

§ 685. National Advisory Board on Establishment of the Institute.

(a) Establishment; Chairman; membership.

There is hereby established a National Advisory Board on Establishment of the National Technical Institute for the Deaf, which shall consist of twelve persons, not regular full-time employees of the United States, appointed by the Secretary without regard to the civil service laws. The Secretary shall appoint one of the members to serve as Chairman. The appointed members shall be selected from among leaders in fields related to education and training of the deaf and other fields of education, and from members of the public familiar with the need for services provided by the Institute. The Commissioner of Education and the Commissioner of Vocational Rehabilitation shall be ex officio members of the Board.

(b) Compensation and travel expenses.

Members of the Board, while serving on business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 73b-2 of Title 5 for persons in the Government service employed intermittently.

(c) Functions.

It shall be the function of the Board (1) to review proposals from institutions of higher education which offer to enter into an agreement with the Secretary for the construction and operation of a National Technical Institute for the Deaf, (2) to make recommendations to the Secretary with respect to such proposals, and (3) to make such other recommendations to the Secretary concerning the establishment and operation of the National Technical Institute as may be appropriate.

(d) Termination.

After the Secretary enters into an agreement under this chapter, the Board shall cease to exist. (Pub. L. 89-36, § 6, June 8, 1965, 79 Stat. 127.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are classified generally to Title 5, Government Organization and Employees.

CODIFICATION

The provisions of section 73b-2 of title 5, referred to in this section, have been incorporated in revised title 5 section 5703.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 684 of this title.

Chapter 21.—HIGHER EDUCATION FACILITIES
SUBCHAPTER III.—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

Sec.

745. Revolving Loan Fund [New]

- (a) Creation; limitation on loans; budget.
- (b) Operation and fund; sale of assets, beneficial interests, and participations in assets of the fund; interest.

SUBCHAPTER IV.—GENERAL PROVISIONS

Sec.

758. Assistance for higher education construction in major disaster areas [New].

- (a) Prerequisites; amount of assistance.
- (b) Assistance to replace or lease equipment, maintenance supplies, and instructional supplies.
- (c) Advancements of assistance.
- (d) Authorization of appropriations.
- (e) Filing of application for assistance; approval of application; consultation with State commission.
- (f) Payment of assistance; return of unexpended funds.
- (g) Definitions.

SUBCHAPTER I.—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

§ 711. Authorization of appropriations.

(a) The Commissioner of Education (hereinafter in this chapter referred to as the "Commissioner") shall carry out during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years, a program of grants to institutions of higher education for the construction of academic facilities in accordance with this subchapter.

(b) For the purpose of making grants under this subchapter, there is hereby authorized to be appropriated the sum of \$230,000,000 for the fiscal year ending June 30, 1964, and for the succeeding fiscal year, \$460,000,000 for the fiscal year ending June 30, 1966, \$475,000,000 for the fiscal year ending June 30, 1967, \$728,000,000 for the fiscal year ending June 30, 1968, and \$936,000,000 for the fiscal year ending June 30, 1969; but for the fiscal year ending June 30, 1970, and the succeeding fiscal year, only such sums may be appropriated as Congress may hereafter authorize by law. In addition to the sum authorized to be appropriated for each fiscal year for which an appropriation is authorized by the preceding sentence, there is hereby authorized to be appropriated for that fiscal year for making such grants the difference (if any) between any specific sums authorized to be appropriated under the preceding sentence for the preceding fiscal year and the sums which were appropriated for such preceding year under such sentence.

(As amended Pub. L. 89-329, title VII, § 701(b), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(a), (b), Nov. 3, 1966, 80 Stat. 1240.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-752, § 2(a), substituted "seven succeeding fiscal years" for "four succeeding fiscal years".

Subsec. (b). Pub. L. 89-752, § 2(b), extended length of time Commissioner was authorized to make appropriations, and in additional years provided for the appropriation of specific sums.

1965—Subsec. (b). Pub. L. 89-329 substituted "and for the succeeding fiscal year, and the sum of \$460,000,000 for the fiscal year ending June 30, 1966" for "and each of the two succeeding fiscal years."

