

“(B) Title VIII of the Elementary and Secondary Education Act of 1965 [this subchapter], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994].”

§ 7702. Payments relating to Federal acquisition of real property

(a) In general

Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines—

(1) that the United States owns Federal property in the local educational agency, and that such property—

(A) has been acquired by the United States since 1938;

(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

(C) had an assessed value according to original records (including facsimiles or other reproductions of those records) documenting the assessed value of such property (determined as of the time or times when so acquired) prepared by the local officials referred to in subsection (b)(3) or, when such original records are not available due to unintentional destruction (such as natural disaster, fire, flooding, pest infestation, or deterioration due to age), other records, including Federal agency records, local historical records, or other records that the Secretary determines to be appropriate and reliable, aggregating 10 percent or more of the assessed value of—

(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

(II) State law requires an assessment be made of property so acquired; and

(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b) or (h) of this section.

(b) Amount

(1) In general

(A)(i)(I) Subject to subclauses (II) and (III), the amount that a local educational agency shall be paid under subsection (a) of this section for a fiscal year shall be calculated in accordance with paragraph (2).

(II) Except as provided in subclause (III), the Secretary may not reduce the amount of a

payment under this section to a local educational agency for a fiscal year by (aa) the amount equal to the amount of revenue, if any, the agency received during the previous fiscal year from activities conducted on Federal property eligible under this section and located in a school district served by the agency, including amounts received from any Federal department or agency (other than the Department of Education) from such activities, by reason of receipt of such revenue, or (bb) any other amount by reason of receipt of such revenue.

(III) If the amount equal to the sum of (aa) the proposed payment under this section to a local educational agency for a fiscal year and (bb) the amount of revenue described in subclause (II)(aa) received by the agency during the previous fiscal year, exceeds the maximum amount the agency is eligible to receive under this section for the fiscal year involved, then the Secretary shall reduce the amount of the proposed payment under this section by an amount equal to such excess amount.

(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(I) the operation of a domestic dependent elementary or secondary school; or

(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(B) If funds appropriated under section 7714(a) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section.

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 7703(b) of this title, exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 7703(b)(1)(C) of this title, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.

(2) Application of current levied real property tax rate

In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined estimated taxable value of such acquired Federal property.

(3) Determination of taxable value for eligible Federal property

(A) In general

In determining the estimated taxable value of such acquired Federal property for

fiscal year 2010 and each succeeding fiscal year, the Secretary shall—

(i) first determine the total taxable value for the purpose of levying property tax for school purposes for current expenditures of real property located within the boundaries of such local educational agency;

(ii) then determine the per acre value of the eligible Federal property by dividing the total taxable value as determined in clause (i) by the difference between the total acres located within the boundaries of the local educational agency and the number of Federal acres eligible under this section; and

(iii) then determine the total taxable value of the eligible Federal property by multiplying the per acre value as calculated under clause (ii) by the number of Federal acres eligible under this section.

(B) Special rule

In the case of Federal property eligible under this section that is within the boundaries of 2 or more local educational agencies that are eligible under this section, any of such agencies may ask the Secretary to calculate (and the Secretary shall calculate) the taxable value of the eligible Federal property that is within its boundaries by—

(i) first calculating the per-acre value of the eligible Federal property separately for each eligible local educational agency that shared the Federal property, as provided in subparagraph (A)(i);

(ii) then averaging the resulting per-acre values of the eligible Federal property from each eligible local educational agency that shares the Federal property; and

(iii) then applying the average per-acre value to determine the total taxable value of the eligible Federal property under subparagraph (A)(iii) for the requesting local educational agency.

(c) Applicability to Tennessee Valley Authority Act

For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831] shall not be regarded as Federal property.

(d) Ownership by United States

The United States shall be deemed to own Federal property for the purposes of this chapter, where—

(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1) of this section; and

(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

(A) restricts some or any construction on such property;

(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

(e) Local educational agency containing Forest Service land and serving certain counties

Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) of this section if such local educational agency meets the following requirements:

(1) Acreage and acquisition by the Forest Service

The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

(2) County charter

The local educational agency serves a county chartered under State law in 1875 or 1890. For each fiscal year beginning on or after December 10, 2015, the Secretary shall treat local educational agencies chartered in 1871 having more than 70 percent of the county in Federal ownership as meeting the eligibility requirements of subparagraphs (A) and (C) of subsection (a)(1).

