how well the resources are articulated both specifically to the victim of sexual assault and generally to the campus at large; and

''(B) the security of the resources in terms of confidentiality or reputation;

''(6) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local crime authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

''(7) policies and practices found successful in aiding the report and any ensuing investigation or prosecution of a campus sexual assault;

''(8) the on-campus procedures for investigation and disciplining the perpetrator of a sexual assault, including—

''(A) the format for collecting evidence; and

''(B) the format of the investigation and disciplinary proceeding, including the faculty responsible for running the disciplinary procedure and the persons allowed to attend the disciplinary procedure; and

''(9) types of punishment for offenders, including—

''(A) whether the case is directed outside the institution for further punishment; and

''(B) how the institution punishes perpetrators.

''(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to Congress not later than September 1, 2000.

''(d) DEFINITION.—For purposes of this section, the term 'campus sexual assaults' means sexual assaults occurring at institutions of higher education and sexual assaults committed against or by students or employees of such institutions.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2000.''

§ 1153. Underground Railroad educational and cultural program

(a) Program established

The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(b) Grant agreement

Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

(Pub. L. 105–244, title VIII, § 841, Oct. 7, 1998, 112 Stat. 1820.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

§ 1154. Contract authority

The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–374, title XIII, § 1392, Oct. 3, 1980, 94 Stat. 1504.)

REFERENCES IN TEXT

The Act, as amended by this Act, referred to in text, means the Higher Education Act of 1965, Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended by the Education Amendments of 1980, Pub. L. 96–373, Oct. 3, 1980, 94 Stat. 1367, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1146 of this title.

Section was enacted as part of the Education Amendments of 1980, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the Higher Education Act of 1965 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS

Pub. L. 99–498, § 3, Oct. 17, 1986, 100 Stat. 1278, provided that: ''The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of title IV of the Act) [see Tables for classification] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.''

§ 1155. Connie Lee privatization

(a) Status of Corporation and corporate powers; obligations not federally guaranteed

(1) Status of the Corporation

The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5. No action under section 1491 of title 28 (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) Corporate powers

The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental

to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) Limitation on ownership of stock

(A) Student Loan Marketing Association

The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on September 30, 1996. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 1132f–3 of this title as long as that section is in effect.

(B) Prohibition

Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(C) Financial support or guarantees

After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) No Federal guarantee

(A) Obligations insured by the Corporation

(i) Full faith and credit of the United States

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) Student Loan Marketing Association

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) Special rule

This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) Securities offered by the Corporation

No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) "Corporation" defined

The term ''Corporation'' as used in this section means the College Construction Loan Insurance Association as in existence on the day before September 30, 1996, and any successor corporation.

(b) Related privatization requirements

(1) Notice requirements

(A) In general

During the six-year period following September 30, 1996, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) Additional notice

During the five-year period following the sale of stock pursuant to subsection (c)(1) of this section, in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) Corporate charter

The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) Corporate name

The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association'', or any substantially similar variation thereof.

(4) Articles of incorporation

The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) Requirements until stock sale

Notwithstanding subsection (d) of this section, the requirements of sections 1132f–3 and 1132f–9 of this title, as such sections were in effect on the day before September 30, 1996, shall continue to be effective until the day immediately following the date of closing of the

purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.[1]

(c) Sale of federally owned stock

(1) Purchase by the Corporation

The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after September 30, 1996, the stock of the Corporation held by the Secretary of Education at a price determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after September 30, 1996. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

(2) Reimbursement of costs and expenses of sale

The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

(3) Deposit into account

Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e) of this section.

(4) Assistance by the Corporation

The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(5) Report to Congress

Not later than 6 months after September 30, 1996, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

(d) Omitted

(e) Establishment of account

(1) In general

Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087–3(c)(9) of this title;

(B) amounts and proceeds remitted as compensation for the right to assign the ''Sallie Mae'' name as a trademark or service mark pursuant to section 1087–3(e)(3) of this title; and

(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

(2) Amounts and proceeds

(A) Amounts and proceeds relating to Sallie Mae

The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

(B) Amounts and proceeds relating to Connie Lee

The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public and public charter elementary and secondary school facility construction and repair within the District of Columbia. Of such amounts and proceeds, $5,000,000 shall be set aside for a credit enhancement revolving fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).