SHORT TITLE

Section 1 of Pub. L. 89-752 provided: "That this Act [which enacted section 1086 of this title, amended sections 403, 421, 425, 441, 443, 711—715, 731, 743, 744, 751, 1022, 1051, 1072, 1121, and 1124 of this title, and enacted provisions set out as notes under sections 403, 443, 1022, 1071, and 1124 of this title] may be cited as the 'Higher Education Amendments of 1966'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 712 of this title.

§ 712. Allotment of funds.

The following percentage of the funds appropriated pursuant to section 711 of this title for a fiscal year shall be allotted among the States in the manner prescribed by section 713 of this title for use in providing academic facilities for public community colleges and public technical institutes:

- (1) In the case of fiscal years ending before July 1, 1967, 22 per centum.
- (2) In the case of the fiscal year ending June 30, 1968, 23 per centum.
- (3) In the case of fiscal years ending after June 30, 1968, 24 per centum.

The remainder of the funds so appropriated for any fiscal year shall be allotted among the States in the manner as prescribed in section 714 of this title for use in providing academic facilities for institutions of higher education other than public community colleges and public technical institutes. (As amended Pub. L. 89-752, § 2(c), Nov. 3, 1966, 80 Stat. 1241.)

AMENDMENTS

1966—Pub. L. 89-752 provided for the allotment among the States of specific percentages of appropriated funds for the fiscal year ending June 30, 1968 and for the fiscal years ending after June 30, 1968.

§ 713. Allotments for public community colleges and technical institutes.

(b) Availability of funds.

(1) The amount of each allotment to a State under this section shall be available, in accordance with the provisions of this subchapter, for payment of the Federal share (as determined under sections 718(b)(3) and 751(d) of this title) of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes. Sums allotted to a State for the fiscal year ending June 30, 1964, shall remain available for reservation as provided in section 719 of this title until the close of the next fiscal year, in addition to the sums allotted to such State for such next fiscal year.

(2) Notwithstanding any other provisions of this subchapter, any portion of a State's allotment under this section for a fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission by January 1 of such fiscal year, shall, if the Commission so requests, be available, in accordance with the provisions of this subchapter for payment of the Federal share (as determined under sections 718(b)(3) and 751(d) of this title) of the development cost of approved projects for the construction of academic facilities within such State for public community colleges and public technical institutes.

(c) Reallocation of unreserved funds at close of fiscal year; factors considered.

All amounts allotted under this section for any fiscal year which are not reserved as provided in section 719 of this title by the close of the fiscal year for which they are allotted, shall be reallocated by the Commissioner, on the basis of such factors

as he determines to be equitable and reasonable, among the States which, as determined by the Commissioner, are able to use without delay any amounts so reallocated for the purposes set forth in subsection (b) of this section. Amounts reallocated under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted.

(As amended Pub. L. 89-329, title VII, § 702(a) (1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(d), Nov. 3, 1966, 80 Stat. 1241.)

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-752 substituted "any fiscal year" for "the fiscal year ending June 30, 1965, and the succeeding fiscal year,".

1965—Subsec. (b). Pub. L. 89-329, § 702(a) (1), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 89-329, § 702(a) (2), substituted "for the purposes set forth in subsection (b) of this section" for "for providing academic facilities for public community colleges or public technical institutes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 715 of this title and in title 42 section 2752.

§ 714. Allotments for institutions of higher education other than public community colleges and technical institutes.

(b) Availability of funds.

(1) The amount of each allotment to a State under this section shall be available, in accordance with the provisions of this subchapter, for payment of the Federal share (as determined under sections 718(b)(3) and 751(d) of this title) of the development cost of approved projects for the construction of academic facilities within such State for institutions of higher education other than public community colleges and public technical institutes. Sums allotted to a State for the fiscal year ending June 30, 1964, shall remain available for reservation as provided in section 719 of this title until the close of the next fiscal year, in addition to the sums allotted to such State for such next fiscal year.