(f) Special rule

For each fiscal year beginning on or after December 10, 2015, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) if the agency was eligible under paragraph (1) or (3) of section 7702(f) of this title as such section was in effect on the day before December 10, 2015.

(g) Former districts

(1) Consolidations

For fiscal year 2006 and each succeeding fiscal year, if a local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of 2 or more former school districts, the local educational agency may elect to have the Secretary determine its eligibility for assistance under this section for any fiscal year on the basis of 1 or more of those former districts, as designated by the local educational agency.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is—

(A) any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied, and was determined to be eligible under, section 2(c) of the Act of September

30, 1950 (Public Law 874, 81st Congress) as that section was in effect for that fiscal year; or

(B) a local educational agency—

(i) that was formed by the consolidation of 2 or more districts, at least 1 of which was eligible for assistance under this section for the fiscal year preceding the year of the consolidation; and

(ii) which includes the designation referred to in paragraph (1) in its application under section 7705 of this title for a fiscal year beginning on or after December 10, 2015, or any timely amendment to such application.

(3) Amount

A local educational agency eligible under paragraph (1) shall receive a foundation payment as provided for under subparagraphs (A) and (B) of subsection (h)(1), except that the foundation payment shall be calculated based on the most recent payment received by the local educational agency based on its status prior to consolidation.

(h) Payments with respect to fiscal years in which insufficient funds are appropriated

For any fiscal year for which the amount appropriated under section 7714(a) of this title is insufficient to pay to each eligible local educational agency the full amount determined under subsection (b) of this section, the Secretary shall make payments to each local educational agency under this section as follows:

(1) Foundation payments for pre-2010 recipients

(A) In general

The Secretary shall first make a foundation payment to each local educational agency that is determined by the Secretary to be eligible to receive a payment under this section for the fiscal year involved and that filed a timely application, and met, or has been determined by statute to meet, the eligibility requirements of subsection (a) for fiscal year 2009.

(B) Amount

(i) In general

The amount of a payment under subparagraph (A) for a local educational agency shall be equal to the greater of 90 percent of the payment the local educational agency received from dollars appropriated for fiscal year 2009 or 90 percent of the average payment that the local educational agency received from dollars appropriated for fiscal years 2006, 2007, 2008, and 2009, and shall be calculated without regard to the maximum payment provisions in subsection (b)(1)(C).

(ii) Exception

In calculating such average payment for a local educational agency that did not receive a payment under subsection (b) for 1 or more of the fiscal years between fiscal year 2006 and 2009, inclusive, the lowest such payment made to the agency for fiscal year 2006, 2007, 2008, or 2009, shall be

treated as the payment that the agency received under subsection (b) for each fiscal year for which the agency did not receive such a payment.

(C) Insufficient appropriations

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) Foundation payments for new applicants

(A) First year

From any amounts remaining after making payments under paragraph (1) and subsection (i)(1) for the fiscal year involved, the Secretary shall make a payment, in an amount determined in accordance with subparagraph (C), to each local educational agency that the Secretary determines eligible for a payment under this section for a fiscal year after fiscal year 2009 and that did not receive a payment under paragraph (1) for the fiscal year for which such agency was determined eligible for such payment.

(B) Second and succeeding years

For any succeeding fiscal year after the first fiscal year that a local educational agency receives a foundation payment under subparagraph (A), the amount of the local educational agency's foundation payment under this paragraph for such succeeding fiscal year shall be equal to the local educational agency's foundation payment under this paragraph for the first fiscal year.

(C) Amounts

The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the local educational agency's maximum payment under subsection (b).

(ii) Calculate the percentage that the amount appropriated under section 7714(a) of this title for the most recent fiscal year for which the Secretary has completed making payments under this section is of the total maximum payments for such fiscal year for all local educational agencies eligible for a payment under subsection (b) and multiply the agency's maximum payment by such percentage.

