

tions 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.
746. Annual interest grants [New].  
 (a) Power of Commissioner.  
 (b) Maximum period and amount; approval by Secretary.  
 (c) Authorization of appropriations; aggregate amount of contracts.  
 (d) Maximum amount of funds usable in one State.  
 (e) Prerequisites; nature of financing.

**SUBCHAPTER IV.—GENERAL PROVISIONS**

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 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 each of the succeeding fiscal years ending prior to July 1, 1971. 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; Pub. L. 90-575, title IV, § 401(a) (1), (2), Oct. 16, 1968, 82 Stat. 1059.)

**AMENDMENTS**

1968—Subsec. (a). Pub. L. 90-575, § 401(a)(1), struck out "during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years," following "shall carry out".

Subsec. (b). Pub. L. 90-575, § 401(a)(2), authorized to be appropriated \$936,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971.

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.**

**(a) Basis of computation; minimum amount.**

The funds to be allotted for any fiscal year for use in providing academic facilities for public community colleges and public technical institutes shall be allotted among the States on the basis of the income per person and the number of high school graduates of the respective States. Such allotments shall be made as follows: The Commissioner shall allot to each State for each fiscal year an amount which bears the same ratio to the funds being allotted as the product of—

(1) the number of high school graduates of the State, and

(2) the State's allotment ratio (as determined under subsection (d) of this section)

bears to the sum of the corresponding products for all the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than \$50,000 shall be increased to \$50,000, the total of increases thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than \$50,000.

**(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.

(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 713(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) Reallotment 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 reallotted 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 reallotted for the purposes set forth in subsection (b) of this section. Amounts reallotted 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; Pub. L. 90-575, title IV, §§ 401(a) (4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061.)

**AMENDMENTS**

1968—Subsec. (a). Pub. L. 90-575, § 406(a), added the provision increasing the amount allotted to any State for any fiscal year to a minimum amount of \$50,000.

Subsec. (b) (1). Pub. L. 90-575, § 401(a) (4), struck out the provision that 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.

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."

**EFFECTIVE DATE OF 1968 AMENDMENT**

Section 406(b) of Pub. L. 90-575 provided that: "The amendments made by this section [amending subsec. (a) of this section and section 714(a) of this title] shall apply with respect to fiscal years ending on or after June 30, 1969."

**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.**

**(a) Considerations and determinations affecting; minimum amount.**

Of the funds to be allotted for any fiscal year for use in providing academic facilities for institutions of higher education other than public community colleges and public technical institutes (1) one-half shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-half as the number of students enrolled in institutions of higher education in such State bears to the total number of students enrolled in such institutions in all the States; and (2) the remaining one-half shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such remainder as the number of students enrolled in grades nine to twelve (both inclusive) of schools in such State bears to the total number of students in such grades in schools in all the States. The amount allotted to any State under the preceding sentence for any fiscal year which is less than \$50,000 shall be increased to \$50,000, the total of increases thereby required being derived by proportionately reducing the amount allotted to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than \$50,000. For the purposes of this subsection, (A) the number of students

enrolled in institutions of higher education shall be deemed to be equal to the sum of (i) the number of full-time students and (ii) the full-time equivalent of the number of part-time students as determined by the Commissioner in accordance with regulations; and (B) determinations as to enrollment under either clause (1) or clause (2) of this subsection shall be made by the Commissioner on the basis of data for the most recent year for which satisfactory data with respect to such enrollment are available to him.

(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.

(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; Pub. L. 90-575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-575, § 406(a), added the provision increasing the amount allotted to any State for any fiscal year to a minimum amount of \$50,000.

Subsec. (b)(1). Pub. L. 90-575, § 401(a)(4), struck out the provision that sums allotted to a State for the fiscal year 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.

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"

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) of this section by section 406(a) of Pub. L. 90-575 applicable with respect to fiscal years ending on or after June 30, 1969, see section 406(b) of Pub. L. 90-575, set out as a note under section 713 of this title.

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 four 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). (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; Pub. L. 90-575, title IV, § 401(a)(3), Oct. 16, 1968, 82 Stat. 1059.)

#### AMENDMENTS

1968—Subsec. (b). Pub. L. 90-575 substituted "four succeeding fiscal years" for "two succeeding fiscal years" and struck out the provision authorizing the Commissioner, for the fiscal year ending June 30, 1970, and the succeeding fiscal year, to expend for purposes of this subsection only such sums as Congress may hereafter authorize by law.

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, § 7(2)(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; expansion of student enrollment capacity.

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, capacity to provide needed health care to students or personnel of the institution, 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, capacity to provide needed health care to students or personnel of the institution, or capacity to carry out extension and continuing education programs on the campus of such institution. If the Commissioner finds that the student enrollment capacity of an institution would decrease if an urgently needed academic facility is not constructed, construction of such a facility may be considered, for the purposes of this section, to result in expansion of the institution's student enrollment capacity.

(As amended Pub. L. 89-329, title VII, § 701(a), Nov. 8, 1965, 79 Stat. 1266; Pub. L. 90-575, title IV, § 402(a)(1), (b)(1), Oct. 16, 1968, 82 Stat. 1059, 1060.)

#### AMENDMENTS

1968—Pub. L. 90-575, § 402(b)(1), added the provision that if the Commissioner finds that the student enrollment capacity of an institution would decrease if an urgently needed academic facility is not constructed, construction of such a facility may be considered, for the purposes of this section, to result in expansion of the institution's student enrollment capacity.