(2) Notwithstanding any other provisions of this subchapter, any portion of a State's allotment under this section for a fiscal year for which applications from an institution qualified to receive grants under this section have not been received by the State Commission by January 1 of such fiscal year, shall, if the Commission so requests, be available, in accordance with the provisions of this subchapter, for payment of the Federal share (as determined under sections 718(b)(3) and 751(d) of this title) of the development cost of approved projects for the construction of academic facilities within such State for institutions of higher education other than public community colleges and public technical institutes.

(c) Reallocation of unreserved funds at close of fiscal year; factors considered.

All amounts allotted under this section for any fiscal year which are not reserved as provided in section 719 of this title by the close of the fiscal year for which they are allotted, shall be reallocated by the Commissioner, on the basis of such factors as he determines to be equitable and reasonable, among

the States which, as determined by the Commissioner, are able to use without delay any amounts so reallocated for the purposes set forth in subsection (b) of this section. Amounts reallocated under this subsection shall be available for reservation until the close of the fiscal year next succeeding the fiscal year for which they were originally allotted. (As amended Pub. L. 89-329, title VII, § 702(b) (1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 2(d), Nov. 3, 1966, 80 Stat. 1241.)

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-752 substituted "any fiscal year" for "the fiscal year ending June 30, 1965, and the succeeding fiscal year."

1965—Subsec. (b). Pub. L. 89-329, § 702(b) (1), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 89-329, § 702(b) (2), substituted "for the purposes set forth in subsection (b) of this section" for "for providing academic facilities for institutions of higher education other than public community colleges and public technical institutes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 712, 715 of this title.

§ 715. State commissions and plans; authorized expenditures.

(a) Any State desiring to participate in the grant program under this subchapter shall designate for that purpose an existing State agency which is broadly representative of the public and of institutions of higher education (including junior colleges and technical institutes) in the State, or, if no such State agency exists, shall establish such a State agency, and submit to the Commissioner through the agency so designated or established in this subchapter referred to as the "State commission", a State plan for such participation. The Commissioner shall approve any such plan which—

(1) provides that it shall be administered by the State commission;

(2) sets forth, consistently with basic criteria prescribed by regulation pursuant to section 717 of this title, objective standards and methods (A) for determining the relative priorities of eligible projects for the construction of academic facilities submitted by institutions of higher education within the State, and (B) for determining the Federal share of the development cost of each such project (unless such plan provides for a uniform Federal share for all such projects);

(3) provides that the funds allotted (or reallocated for any year under section 713 of this title will be available (except as provided in section 713(b) (2) of this title) only for use for the construction of academic facilities for public community colleges and public technical institutes, and that funds allotted (or reallocated) for any year to the State under section 714 of this title will be available (except as provided in section 714(b) (2) of this title only for use for the construction of academic facilities for institutions of higher education other than public community colleges and public technical institutes;

(b) The Commissioner is authorized to expend not exceeding \$3,000,000 during the fiscal years ending June 30, 1965, and June 30, 1966, and not exceeding \$7,000,000 for the fiscal year ending June 30,

1967, and each of the two succeeding fiscal years, in such amounts as he may consider necessary (1) for the proper and efficient administration of the State plans approved under this subchapter, and under sections 1121—1129, of this title including expenses which he determines were necessary for the preparation of such plans, and (2) for grants, upon such terms and conditions as the Commissioner determines will best further the purposes of this chapter, to State commissions for conducting, either directly or through other appropriate agencies and institutions, comprehensive planning to determine the construction needs of institutions (and particularly combinations and regional groupings of institutions) of higher education. Not more than \$3,000,000 may be expended in any fiscal year for the purposes set forth in clause (1). For the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner may expend for purposes of this subsection only such sums as Congress may hereafter authorize by law. (As amended Pub. L. 89-329, title VII, § 702(a) (3), (4), (b) (3), (c) (1), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89-752, § 3(a), Nov. 3, 1966, 80 Stat. 1241.)

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-752 authorized the Commissioner to expend a sum not exceeding \$7,000,000 for the fiscal year ending June 30, 1967, and each of the two succeeding fiscal years designated existing reason for expenditures as clause (1) and inserted therein additional ground of State plans approved under sections 1121—1129 of this title, and added clause (2) and the following.

