

677; Pub. L. 97-98, title XIV, §1419, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 4 of act Aug. 30, 1890. Remainder of section 4 is classified to section 326 of this title.

SHORT TITLE

Act Aug. 30, 1890, as amended, which is classified to this subchapter, is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act".

TRANSFER OF FUNCTIONS

Functions and duties of Secretary of Education under this subchapter transferred to Secretary of Agriculture by section 1419 of Pub. L. 97-98.

Functions of Secretary of Health, Education, and Welfare under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of 1953 Reorg. Plan No. 1.

Prior to July 1, 1939, functions of Secretary of the Interior under this subchapter were carried out through Office of Education of Department of the Interior. Office of Education and its functions transferred to Federal Security Administrator by section 204 of 1939 Reorg. Plan No. 1, set out in the Appendix to Title 5.

WEST VIRGINIA STATE COLLEGE AT INSTITUTE, WEST VIRGINIA

Pub. L. 107-76, title VII, §753, Nov. 28, 2001, 115 Stat. 740, provided that: "Hereafter, any provision of any Act of Congress relating to colleges and universities eligible to receive funds under the Act of August 30, 1890 [7 U.S.C. 321 et seq.], including Tuskegee University, shall apply to West Virginia State College at Institute, West Virginia: *Provided*, That the Secretary may waive the matching funds' requirement under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) for fiscal year 2002 for West Virginia State College if the Secretary determines the State of West Virginia will be unlikely to satisfy the matching requirement."

§ 322. Annual appropriation

There is annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as provided in section 324 of this title, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts established in accordance with the provisions of subchapter I of this chapter, \$50,000 to be applied only to instruction in food and agricultural sciences, and to the facilities for such instruction: *Provided*, That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of food and agricultural sciences.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; Mar. 4, 1907, ch. 2907, 34 Stat. 1281, 1282; Pub. L. 97-98, title XIV, §1421, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section is based on a part of section 1 of act Aug. 30, 1890, and the tenth and eleventh pars. under the head-

ing "Emergency Appropriations" of act Mar. 4, 1907. Remainder of section 1 of act Aug. 30, 1890, is classified to section 323 of this title.

AMENDMENTS

1981—Pub. L. 97-98 substituted "food and agricultural sciences" for "agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life" and "the elements of food and agricultural sciences" for "the elements of agriculture and the mechanic arts".

1907—Act Mar. 4, 1907, substituted "\$50,000" for "\$25,000", and inserted proviso.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97-98, set out as an Effective Date note under section 4301 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

AVAILABILITY OF FUNDS FOR PAYMENTS UNDER THIS SUBCHAPTER

Pub. L. 103-330, title VII, §724, Sept. 30, 1994, 108 Stat. 2469, provided that: "No funds shall be available in fiscal year 1995 and thereafter for payments under the Act of August 30, 1890 and the tenth and eleventh paragraphs under the heading 'Emergency Appropriations' of the Act of March 4, 1907 (7 U.S.C. 321 et seq.)."

§ 323. Racial discrimination by colleges restricted

No money shall be paid out under this subchapter to any State or Territory for the support or maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said sections if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of subchapter I of this chapter, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890, aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under said subchapter I, the legislature of such State may propose and report to the Secretary of Agriculture a just and equitable division of the fund to be received under this subchapter between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of said sections and subject to their provisions, as much as it would have been if it had been included under subchapter I of this chapter, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(Aug. 30, 1890, ch. 841, §1, 26 Stat. 417; 1939 Reorg. Plan No. 1, §§201, 204, eff. July 1, 1939, 4 F.R. 2728,

53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96-88, title III, §301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97-98, title XIV, §1419, Dec. 22, 1981, 95 Stat. 1306.)

CODIFICATION

Section constitutes part of section 1 of act Aug. 30, 1890. Remainder of section 1 is classified to section 322 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

§ 324. Time, manner, etc., of annual payments

The sums appropriated by this subchapter to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the 31st day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Agriculture, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture, on or before the 1st day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this subchapter are made subject to the legislative assent of the several States and Territories to the purpose of said grants.

(Aug. 30, 1890, ch. 841, §2, 26 Stat. 418; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 94-273, §9(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 96-88, title III, §301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97-98, title XIV, §1419, Dec. 22, 1981, 95 Stat. 1306.)

AMENDMENTS

1976—Pub. L. 94-273 substituted “October” for “July” and “December” for “September”.

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

§ 325. State to replace funds misapplied, etc.; restrictions on use of funds; reports by colleges

If any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institu-

tions for colored students, as provided in this subchapter, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their cost and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this subchapter.

(Aug. 30, 1890, ch. 841, §3, 26 Stat. 418; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96-88, title III, §301(a)(2)(E), Oct. 17, 1979, 93 Stat. 677; Pub. L. 97-98, title XIV, §1419, Dec. 22, 1981, 95 Stat. 1306.)

TRANSFER OF FUNCTIONS

For transfer of functions under this section to Secretary of Agriculture, see note set out under section 321 of this title.

Functions of Department of Health, Education, and Welfare and Secretary thereof under this subchapter transferred to Secretary of Education by section 301(a)(2)(E) of Pub. L. 96-88, which is classified to section 3441(a)(2)(E) of Title 20, Education.

Transfer of functions from Secretary of the Interior to Secretary of Health, Education, and Welfare, see note set out under section 321 of this title.

§ 326. Ascertainment and certification of amounts due States; certificates withheld from States; appeal to Congress

On or before the 1st day of October in each year, the Secretary of Agriculture shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this subchapter, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Agriculture shall withhold a certificate from any State or Territory of its appropriation the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid it shall be covered into the Treasury.

(Aug. 30, 1890, ch. 841, §4, 26 Stat. 419; 1939 Reorg. Plan No. I, §§201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§5, 8, eff.