(3) Credit enhancement revolving fund for public charter schools

(A) Distribution of amounts

Of the amounts in the credit enhancement revolving fund established under paragraph (2)(B)—

(i) 50 percent shall be used to make grants under subparagraph (B); and

(ii) 50 percent shall be used to make grants under subparagraph (C).

(B) Grants to eligible nonprofit corporations

(i) In general

Using the amounts described in subparagraph (A)(i), the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

(ii) Administration

The Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

(C) Other grants

(i) In general

Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to

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

carry out the purposes described in subparagraph (E).

(ii) Participation of schools

A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in subparagraph (E) in the same manner as other entities receiving grants to carry out such activities.

(iii) Administration through committee

The Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to November 22, 2000). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

(iv) Cap on administrative costs

Not more than 5 percent of the funds available for grants under this subparagraph may be used to cover the administrative costs of making grants under this subparagraph.

(D) Special rule regarding eligibility of nonprofit corporations

In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

(E) Purposes of grants

(i) In general

The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs; and

(III) enhancing the availability of loans (including mortgages) and bonds.

(ii) No direct funding for schools

Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

(Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290; Pub. L. 106–113, div. A, title I, § 153, Nov. 29, 1999, 113 Stat. 1526; Pub. L. 106–522, § 161, Nov. 22, 2000, 114 Stat. 2483; Pub. L. 106–553, § 1(a)(1) [§ 161], Dec. 21, 2000, 114 Stat. 2762, 2762A–45; Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–189; Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a)(2), is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is not classified to the Code.

Sections 1132f–3 and 1132f–9 of this title, referred to in subsecs. (a)(3)(A) and (b)(5), were repealed by subsec. (d) of this section.

The District of Columbia School Reform Act of 1995, referred to in subsec. (e)(2)(A), is Pub. L. 104–134, title I, § 101(b) [title II], Apr. 26, 1996, 110 Stat. 1321–77, 1321–107, as amended, which amended sections 6322, 6364, and 6365 of this title and enacted provisions set out as a note under section 6322 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1132f–10 of this title.

Section enacted as part of the Student Loan Marketing Association Reorganization Act of 1996, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section is comprised of section 101(e) [title VI, § 603] of div. A of Pub. L. 104–208. Subsec. (d) of section 603 of title VI of section 101(e) of Pub. L. 104–208, repealed sections 1132f to 1132f–9 of this title.

AMENDMENTS

2001—Subsec. (e)(2)(B). Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting ''revolving'' after ''enhancement'' in second sentence of par. (2)(B), was executed by revising the amendment by Pub. L. 106–522, § 161(1), which had amended the second sentence of subsec. (e)(2)(B) of this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3). Pub. L. 107–96, pars. (1), (3), amended Pub. L. 106–522, § 161(2). See 2000 Amendment note below.

Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting ''revolving'' after ''enhancement'' in heading of par. (3) and in par. (3)(A), was executed by revising the amendment by Pub. L. 106–522, § 161(2), which had added subsec. (e)(3) to this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3)(C)(iv). Pub. L. 107–96, proviso, which directed amendment of the cap on administrative costs as amended by Pub. L. 106–522, § 161, by substituting ''5 percent'' for ''10 percent'', could not be executed because the words ''10 percent'' did not appear in this section after the amendment of Pub. L. 106–522, § 161(2), by Pub. L. 107–96, par. (3). See 2000 Amendment note below.

2000—Subsec. (e)(2)(B). Pub. L. 106–553, § 1(a)(1) [§ 161(1)], which directed amendment identical to amendment by Pub. L. 106–522, § 161(1), below, was repealed by Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, § 161(1), as amended by Pub. L. 107–96, par. (2), amended second sentence generally. Prior to amendment, second sentence read as follows: ''Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed

by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.''

Subsec. (e)(3). Pub. L. 106–553, § 1(a)(1) [§ 161(2)], which directed amendment identical to amendment by Pub. L. 106–522, § 161(2), below, was repealed by Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, § 161(2), as amended by Pub. L. 107–96, pars. (1) to (3), added par. (3).

1999—Subsec. (e)(2)(B). Pub. L. 106–113 inserted ''and public charter'' after ''public'' and inserted at end ''Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936, provided that the amendments made by that act to section 161 of Pub. L. 106–522 are effective as if included in Pub. L. 106–522.