1965—Subsec. (a). Pub. L. 89-329, § 702(a) (3), struck out "hereinafter" preceding "in this subchapter."

Subsec. (a) (2). Pub. L. 89-329, § 702(c) (1), struck out "other than a project for a public community college or public technical institute" following "each such project".

Subsec. (a) (3). Pub. L. 89-329, § 702(a) (4), (b) (3), inserted "(except as provided in section 713(b) (2) of this title)" and "(except as provided in section 714(b) (2) of this title)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 758 of this title.

§ 716. Eligibility of institutions for grants.

An institution of higher education shall be eligible for a grant for construction of an academic facility under this subchapter only if such construction will, either alone or together with other construction to be undertaken within a reasonable time, (1) result in an urgently needed substantial expansion of the institution's student enrollment capacity or capacity to carry out extension and continuing education programs on the campus of such institution, or (2) in the case of a new institution of higher education, result in creating urgently needed enrollment capacity or capacity to carry out extension and continuing education programs on the campus of such institution. (As amended Pub. L. 89-329, title VII, § 701 (a), Nov. 8, 1965, 79 Stat. 1266.)

AMENDMENTS

1965—Pub. L. 89-329 omitted provisions which made institutions of higher education other than public community colleges or public technical institutes eligible for a grant only if the construction is limited to structures, or portions thereof, especially designed for instruction or research in the natural or physical sciences, mathematics, modern foreign languages, or engineering, or for use as a library, and inserted "or capacity to carry out extension and continuing education programs on the campus of such institution" in cls. (1) and (2).

§ 717. Basic criteria for determining priorities and Federal share.

(b) The Commissioner shall further prescribe by regulation the basic criteria for determining the Federal share of the development cost of any eligible project under this subchapter within a State other than a project for a public community college or public technical institute, to which criteria the applicable standards and methods set forth in the State plan for such State shall conform in the absence of a uniform statewide Federal share specified in or pursuant to such plan. In the case of a project for an institution of higher education, the Federal share shall in no event exceed 33 1/3 per centum of its development cost; and in the case of a project for a public community college or public technical institute, the Federal share shall in no event exceed 40 per centum of its development cost.

(As amended Pub. L. 89-329, title VII, § 702(c)(2), Nov. 8, 1965, 79 Stat. 1268.)

AMENDMENTS

1965—Subsec. (b). Pub. L. 89-329 struck out "other than a project for a public community college or public technical institute" following "within a State", and substituted "shall in no event exceed 40 per centum" for "shall be 40 per centum."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 715 of this title.

§§ 718, 719.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 713, 714 of this title.

SUBCHAPTER II.—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

§ 731. Authorization of appropriations.

In order to increase the supply of highly qualified personnel critically needed by the community, industry, government, research, and teaching, the Commissioner shall, during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years, make construction grants to assist institutions of higher education to improve existing graduate schools and cooperative graduate centers, and to assist in the establishment of graduate schools and cooperative graduate centers of excellence. For the purpose of making grants under this subchapter, there is hereby authorized to be appropriated the sum of \$25,000,000 for the fiscal year ending June 30, 1964, the sum of \$60,000,000 for the fiscal year ending June 30, 1965, the sum of \$120,000,000 for the fiscal year ending June 30, 1966, the sum of \$60,000,000 for the fiscal year ending June 30, 1967, and the sum of \$120,000,000 for the fiscal year ending June 30, 1968, and for the succeeding fiscal year; but for the fiscal year ending June 30, 1970, and the succeeding fiscal year, only such sums may be appropriated as Congress may hereafter authorize by law. In addition to the sums authorized to be appropriated for each fiscal year for which an appropriation is authorized by the preceding sentence, there is hereby authorized to be appropriated for that fiscal year for making such grants the difference (if any) between

any specific sums authorized to be appropriated under the preceding sentence for the preceding fiscal year and the sums which were appropriated for such preceding year under such sentence. Sums appropriated pursuant to this subchapter for any fiscal year shall remain available for grants under this subchapter until expended. (As amended Pub. L. 89-329, title VII, §§ 701(c), 702(d), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89-752, § 4, Nov. 3, 1966, 80 Stat. 1242.)

