

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 subsection¹ 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 [20 U.S.C. 1070 et seq.].

(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. 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.),¹ 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.

¹ So in original. Probably should be "section".

¹ See References in Text note below.

(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 children, 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), was title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, which was classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pub. L. 113–128 also included a title II, entitled the “Adult Education and Family Literacy Act”, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. Pursuant to section 3361(a) of Title 29, references to a provision of Pub. L. 105–220 are deemed to refer to the corresponding provision of Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of title II of Pub. L. 105–220 to the Code, see Tables. For complete classification of title II of Pub. L. 113–128 to the Code, see Short Title note set out under section 3101 of Title 29 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 athletic contests or exhibitions or other events for which admission is charged to the general public; or
- (3) modernization, renovation, or repair of facilities—
 - (A) used for sectarian instruction or religious worship; or
 - (B) in which a substantial portion of the functions of the facilities are subsumed in a religious mission.

(Pub. L. 111–5, div. A, title XIV, §14004, Feb. 17, 2009, 123 Stat. 281.)

§ 10005. State applications**(a) In general**

The Governor of a State desiring to receive an allocation under section 10001(d) of this title shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Application

In such application, the Governor shall—

- (1) include the assurances described in subsection (d);
- (2) provide baseline data that demonstrates the State’s current status in each of the areas described in such assurances; and
- (3) describe how the State intends to use its allocation, including whether the State will use such allocation to meet maintenance of effort requirements under the ESEA and IDEA and, in such cases, what amount will be used to meet such requirements.

(c) Incentive grant application

The Governor of a State seeking a grant under section 10006 of this title shall—

- (1) submit an application for consideration;
- (2) describe the status of the State’s progress in each of the areas described in subsection (d), and the strategies the State is employing to help ensure that students in the subgroups described in section 1111(b)(2)(C)(v)(II)¹ of the ESEA (20 U.S.C. 6311(b)(2)(C)(v)(II)) who have not met the State’s proficiency targets continue making progress toward meeting the State’s student academic achievement standards;
- (3) describe the achievement and graduation rates (as described in section 1111(b)(2)(C)(vi)¹

¹ See References in Text note below.