

Editorial Notes

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. Sections 312 and 322 of the Act, which were classified to sections 1058 and 1061, respectively, of Title 20, were omitted in the general revision of title III of the Higher Education Act of 1965 by Pub. L. 99-498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290, which enacted new sections 312 and 322 which are classified to sections 1058 and 1061, respectively, of Title 20. Subpart 1 of part A of title IV of the Higher Education Act of 1965 is classified generally to subpart 1 (§1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20. For complete classification of the Higher Education Act of 1965 to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (b)(3), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, §901(b)(10), inserted “or university” after “tribally controlled college”.

Subsec. (b)(1). Pub. L. 105-244, §901(b)(6), (8), substituted “controlled colleges or universities” for “controlled community colleges” and “such colleges or universities” for “such colleges”.

Subsec. (b)(2), (3). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college”.

Subsec. (c). Pub. L. 105-244, §901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Subsec. (d). Pub. L. 105-244, §901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Pub. L. 105-244, §901(b)(5), (12), substituted “controlled college or university” for “controlled community college” and substituted “the college or university” for “the college” in two places.

1988—Subsec. (d). Pub. L. 100-297 added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99-428 added par. (3).

1983—Pub. L. 98-192, §8, designated existing provision as subsec. (a) and added subsecs. (b) and (c).

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 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100-297, see section 6303 of Pub. L. 100-297, set out as a note under section 1071 of Title 20, Education.

§ 1810. Authorization of appropriations

(a)(1) There is authorized to be appropriated, for the purpose of carrying out section 1805 of this title, \$3,200,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(2) There is authorized to be appropriated for the purpose of carrying out section 1807 of this title, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(3) There is authorized to be appropriated for the purpose of carrying out sections 1812(b) and 1813 of this title, such sums as may be necessary for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 2009 and for each of the five succeeding fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the tribally controlled colleges or universities being designated as its own certifying agency.

(b)(1) For the purpose of affording adequate notice of funding available under this chapter, amounts appropriated in an appropriation Act for any fiscal year to carry out this chapter shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this chapter, the first of which shall not be subject to paragraph (1).

(Pub. L. 95-471, title I, §110, formerly §109, Oct. 17, 1978, 92 Stat. 1328; renumbered §110 and amended Pub. L. 98-192, §§4(a)(1), 9, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99-428, §2(a), Sept. 30, 1986, 100 Stat. 982; Pub. L. 101-477, §1(b), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 102-325, title XIII, §1301(a), July 23, 1992, 106 Stat. 797; Pub. L. 105-244, title IX, §901(a)(2)(A), (b)(11), Oct. 7, 1998, 112 Stat. 1827, 1828; Pub. L. 110-315, title IX, §941(g), Aug. 14, 2008, 122 Stat. 3462.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-315, §941(g)(1), (2), substituted “2009” for “1999” and “five succeeding” for “4 succeeding”.

Subsec. (a)(2). Pub. L. 110-315, §941(g)(1)-(3), substituted “such sums as may be necessary” for “\$40,000,000”, “2009” for “1999”, and “five succeeding” for “4 succeeding”.

Subsec. (a)(3). Pub. L. 110-315, §941(g)(1), (2), (4), substituted “such sums as may be necessary” for “\$10,000,000”, “2009” for “1999”, and “five succeeding” for “4 succeeding”.

Subsec. (a)(4). Pub. L. 110-315, §941(g)(1), (5), substituted “2009” for “1999” and “five succeeding” for “succeeding 4”.

1998—Subsec. (a)(1). Pub. L. 105-244, §901(a)(2)(A)(i), substituted “1999” for “1993”.

Subsec. (a)(2). Pub. L. 105-244, §901(a)(2)(A)(ii), substituted “\$40,000,000 for fiscal year 1999” for “\$30,000,000 for fiscal year 1993”.

Subsec. (a)(3). Pub. L. 105-244, §901(a)(2)(A)(iii), substituted “1999” for “1993”.

Subsec. (a)(4). Pub. L. 105-244, §901(a)(2)(A)(iv), (b)(11), substituted “1999” for “1993” and “tribally controlled colleges or universities” for “Tribally Controlled Community Colleges”.

1992—Subsec. (a). Pub. L. 102-325 amended subsec. (a) generally, in pars. (1) to (3) substituting provisions authorizing appropriations for fiscal years 1993 to 1997 for provisions authorizing appropriations for fiscal years 1990 to 1992 and adding par. (4).

1990—Subsec. (a)(1). Pub. L. 101-477, §1(b)(1), substituted “1990 and 1991, and for fiscal year 1992, such

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