AMENDMENTS

1966—Pub. L. 89-752 empowered the Commissioner to make construction grants available for the seven fiscal years succeeding the fiscal year ending June 30, 1964 instead of the four succeeding fiscal years, appropriated specific sums or authorized Congress to appropriate funds for the additional years, provided for the appropriation of additional sums in the fiscal years covered, and required that sums appropriated for any fiscal year remain available for grants until expended rather than to the end of the second succeeding fiscal year.

1965—Pub. L. 89-329 substituted "the sum of \$60,000,000 for the fiscal year ending June 30, 1965, and the sum of \$120,000,000 for the fiscal year ending June 30, 1966" for "and the sum of \$60,000,000 each for the fiscal year ending June 30, 1965, and the succeeding fiscal year", "Sums appropriated pursuant to this section for any fiscal year" for "Sums so appropriated for the fiscal year ending June 30, 1964", and "second" for "next."

SUBCHAPTER III.—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

§ 743. Eligibility conditions, amounts and terms of loans; authorization of appropriations.

(b) A loan pursuant to this subchapter shall be secured in such manner, and shall be repaid within such period not exceeding fifty years, as may be determined by the Commissioner; and shall bear interest at (1) a rate determined by the Commissioner which shall not be less than a per annum rate that is one-quarter of 1 percent point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 3 per centum per annum, whichever is the lesser.

(c) The Commissioner shall, during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years, make loans to institutions of higher education for the construction of academic facilities in accordance with the provisions of this subchapter. For the purpose of making payments into the fund established under section 745 of this title, there is hereby authorized to be appropriated the sum of \$120,000,000 for the fiscal year ending June 30, 1964, and each of the two succeeding fiscal years, the sum of \$200,000,000 for the fiscal year ending June 30, 1967, and the sum of \$400,000,000 for this fiscal year ending June 30, 1968, and for the succeeding fiscal year; but for the fiscal year ending June 30, 1970, and the succeeding fiscal year, only such sums may be appropriated as the Congress may hereafter authorize by law. In addition to the sums authorized to be appropriated for each fiscal year for which an appropriation is authorized by the preceding sentence, there is hereby authorized to be appropriated

for that fiscal year, for making such loans, the difference (if any) between any specific sums authorized to be appropriated under the preceding sentence for the preceding fiscal year and the sums which were appropriated for such preceding year under such sentence. Sums appropriated pursuant to this subsection for any fiscal year shall be available without fiscal-year limitations for loans under this subchapter. (As amended Pub. L. 89-329, title VII, §§ 702(e), 703(a), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89-429, § 4(a), May 24, 1966, 80 Stat. 166; Pub. L. 89-752, § 5, Nov. 3, 1966, 80 Stat. 1242.)

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-752 empowered the Commissioner to make loans available for the seven fiscal years succeeding the fiscal year ending June 30, 1964 instead of the four succeeding fiscal years, appropriated specific sums or authorized Congress to appropriate funds for the additional years, provided for the appropriation of additional sums in the additional fiscal years covered, and required that sums appropriated for any fiscal year remain available for loans without fiscal-year limitation rather than to the end of the next succeeding fiscal year.

Pub. L. 89-429 made payable into the separate revolving fund established by section 745 of this title all appropriations for the making of academic facilities loans.

1965—Subsec. (b). Pub. L. 89-329, § 703(n), inserted "(1)" following "shall bear interest at", and added "or (2) the rate of 3 per centum per annum, whichever is the lesser."

Subsec. (c). Pub. L. 89-329, § 702(e), required that sums appropriated pursuant to this subsection for any fiscal year shall remain available for loans under this subchapter until the end of the next succeeding fiscal year.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 703(b) of Pub. L. 89-329 provided that: "The amendment made by this section [to subsec. (b) of this section] shall be applicable only with respect to loans made after the date of enactment of this Act [Nov. 8, 1965]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 745 of this title.

§ 744. General provisions for loan program.

