

sums as may be necessary” for “1987, 1988, 1989, and 1990”.

Subsec. (a)(2). Pub. L. 101-477, §1(b)(2), substituted “1990 and 1991, and for fiscal year 1992, such sums as may be necessary” for “1987, 1988, 1989, and 1990”.

Subsec. (a)(3). Pub. L. 101-477, §1(b)(3), substituted “1990, 1991, and 1992” for “1987, 1988, 1989, and 1990”.

1986—Subsec. (a)(1). Pub. L. 99-428, §2(a)(1), substituted “1987, 1988, 1989, and 1990” for “1985, 1986, and 1987”.

Subsec. (a)(2), (3). Pub. L. 99-428, §2(a)(2), substituted “the fiscal years 1987, 1988, 1989, and 1990” for “such fiscal years”.

1983—Subsec. (a). Pub. L. 98-192, §9, amended subsec. (a) generally, substituting provision authorizing appropriations for fiscal years 1985, 1986, and 1987 of \$3,200,000 for carrying out section 1805 of this title, \$30,000,000 for carrying out section 1807 of this title, and appropriations as necessary for carrying out sections 1812(b) and 1813 of this title for provision authorizing appropriations for carrying out section 1807 of this title of \$25,000,000 for each of the fiscal years beginning Oct. 1, 1979 and Oct. 1, 1980, and \$30,000,000 for the fiscal year beginning Oct. 1, 1981, and \$3,200,000 for each of such fiscal years for the provision of technical assistance pursuant to section 1805 of this title.

Subsec. (b). Pub. L. 98-192, §9, amended subsec. (b) generally, substituting provision relating to affording adequate notice of funding available under this chapter and directing two separate appropriations in order to effect a transition to the forward funding method of timing appropriation action for provision directing that, unless otherwise provided, funds appropriated under this section remain available until expended.

Subsec. (c). Pub. L. 98-192, §9, struck out subsec. (c) which provided that nothing in this chapter be deemed to authorize appropriations for fiscal year beginning Oct. 1, 1978.

#### Statutory Notes and Related Subsidiaries

##### 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 Title 20, Education.

##### 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 Title 20, Education.

### § 1811. Grant adjustments

#### (a) Formula for allocation

(1) If the sums appropriated for any fiscal year pursuant to section 1810(a)(2) of this title for grants under section 1807 of this title are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 1808 of this title;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

- (i) the per capita payment for the preceding fiscal year; and
- (ii) the applicant's projected Indian student count for the academic year for which payment is being made;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term “per capita payment” for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled colleges or universities under section 1807 of this title for such fiscal year by the sum of the Indian student counts of such colleges or universities for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this subchapter.

#### (b) Ratable reduction or increase in funds available for existing schools; excess funds; definition

(1) If the sums appropriated for any fiscal year for grants under section 1807 of this title are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 1807 of this title for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 1807 of this title for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 1807 of this title shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) to section 1807 of this title shall, with respect to fiscal year 1983, be deemed to refer to section 1806 of this title as in effect at the beginning of such fiscal year.

#### (c) Reallocation of funds

In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to

pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 1807(a) of this title.

(Pub. L. 95-471, title I, §111, formerly §110, Oct. 17, 1978, 92 Stat. 1328; renumbered §111 and amended Pub. L. 98-192, §§4(a)(1), (b)(3), 10, Dec. 1, 1983, 97 Stat. 1336, 1338; Pub. L. 101-477, §1(c), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 105-244, title IX, §901(b)(6), (8), Oct. 7, 1998, 112 Stat. 1828.)

### Editorial Notes

#### AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-244 substituted “controlled colleges or universities” for “controlled community colleges” and “such colleges or universities” for “such colleges”.

1990—Subsec. (a)(1)(A). Pub. L. 101-477, §1(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 per centum of the product of—

“(i) the per capita payment for the preceding fiscal year; and

“(ii) such applicant’s Indian student count for the current fiscal year;”.

Subsec. (a)(1)(B)(ii). Pub. L. 101-477, §1(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the applicant’s Indian student count for the current fiscal year;”.

1983—Subsec. (a). Pub. L. 98-192, §10, amended subsec. (a) generally, substituting provision establishing a formula to be used to determine funding between existing and newly eligible schools when funds appropriated are not sufficient to pay in full the total amount which approved applicants are eligible to receive under section 1807 of this title for provision that if funds were insufficient to pay in full the total amounts which approved grant applicants were eligible to receive, the available funds would be ratably decreased and if funds later became available or there were excess funds, such funds would be ratably increased.

Subsecs. (b), (c). Pub. L. 98-192, §10, added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 98-192, §4(b)(3), made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

### Statutory Notes and Related Subsidiaries

#### 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 Title 20, Education.

### § 1812. Report on facilities

#### (a) Study on condition of currently existing facilities; submission of report; contents

The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled colleges or universities. Such study shall consider the condition of currently exist-

ing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after September 30, 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled colleges or universities under section 523 of title 40 and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).<sup>1</sup>

#### (b) Renovation program

The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

#### (c) Determination and prioritization of construction and renovation needs

(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges or universities that receive funding under this chapter or the Navajo Community College Act.

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.]; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled colleges or universities.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

#### (d) “Reconstruction” defined

For the purposes of this section, the term “reconstruction” has the meaning provided in the first sentence of subparagraph (B) of section 1132e-1(2)<sup>1</sup> of title 20.

(Pub. L. 95-471, title I, §112, formerly §111, Oct. 17, 1978, 92 Stat. 1328; renumbered §112 and amended Pub. L. 98-192, §§4(a)(1), 11, Dec. 1, 1983, 97 Stat. 1336, 1339; Pub. L. 99-428, §6(a), Sept. 30, 1986, 100 Stat. 983; Pub. L. 101-392, title III, §313, Sept. 25, 1990, 104 Stat. 805; Pub. L. 105-244, title IX, §901(b)(6), (13), Oct. 7, 1998, 112 Stat. 1828.)

### Editorial Notes

#### REFERENCES IN TEXT

The Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a), referred to in subsec. (a)(2), is act Aug. 6, 1956, ch.

<sup>1</sup> See References in Text note below.