

Sec.	
10012.	Fiscal relief.
10013.	Definitions.

### § 10001. Allocations

#### (a) Outlying areas

From the amount appropriated to carry out this chapter, the Secretary of Education shall first allocate up to one-half of 1 percent to the outlying areas on the basis of their respective needs, as determined by the Secretary, in consultation with the Secretary of the Interior, for activities consistent with this chapter under such terms and conditions as the Secretary may determine.

#### (b) Administration and oversight

The Secretary may, in addition, reserve up to \$14,000,000 for administration and oversight of this chapter, including for program evaluation.

#### (c) Reservation for additional programs

After reserving funds under subsections (a) and (b), the Secretary shall reserve \$5,000,000,000 for grants under sections 10006 and 10007 of this title.

#### (d) State allocations

After carrying out subsections (a), (b), and (c), the Secretary shall allocate the remaining funds made available to carry out this chapter to the States as follows:

- (1) 61 percent on the basis of their relative population of individuals aged 5 through 24.
- (2) 39 percent on the basis of their relative total population.

#### (e) State grants

From funds allocated under subsection (d), the Secretary shall make grants to the Governor of each State.

#### (f) Reallocation

The Governor shall return to the Secretary any funds received under subsection (e) that the Governor does not award as subgrants or otherwise commit within two years of receiving such funds, and the Secretary shall reallocate such funds to the remaining States in accordance with subsection (d).

(Pub. L. 111–5, div. A, title XIV, §14001, Feb. 17, 2009, 123 Stat. 279.)

### § 10002. State uses of funds

#### (a) Education fund

##### (1) In general

For each fiscal year, the Governor shall use 81.8 percent of the State's allocation under section 10001(d) of this title for the support of elementary, secondary, and postsecondary education and, as applicable, early childhood education programs and services.

##### (2) Restoring State support for education

###### (A) In general

The Governor shall first use the funds described in paragraph (1)—

- (i) to provide the amount of funds, through the State's primary elementary and secondary education funding formulae, that is needed—

- (I) to restore, in each of fiscal years 2009, 2010, and 2011, the level of State support provided through such formulae to the greater of the fiscal year 2008 or fiscal year 2009 level; and

- (II) where applicable, to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008.

- (ii) to provide, in each of fiscal years 2009, 2010, and 2011, the amount of funds to public institutions of higher education in the State that is needed to restore State support for such institutions (excluding tuition and fees paid by students) to the greater of the fiscal year 2008 or fiscal year 2009 level.

#### (B) Shortfall

If the Governor determines that the amount of funds available under paragraph (1) is insufficient to support, in each of fiscal years 2009, 2010, and 2011, public elementary, secondary, and higher education at the levels described in clauses (i) and (ii) of subparagraph (A), the Governor shall allocate those funds between those clauses in proportion to the relative shortfall in State support for the education sectors described in those clauses.

#### (C) Fiscal year

For purposes of this paragraph, the term “fiscal year” shall have the meaning given such term under State law.

#### (3) Subgrants to improve basic programs operated by local educational agencies

After carrying out paragraph (2), the Governor shall use any funds remaining under paragraph (1) to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent year for which data are available.

#### (b) Other government services

##### (1) In general

The Governor shall use 18.2 percent of the State's allocation under section 10001(d) of this title for public safety and other government services, which may include assistance for elementary and secondary education and public institutions of higher education, and for modernization, renovation, or repair of public school facilities and institutions of higher education facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

##### (2) Availability to all institutions of higher education

A Governor shall not consider the type or mission of an institution of higher education, and shall consider any institution for funding

for modernization, renovation, and repairs within the State that—

(A) qualifies as an institution of higher education, as defined in subsection<sup>1</sup> 10013(3) of this title; and

(B) continues to be eligible to participate in the programs under title IV of the Higher Education Act of 1965.

**(c) Rule of construction**

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111-5, div. A, title XIV, §14002, Feb. 17, 2009, 123 Stat. 279; Pub. L. 111-8, div. F, title V, §523(a), (b), Mar. 11, 2009, 123 Stat. 806.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Part A of title I of the Act is classified generally to part A (§6311 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.

The Higher Education Act of 1965, referred to in subsec. (b)(2)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of this title and part C (§2751 et seq.) 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 set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2009—Subsec. (a)(2)(A)(i). Pub. L. 111-8, §523(a), inserted “education” after “secondary” in introductory provisions.

Subsec. (b)(1). Pub. L. 111-8, §523(b), substituted “10001(d)” for “10001”.

**§ 10003. Uses of funds by local educational agencies**

**(a) In general**

A local educational agency that receives funds under this chapter may use the funds for any activity authorized by the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), or the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.) (“the Perkins Act”) or for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

**(b) Prohibition**

A local educational agency may not use funds received under this chapter for—

- (1) payment of maintenance costs;
- (2) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public;
- (3) purchase or upgrade of vehicles; or
- (4) improvement of stand-alone facilities whose purpose is not the education of chil-

dren, including central office administration or operations or logistical support facilities.

**(c) Rule of construction**

Nothing in this section shall allow a local educational agency to engage in school modernization, renovation, or repair that is inconsistent with State law.

(Pub. L. 111-5, div. A, title XIV, §14003, Feb. 17, 2009, 123 Stat. 281; Pub. L. 111-8, div. F, title V, §523(c), Mar. 11, 2009, 123 Stat. 806.)

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, which is classified generally to chapter 70 (§6301 et seq.) 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.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a), is title II of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 1059, which is classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-8 substituted “the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.)” for “the Adult and Family Literacy Act (20 U.S.C. 1400 et seq.)”.

**§ 10004. Uses of funds by institutions of higher education**

**(a) In general**

A public institution of higher education that receives funds under this chapter shall use the funds for education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-State students, or for modernization, renovation, or repair of institution of higher education facilities that are primarily used for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system.

**(b) Prohibition**

An institution of higher education may not use funds received under this chapter to increase its endowment.

**(c) Additional prohibition**

No funds awarded under this chapter may be used for—

- (1) the maintenance of systems, equipment, or facilities;
- (2) modernization, renovation, or repair of stadiums or other facilities primarily used for

<sup>1</sup> So in original. Probably should be “section”.