(b) Additional powers and duties of Commissioner.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Commissioner may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this subchapter;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subchapter without regard to the amount in controversy, and any action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subchapter from the application of sections 507(b) and 2679 of Title 28 and of section 316 of Title 5;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this subchapter; and, in the event of any such acquisition (and notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States), complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(5) subject to the specific limitations in this subchapter, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this section; and

(6) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions (including provisions designed to assure against use of the facility, constructed with the aid of a loan under this subchapter, for purposes described in section 751(a) (2) of this title) as he may deem necessary to assure that the purposes of this subchapter will be achieved.

(As amended Pub. L. 89-752, § 7, Nov. 3, 1966, 80 Stat. 1243.)

CODIFICATION

The provisions of section 316 of title 5, referred to in this section, have been incorporated in title 28 section 517.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-752, struck out former subsec. (b), which authorized the Commissioner to prescribe a schedule of fees to cover expenses of making inspections and providing representatives at the sites of projects in connection with loans under this subchapter, to condition the granting of such loans on the agreement of the applicant to pay such fees, and set up provisions for payment or reimbursement of fees for such services, and redesignated former subsec. (c) as (b).

Subsec. (c). Pub. L. 89-752 redesignated former subsec. (c) as (b).

§ 745. Revolving Loan Fund.

(a) Creation; limitation on loans; budget.

There is hereby created within the Treasury a separate fund for higher education academic facilities loans (hereafter in this section called "the fund") which shall be available to the Commissioner without fiscal year limitation as a revolving fund for the purposes of this subchapter. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriation Acts. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered,

and enacted in the manner prescribed by law (sections 847—849 of Title 31) for wholly owned Government corporations.

(b) Operation of fund; sale of assets, beneficial interests, and participations in assets of the fund; interest.

(1) The Commissioner, when authorized by an appropriation Act, may transfer to the fund available appropriations provided under section 743(c) of this title to provide capital for the fund. All amounts received by the Commissioner as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this subchapter, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund, shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operations of the Commissioner under this subchapter shall be paid from the fund, including (but not limited to) expenses and payments of the Commissioner in connection with sale, under section 1717(c) of Title 12, of participations in obligations acquired under this subchapter. From time to time, and at least at the close of each fiscal year, the Commissioner shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under the subchapter or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Commissioner determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury. (Pub. L. 88-204, title III, § 305, as added Pub. L. 89-429, § 4(b), May 24, 1966, 80 Stat. 166.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 743 of this title.

SUBCHAPTER IV.—GENERAL PROVISIONS

§ 751. Definitions.

As used in this chapter—

(a) (1) Except as provided in subparagraph (2) of this paragraph, the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration,¹ of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. Plans for such facilities shall be in compliance with such standards as the Secretary of Health,

Education, and Welfare may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this chapter shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(2) The term "academic facilities" shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, or (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Commissioner finds that the physical integration of such facilities with other academic facilities included under this chapter is required to carry out the objectives of this chapter, or (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (E) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 293d of Title 42, or a school of nursing as defined in section 298b of Title 42. For the purposes of this subparagraph, the term "school or department of divinity" means an institution, or a department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

(c) (1) The term "development cost", with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this chapter, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility, but excluding any cost incurred before, or under a contract entered into before, December 16, 1963. There shall further be excluded from the development cost—

(A) in determining the amount of any grant under subchapter I or II of this chapter, an amount equal to the sum of (A) any Federal grant which the institution has obtained, or is assured of obtaining, under any law other than this chapter, with respect to the construction that is to be financed with the aid of a grant under subchapter I or II of this chapter, and (B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(B) in determining the amount of any loan under subchapter III of this chapter, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this chapter, with respect to the construction that is to be financed with the aid of a loan under subchapter III of this chapter.

¹ So in original.

(2) In determining the development cost with respect to an academic facility, the Commissioner may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction of, and land acquisition and site improvements for, such facility.

(d) The term "Federal share" means, in the case of a project for an institution of higher education other than a public community college or public technical institute, a percentage (as determined under the applicable State plan) not in excess of 33 $\frac{1}{3}$ per centum of its development cost; and such term means, in the case of a public community college or public technical institute, a percentage (as determined under the applicable State plan) not in excess of 40 per centum of its development cost.