(iii) Multiply the amount determined under clause (ii) by 90 percent.

(D) Insufficient funds

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(3) Remaining funds

From any funds remaining after making payments under paragraphs (1) and (2) for the

fiscal year involved, the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) or (2) or subsection (i)(1), for the fiscal year involved in an amount that bears the same relation to the remainder as a percentage share determined for the local educational agency (by dividing the maximum amount that the agency is eligible to receive under subsection (b) by the total of the maximum amounts for all such agencies) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b), data from the most current fiscal year shall be used.

(4) Data

For each local educational agency that received a payment under this section for fiscal year 2010 or any succeeding fiscal year, the Secretary shall not make a payment under paragraph (3) to a local educational agency that fails to submit, within 60 days of the date the Secretary notifies the agency that the information is needed, the data necessary to calculate the maximum amount of a payment under subsection (b) for that local educational agency.

(i) Special payments

(1) In general

For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) of this section applies, the Secretary shall use the remainder described in subsection (h)(3) of this section for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2).

(2) Local educational agency described

A local educational agency described in this paragraph is a local educational agency that—

- (A) received a payment under this section for fiscal year 1996;
- (B) serves a school district that contains all or a portion of a United States military academy;
- (C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and
- (D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(j) Prior year data

Notwithstanding any other provision of this section, in determining the eligibility of a local educational agency for a payment under subsection (b) or (h)(2) of this section for a fiscal year, and in calculating the amount of such payment, the Secretary—

(1) shall use data from the prior fiscal year with respect to the Federal property involved, including data with respect to the assessed value of the property and the real property tax rate for current expenditures levied against or imputed to the property; and

(2) shall use data from the second prior fiscal year with respect to determining the amount of revenue referred to in subsection (b)(1)(A)(i) of this section.

(k) Loss of eligibility

(1) In general

Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 7713(5)(C)(iii) of this title, in an amount equal to 90 percent of the amount received by the agency under this section for the preceding year.

(2) Local educational agency described

A local educational agency described in this paragraph is an agency that—

- (A) was eligible for, and received, a payment under this section for fiscal year 2002; and
- (B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) of this section as a result of the transfer of the Federal property involved to a non-Federal entity.

(Pub. L. 89-10, title VII, §7002, formerly title VIII, §8002, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 104-195, §1, 6, Sept. 16, 1996, 110 Stat. 2379, 2382; Pub. L. 105-18, title VI, §§60004, 60006, June 12, 1997, 111 Stat. 214, 215; Pub. L. 105-78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 105-277, div. A, §101(f) [title III], Oct. 21, 1998, 112 Stat. 2681-337, 2681-365; Pub. L. 106-113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A-247; Pub. L. 106-398, §1 [[div. A], title XVIII, §1803], Oct. 30, 2000, 114 Stat. 1654, 1654A-369; Pub. L. 107-110, title VIII, §801(a)-(e), Jan. 8, 2002, 115 Stat. 1947, 1948; Pub. L. 108-447, div. F, title III, §305, Dec. 8, 2004, 118 Stat. 3151; Pub. L. 112-239, div. A, title V, §563(b)(1), (c)(4), Jan. 2, 2013, 126 Stat. 1744, 1748; renumbered title VII, §7002, and amended Pub. L. 114-95, title VII, §§7001(a)(1), (c)(1), (d)(6), (9), 7003, Dec. 10, 2015, 129 Stat. 2074, 2075.)

REFERENCES IN TEXT

Section 7702(f) of this title as such section was in effect on the day before December 10, 2015, referred to in subsec. (f), means section 7702(f) of this title prior to amendment by Pub. L. 114-95, title VII, §§7001(c)(1),

7003(4), Dec. 10, 2015, 129 Stat. 2074, 2076. See 2015 Amendment note below.

Section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in subsec. (g)(2)(A), means section 2(c) of act Sept. 30, 1950, ch. 1124, which was classified to section 237(c) of this title prior to repeal by Pub. L. 103-382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965.