EFFECTIVE DATE AND CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(4) [div. A, § 406], Dec. 21, 2000, 114 Stat. 2763, 2763A–189, provided that:

''(a) The provisions of H.R. 5547 (as enacted into law by H.R. 4942 of the 106th Congress) [H.R. 5547 as enacted by section 1(a)(1) of Pub. L. 106–553, amending this section and enacting provisions set out as a note under section 6301 of Title 31, Money and Finance] are repealed and shall be deemed for all purposes (including section 1(b) of H.R. 4942 [Pub. L. 106–553, 1 U.S.C. 112 note]) to have never been enacted.

''(b) The repeal made by this section shall take effect as if included in H.R. 4942 of the 106th Congress [Pub. L. 106–553] on the date of its enactment [Dec. 21, 2000].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1087–3 of this title.

CHAPTER 29—INTERNATIONAL STUDIES AND RESEARCH

§ 1171. Omitted

CODIFICATION

Section, Pub. L. 89–698, § 2, Oct. 29, 1966, 80 Stat. 1066, which set out the Congressional findings and declaration of purpose in providing for a program of international studies and research, was omitted in view of the repeal of the remaining sections of this chapter by Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472.

§§ 1172 to 1174. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1172, Pub. L. 89–698, title I, § 101, Oct. 29, 1966, 80 Stat. 1066, made provision for a program of international studies and research involving operation of centers for advanced international studies. See section 1123 of this title.

Section 1173, Pub. L. 89–698, title I, § 102, Oct. 29, 1966, 80 Stat. 1067, provided for undergraduate programs in international studies. See section 1124 of this title.

Section 1174, Pub. L. 89–698, title I, § 103, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 91–230, title IV, § 401(c)(7), Apr. 13, 1970, 84 Stat. 173, authorized payment in installments and in advance or by way of reimbursement.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1175. Repealed. Pub. L. 91–230, title IV, § 401(f)(7), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–698, title I, § 104, Oct. 29, 1966, 80 Stat. 1068, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution, selection of library resources, and content of any material developed or published), and was superseded by section 1232a of this title.

§§ 1176, 1177. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1176, Pub. L. 89–698, title I, § 105, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 90–575, title V, § 502, Oct. 16, 1968, 82 Stat. 1062; Pub. L. 92–318, title I, § 183, June 23, 1972, 86 Stat. 312; Pub. L. 94–482, title III, § 303, Oct. 12, 1976, 90 Stat. 2216, authorized appropriations and provided for an annual report to Congress. See section 1125 of this title.

Section 1177, Pub. L. 89–698, title I, § 106, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 91–230, title IV, § 401(h)(5), Apr. 13, 1970, 84 Stat. 174, provided for creation of a National Advisory Committee on International Studies. See section 1131 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CHAPTER 30—BASIC EDUCATION FOR ADULTS

SUBCHAPTER I—BASIC PROGRAM PROVISIONS

§§ 1201 to 1201b. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1201, Pub. L. 89–750, title III, § 311, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302, stated purpose of chapter.

A prior section 1201, Pub. L. 89–750, title III, § 302, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 95–561, title XIII, § 1301, Nov. 1, 1978, 92 Stat. 2356; Pub. L. 98–511, title I, § 101, Oct. 19, 1984, 98 Stat. 2366, related to Congressional declaration of purpose of chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1201a, Pub. L. 89–750, title III, § 312, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302; amended Pub. L. 101–26, § 3(a), May 11, 1989, 103 Stat. 55; Pub. L. 101–589, title VII, § 723, Nov. 16, 1990, 104 Stat. 2913; Pub. L. 102–73, title VIII, § 802(b)(1), July 25, 1991, 105 Stat. 361, defined terms used in chapter.

Section 1201b, Pub. L. 89–750, title III, § 313, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 304; amended Pub. L. 102–73, title III, § 301(a), title VIII, § 802(b)(2), July 25, 1991, 105 Stat. 345, 361, authorized appropriations and required allotments.

A prior section 1202, Pub. L. 89–750, title III, § 303, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 90–576, title III, § 302, Oct. 16, 1968, 82 Stat. 1095; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 93–380, title VI, § 601, title VIII, § 843(c)(1), Aug. 21, 1974, 88 Stat. 576, 611; Pub. L. 95–561, title XIII, §§ 1302, 1304(a), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, § 102(a)–(f)(1), Oct. 19, 1984, 98 Stat. 2366, 2367, related to definitions used in this chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–73, § 1, July 25, 1991, 105 Stat. 333, provided that Pub. L. 102–73 was to be cited as the ''National Lit-