(As amended Pub. L. 89-329, title VII, § 702 (c) (3), (f), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89-752, §§ 6, 8, Nov. 3, 1966, 80 Stat. 1243.)

AMENDMENTS

1966—Subsec. (a) (1). Pub. L. 89-752, § 8, added provision that plans comply with standards prescribed by Secretary of Health, Education, and Welfare in order that such facilities shall be usable by handicapped persons.

Subsec. (c). Pub. L. 89-752, § 6, designated existing subsection as subsec. (c) (1), redesignated clauses (1) and (2) as (A) and (B) and subclauses (A) and (B) as (1) and (11), and added subsec. (c) (2).

1965—Subsec. (a) (2) (E). Pub. L. 89-329, § 702 (f), deleted "school of nursing" following "school of podiatry", and inserted "these terms are" and "or a school of nursing as defined in section 298b of Title 42."

Subsec. (d). Pub. L. 89-329, § 702 (c) (3), inserted "a percentage (as determined under the applicable State plan) not in excess of."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 702 (f) of Pub. L. 89-329 provided in part that the amendment of subsec. (a) (2) (F) of this section by Pub. L. 89-329 shall be effective with respect to applications for grants and loans submitted after November 8, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 713, 714, 744 of this title and in title 42 section 2789.

§ 758. Assistance for higher education construction in major disaster areas.

(a) Prerequisites; amount of assistance.

If the Director of the Office of Emergency Planning determines that a public institution of higher education is located in whole or in part within an area which, before July 1, 1967, has suffered a disaster which is a "major disaster" as defined in section 1855a (a) of Title 42 and if the Commissioner determines with respect to such public institution of higher education that—

(1) the academic facilities of the institution have been destroyed or seriously damaged as a result of the disaster;

(2) the institution is exercising due diligence in availing itself of State and other financial assistance available for the restoration or replacement of the facilities; and

(3) the institution does not have sufficient funds available to it from other sources, including the proceeds of insurance on the facilities, to pro-

vide for the restoration or replacement of the academic facilities so destroyed or seriously damaged,

the Commissioner may provide the additional assistance necessary to enable the institution to carry out construction necessary to restore or replace the facilities, upon such terms and in such amounts (subject to the provisions of this section), but not to exceed one-half of the costs of such restoration or replacement, as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available to the institution from other sources, including the proceeds of insurance on the facilities may not exceed the cost of construction incident to the restoration or replacement of the academic facilities destroyed or seriously damaged as a result of the disaster.

(b) Assistance to replace or lease equipment, maintenance supplies, and instructional supplies.

In addition to and apart from the assistance provided to a public institution of higher education under subsection (a) of this section, the Commissioner may provide funds to such institution in an amount which he considers necessary to replace equipment, maintenance supplies, and instructional supplies (including books, and curricular and program materials) destroyed or seriously damaged as a result of the disaster, or to lease or otherwise provide (other than by acquisition of land or construction of academic facilities) such facilities needed to replace temporarily those academic facilities which have been made unavailable as a result of the disaster, or both.

(c) Advancements of assistance.

In any case deemed appropriate by the Commissioner, disaster assistance provided under subsection (a) or (b) of this section may be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.

(d) Authorization of appropriations.

There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section.

(e) Filing of application for assistance; approval of application; consultation with State commission.

No payment may be made to a public institution of higher education for academic facilities under subsection (a) of this section or for assistance under subsection (b) of this section unless an application therefor is submitted through the appropriate State commission and is filed with the Commissioner in accordance with regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the institutions which have submitted approvable applications. No payment may be made under subsection (a) of this section unless the Commissioner finds, after consultation with the State commission, that the project or projects with respect to which it is made are not inconsistent with overall State plans, submitted under section 715 (a) of this title, for the construction of academic facilities. All determinations made by the Commissioner under this

section shall be made only after consultation with the appropriate State commission.

(f) Payment of assistance; return of unexpended funds.

Amounts paid by the Commissioner to a public institution of higher education under subsection (a) or (b) of this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to an institution which are not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(g) Definitions.