PRIOR PROVISIONS

A prior section 7002 of Pub. L. 89-10 was classified to section 3282 of this title prior to the general amendment of Pub. L. 89-10 by Pub. L. 103-382.

AMENDMENTS

2015—Pub. L. 114-95, §7001(a)(1), repealed Pub. L. 112-239, §563(c)(4). See 2013 Amendment notes below.

Subsec. (a)(1)(C). Pub. L. 114-95, §7003(1), inserted introductory provisions and struck out former introductory provisions which read as follows: “had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—”.

Subsec. (b)(1)(B). Pub. L. 114-95, §7001(d)(9), made technical amendment to reference in original act which appears in text as reference to section 7714(a) of this title.

Subsec. (b)(1)(C). Pub. L. 114-95, §7003(2)(A), made technical amendment to reference in original act which appears in text as reference to section 7703(b)(1)(C) of this title.

Pub. L. 114-95, §7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (b)(3)(B). Pub. L. 114-95, §7003(2)(B), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: “In the case of Federal property eligible under this section that is within the boundaries of 2 or more local educational agencies, such a local educational agency may ask the Secretary to calculate the per acre value of each such local educational agency as provided under subparagraph (A) and apply the average of these per acre values to the acres of the Federal property in such agency.”

Subsec. (e)(2). Pub. L. 114-95, §7003(3), inserted at end “For each fiscal year beginning on or after December 10, 2015, the Secretary shall treat local educational agencies chartered in 1871 having more than 70 percent of the county in Federal ownership as meeting the eligibility requirements of subparagraphs (A) and (C) of subsection (a)(1).”

Subsec. (f). Pub. L. 114-95, §7003(4), added subsec. (f) and struck out former subsec. (f) which related to special rules for certain local educational agencies.

Subsec. (g). Pub. L. 114-95, §7003(5), added subsec. (g) and struck out former subsec. (g) which allowed a local educational agency formed by the consolidation of 2 or more former school districts to elect to have its eligibility, and the amount which the agency was eligible to receive, determined only with respect to such of the former school districts as the agency designated.

Subsec. (h). Pub. L. 114-95, §7001(d)(9), made technical amendment to references in original act which appear in text as references to section 7714(a) of this title wherever appearing.

Subsec. (h)(4). Pub. L. 114-95, §7003(6), substituted “For each local educational agency that received a payment under this section for fiscal year 2010 or any succeeding fiscal year” for “For each local educational agency that received a payment under this section for fiscal year 2010 through the fiscal year in which the Impact Aid Improvement Act of 2012 is enacted”.

Subsec. (j). Pub. L. 114-95, §7003(8), (9), redesignated subsec. (l) as (j) and substituted “(h)(2)” for “(h)(4)(B)” in introductory provisions.

Subsec. (k). Pub. L. 114-95, §7003(7), (10), redesignated subsec. (n) as (k) and struck out former subsec. (k) which related to special rules for certain local educational agencies.

Subsec. (k)(1). Pub. L. 114-95, §7003(11), made technical amendment to reference in original act which appears in text as reference to section 7713(5)(C)(iii) of this title.

Subsec. (l). Pub. L. 114-95, §7003(8), redesignated subsec. (l) as (j).

Subsec. (m). Pub. L. 114-95, §7003(7), struck out subsec. (m) which related to eligibility of local educational agencies for payments for Federal property acquired by the Federal Government.

Subsec. (n). Pub. L. 114-95, §7003(10), redesignated subsec. (n) as (k).

2013—Pub. L. 112-239, §563(c)(4), which directed repeal of the amendments by Pub. L. 112-239, §563(b)(1), on the day after the 5-year period that began on Jan. 3, 2013, was itself repealed by Pub. L. 114-95, §7001(a)(1).

Subsec. (a). Pub. L. 112-239, §563(b)(1)(A), struck out “for a fiscal year ending prior to October 1, 2003” at end of introductory provisions and inserted “or (h)” after “subsection (b)” in concluding provisions.

Subsec. (b)(2). Pub. L. 112-239, §563(b)(1)(B)(i), substituted “estimated taxable” for “aggregate assessed”.