For the purposes of this section an institution of higher education is deemed to be a "public institution of higher education" if the institution is under public supervision and control. (Pub. L. 88-204, title IV, § 408, as added Pub. L. 89-769, § 7(a), Nov. 6, 1966, 80 Stat. 1318, and amended Pub. L. 90-21, title 1, § 101, May 29, 1967, 81 Stat. 36.)

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-21 inserted ", but not to exceed one-half of the costs of such restoration or replacement," following "(subject to the provisions of this section)".

EFFECTIVE DATE

Section applicable with respect to any major disaster occurring after October 3, 1964, see section 14 of Pub. L. 89-769, set out as a note under section 1855aa of Title 42, The Public Health and Welfare.

Chapter 22.—NATIONAL COUNCIL ON THE ARTS

§ 783. Establishment of Council.

TRANSFER OF COUNCIL

Transfer of Council and its functions from Executive Office of the President to the National Endowment for the Arts, see section 955 of this title.

§ 784. Membership; appointments; considerations; terms of office; vacancies.

(a) The Council shall be composed of the Chairman provided for in section 785 of this title, the Secretary of the Smithsonian Institution, ex officio, and twenty-six members appointed by the President. Such members shall be selected (1) from among private citizens of the United States who are widely recognized for their broad knowledge of or experience in, or for their profound interest in the arts; (2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and (3) so as collectively to provide an appropriate distribution of membership among the major art fields. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in these fields.

(b) Each member of the Council shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of the members first taking office prior to May 31, 1965, shall expire, as designated by the President at the time of appointment, eight at the end of the second year, eight at

the end of the fourth year, and eight at the end of the sixth year after September 3, 1964. No member of the Council shall be eligible for reappointment during the two-year period following the expiration of his term.

(As amended Pub. L. 89-209, § 6(d) (1), (2), Sept. 29, 1965, 79 Stat. 849, 850.)

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-209, § 6(d) (1), increased the membership of the Council from twenty-four to twenty-six Presidential appointees.

Subsec. (b) (2). Pub. L. 89-209, § 6(d) (2), inserted "prior to May 31, 1965," following "taking office".

SECRETARY OF THE SMITHSONIAN INSTITUTION, EX OFFICIO MEMBERSHIP

Abolition of ex officio membership in the Council of the Secretary of the Smithsonian Institution, see section 955 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 955 of this title.

§ 785. Chairman; appointment; term; expenses.

(b) The term of office of the Chairman shall be four years, and the Chairman shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of the Chairman.

(c) The Chairman shall be reimbursed for travel and subsistence expenses incurred by him while away from his home or regular place of business in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations. (As amended Pub. L. 89-209, § 5(d) (2) (A), Sept. 29, 1965, 79 Stat. 847; Pub. L. 90-83, § 10 (b), Sept. 11, 1967, 81 Stat. 223.)

REFERENCES IN TEXT

The Travel Expense Act of 1949, as amended, referred to in text, is now covered by sections 5701-5708 of Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (c). Pub. L. 90-83 struck out provisions setting the Chairman's compensation at \$21,000 per annum. The amendment contained in Pub. L. 90-63 referred to Pub. L. 88-569 which for purposes of codification was changed to Pub. L. 88-579.

1965—Subsec. (b). Pub. L. 89-209 substituted "The term of office of the Chairman shall be four years, and the Chairman shall be eligible for reappointment" for "The Chairman shall serve at the pleasure of the President, but not in excess of eight consecutive years, and shall not be eligible for reappointment during the four-year period following the expiration of his last period of service as Chairman".

EFFECTIVE DATE OF 1965 AMENDMENT

Section 5(d) (2) (B) of Pub. L. 89-209 provided that: "The amendment made by clause (A) of this paragraph [to subsec. (b) of this section] shall be applicable with respect to the Chairman holding office on the date of enactment of this Act [Sept. 29, 1965] and each Chairman holding office thereafter."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 784, 954 of this title.

§ 786. Duties and responsibilities; meetings and quorum; considerations.

(a) The Council shall meet at the call of the Chairman but not less often than twice during each