Subsec. (b)(3). Pub. L. 112-239, §563(b)(1)(B)(ii), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.”

Subsec. (h)(1). Pub. L. 112-239, §563(b)(1)(C)(i), substituted “for pre-2010 recipients” for “for pre-1995 recipients” in heading, added pars. (A) and (B), and struck out former pars. (A) and (B) which related to foundation payments for pre-1995 recipients.

Subsec. (h)(2) to (4). Pub. L. 112-239, §563(b)(1)(C)(ii), added pars. (2) to (4) and struck out former pars. (2) to (4) which related to payments for 1995 recipients, payments in accordance with subsection (i), and funds remaining after making payments, respectively.

2004—Subsec. (m). Pub. L. 108-447 substituted “7 years” for “5 years” in pars. (1), (2)(B), and (3).

2002—Subsec. (h)(1)(A). Pub. L. 107-110, §801(a)(1), substituted “and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950” for “and was eligible to receive a payment under section 2 of the Act of September 30, 1950”.

Subsec. (h)(1)(B). Pub. L. 107-110, §801(a)(2), substituted “(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994” for “(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994”.

Subsec. (h)(2)(A). Pub. L. 107-110, §801(b)(1), inserted before period at end “, or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years”.

Subsec. (h)(2)(B)(ii). Pub. L. 107-110, §801(b)(2), substituted “for each local educational agency described in subparagraph (A)” for “for each local educational agency that received a payment under this section for fiscal year 1995”.

Subsec. (h)(4)(B). Pub. L. 107-110, §801(c), substituted “(by dividing the maximum amount that the agency is eligible to receive under subsection (b) of this section by the total of the maximum amounts for all such agencies)” for “(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))” and “, except that, for the purpose of calculating a local educational agency’s maximum amount under subsection (b) of this section”

for “, except that for the purpose of calculating a local educational agency’s assessed value of the Federal property”.

Subsec. (j). Pub. L. 107–110, §801(d), struck out subsec. (j) which authorized additional assistance for certain local educational agencies impacted by Federal property acquisition.

Subsec. (n). Pub. L. 107–110, §801(e), added subsec. (n).
2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(a)], substituted “2003” for “1999” in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(1)], designated existing provisions as subcl. (I), substituted “Subject to subclauses (II) and (III), the amount” for “The amount”, struck out “, except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property” after “in accordance with paragraph (2)”, and added subcls. (II) and (III).

Subsec. (b)(1)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(2)], substituted “shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section” for “shall ratably reduce the payment to each eligible local educational agency”.

Subsec. (b)(1)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(b)(3)], inserted before period at end “, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater”.

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(c)], amended heading and text generally. Prior to amendment, subsec. (h) required the Secretary to pay under subsec. (b) of this section to eligible local education agencies certain minimum amounts for fiscal years 1995 to 2000.

Subsec. (i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(2)], substituted “Special” for “Priority” in heading.

Subsec. (i)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(d)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

“(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2); and

“(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.”

Subsec. (j)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(e)], struck out “(A)” before “A local educational agency”, redesignated cls. (i) to (v) as subpars. (A) to (E), respectively, and inserted “and, at the time at which the agency is applying for a payment under this subsection, the agency does not have a military installation located within its geographic boundaries” before the semicolon at the end of subpar. (C).

Subsec. (l). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(f)], added subsec. (l).

Subsec. (m). Pub. L. 106–398, §1 [[div. A], title XVIII, §1803(g)], added subsec. (m).

1999—Subsec. (f)(3) to (5). Pub. L. 106–113 added pars. (3) to (5).

1998—Subsec. (f). Pub. L. 105–277 designated existing provisions as par. (1) and added par. (2).

Subsec. (k). Pub. L. 105–277 added subsec. (k).

1997—Subsec. (h)(1)(C). Pub. L. 105–18, §60004, added subpar. (C).

Subsec. (i). Pub. L. 105–18, §60006, amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: “Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency that—

“(1) received a payment under this section for fiscal year 1996;

“(2) serves a school district that contains all or a portion of a United States military academy;

“(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

“(4) demonstrates to the satisfaction of the Secretary that such agency’s per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.”

Subsec. (j). Pub. L. 105–78 added subsec. (j).

1996—Subsecs. (g), (h). Pub. L. 104–195, §1, added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–195, §6, added subsec. (i).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title V, §563(c), Jan. 2, 2013, 126 Stat. 1748, as amended by Pub. L. 113–291, div. A, title V, §563, Dec. 19, 2014, 128 Stat. 3384; Pub. L. 114–95, title VII, §7001(a), title IX, §9215(pp), Dec. 10, 2015, 129 Stat. 2074, 2180, provided that:

“(1) EFFECTIVE DATE.—With respect to applications submitted under section 8002 [now 7002] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7702], as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act [Dec. 10, 2015], for fiscal year 2010, title VIII [now VII] of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.] (including the amendments made by subsection (b)(1) [amending this section]), as in effect on such date, and subsection (b)(1) shall take effect with respect to such applications, notwithstanding section 8005(d) [now 7005(d)] of such Act [20 U.S.C. 7705(d)], as in effect on such date.

“(2) IMPLEMENTATION.—The Secretary of Education shall carry out the amendments made by this section [amending this section and sections 7703 and 7710 of this title] without regard to the rulemaking procedures under section 553 of title 5, United States Code.

“(3) Redesignated (2).]

“(4) Repealed. Pub. L. 114–95, title VII, §7001(a)(1), Dec. 10, 2015, 129 Stat. 2074.]”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CONSOLIDATIONS

Pub. L. 113–76, div. H, title III, §309, Jan. 17, 2014, 128 Stat. 400, allowed a local educational agency formed by the consolidation of 2 or more former school districts to elect to have the Secretary of Education determine its eligibility for fiscal year 2006 and any succeeding fiscal year on the basis of 1 or more of such former districts, prior to repeal by Pub. L. 114–95, title VII, §7001(b), Dec. 10, 2015, 129 Stat. 2074.

§ 7703. Payments for eligible federally connected children

(a) Computation of payment

(1) In general

For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b) or (d) of this section for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37);

(C) resided on Indian lands;

(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37) but did not reside on Federal property; or

(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

(E) resided in low-rent housing;

(F) resided on Federal property and is not described in subparagraph (A) or (B); or

(G) resided with a parent employed on Federal property situated—

(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

(ii) if not in such county, in whole or in part in the same State as such agency.

(2) Determination of weighted student units

For the purpose of computing the basic support payment under subsection (b) of this section, the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

(i) a number of such children described in such subparagraphs which exceeds 5,000; and

(ii) an average daily attendance for all children which exceeds 100,000.

(D) Multiply the number of children described in subparagraph (D) of paragraph (1) by a factor of .20.

(E) Multiply the number of children described in subparagraph (E) of paragraph (1) by a factor of .10.

(F) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

(3) Special rule

The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 1,000 or such number equals or exceeds 10 percent of the total number of students in average daily attendance in the schools of such agency.

(4) Military installation and Indian housing undergoing renovation or rebuilding

(A) Military installation housing

Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider those children as if they were children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that those children would have resided in housing on Federal property if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(B) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(B) for the year prior to the initiation of the housing project on Federal property undergoing renovation or rebuilding; or

(ii) the total number of Federally connected children enrolled at the local educational agency as stated in the application filed for the payment for the year for which the determination is made.

(B) Indian lands

Beginning in fiscal year 2014, in determining the amount of a payment for a local educational agency that received a payment for children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application, the Secretary shall consider those children to be children described in paragraph (1)(C) if the Secretary determines on the basis of a certification provided to the Secretary by a designated representative of the Secretary of the Interior or the Secretary of Housing and Urban Development that those children would have resided in housing on Indian lands if the housing was not undergoing renovation or rebuilding. The total number of children treated as children described in paragraph (1)(C) shall not exceed the lessor of—

(i) the total number of children eligible under paragraph (1)(C) for the year prior to the initiation of the housing project on Indian lands undergoing renovation or rebuilding; or