Cls. (1), (2). Pub. L. 90-575, § 402(a)(1), added "capacity to provide needed health care to students or personnel of the institution," following "enrollment capacity" where appearing.

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).

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 402(a) of Pub. L. 90-575 provided in part that the amendments to cls. (1) and (2) of this section by section 402(a)(1) of Pub. L. 90-575 shall be effective with respect to fiscal years ending on or after June 30, 1969.

Section 402(b)(2) of Pub. L. 90-575 provided that: "The amendment made by paragraph (1) of this subsection [construing construction of academic facilities as expanding the institution's student enrollment capacity] shall be effective only with respect to grants made from appropriations for fiscal years beginning after June 30, 1969."

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

(a) As soon as practicable after December 16, 1963, the Commissioner shall by regulation prescribe basic criteria to which the provisions of State plans setting forth standards and methods for determining relative priorities of eligible construction projects, and the application of such standards and methods to such projects under such plans shall be subject. Such basic criteria (1) shall be such as will best tend to achieve the objectives of this subchapter while leaving opportunity and flexibility for the development of State plan standards and methods that will best accommodate the varied needs of institutions in the several States, (2) shall give special consideration to expansion of undergraduate enrollment capacity, and (3) shall give consideration to expansion of capacity to provide needed health care to students and institutional personnel. Subject to the foregoing requirements, such regulations may establish additional and appropriate basic criteria, including provision for considering the degree to which applicant institutions are effectively utilizing existing facilities, provision for allowing State plans to group or provide for grouping, in a reasonable manner, facilities or institutions according to functional or educational type for priority purposes, and, in view of the national objectives of this chapter, provision for considering the degree to which the institution serves student from two or more States or from outside the United States; and in no event shall an institution's readi-

ness to admit such out-of-State students be considered as a priority factor adverse to such institution.

(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 50 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 50 per centum of its development cost.

(As amended Pub. L. 89-329, title VII, § 702(c) (2), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 90-575, title IV, §§ 402(a) (2), 405(a), Oct. 16, 1968, 82 Stat. 1059, 1061.)

#### AMENDMENTS

1968—Subsec. (a) (3). Pub. L. 90-575, § 402(a) (2), added subsec. (a) (3).

Subsec. (b). Pub. L. 90-575, § 405(a), substituted "50 per centum" for "33 $\frac{1}{3}$  per centum" and "50 per centum" for "40 per centum".

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".

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 402 (a) of Pub. L. 90-575 provided in part that the amendment to subsec. (a) (3) of this section by section 402(a) (2) of Pub. L. 90-575 shall be effective with respect to fiscal years ending on or after June 30, 1969.

#### SECTION REFERRED TO IN OTHER SECTIONS

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

#### § 718. Application for grants.

##### (b) Conditions for approval.

The Commissioner shall approve an application covering a project for construction of an academic facility and meeting the requirements prescribed pursuant to subsection (a) of this section if—

(5) the Commissioner determines that the construction will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials;

(6) in the case of a project to construct an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, he determines that no financial assistance will be provided such project under title IV of the Housing Act of 1950; and

(7) the Commissioner determines that (in addition to the assurance required by section 753 of this title and such assurance as to title to the site as he may deem necessary) the application contains or is supported by satisfactory assurances—

(A) that Federal funds received by the applicant will be used solely for defraying the devel-

opment cost of the project covered by such application,

(B) that sufficient funds will be available to meet the non-Federal portion of such cost and to provide for the effective use of the academic facility upon completion, and

(C) that the facility will be used as an academic facility during at least the period of the Federal interest therein (as defined in section 754 of this title).

(As amended Pub. L. 90-575, title IV, § 402(a) (3), Oct. 16, 1968, 82 Stat. 1059.)

#### AMENDMENTS

1968—Subsec. (b) (6). Pub. L. 90-575 added subsec. (b) (6). Former subsec. (b) (6) was redesignated as (b) (7).

Subsec. (b) (7). Pub. L. 90-575 redesignated former subsec. (b) (6) as (b) (7).

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 402(a) of Pub. L. 90-575 provided in part that the amendments to subsec. (b) of this section by section 402(a) (3) of Pub. L. 90-575 shall be effective with respect to fiscal years ending on or after June 30, 1969.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 713, 714 of this title.

#### § 719. Reservation and payment of grant.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is 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 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 \$120,000,00 for each of the succeeding fiscal years ending prior to July 1, 1971. 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; Pub. L. 90-575, title IV, § 401(b), Oct. 16, 1968, 82 Stat. 1059.)

#### AMENDMENTS

1968—Pub. L. 90-575 struck out “, during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years,” following “the Commissioner shall”, and authorized to be appropriated the sum of \$120,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971.

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.”

#### § 732. Grants.

- (b) Maximum allowable percentile of development cost.

Grants under this subchapter for construction of academic facilities may not exceed 50 per centum of the development cost of any such construction project.

- (c) Action by panel of specialists required for application approval; considerations affecting approval.

(1) The Commissioner shall not approve any application for a grant under this subchapter until he has obtained the advice and recommendations of a panel of specialists who are not employees of the Federal Government and who are competent to evaluate such applications.

(As amended Pub. L. 90-575, title II, § 291(b)(2), title IV, § 405(b), Oct. 16, 1968, 82 Stat. 1050, 1061.)

#### AMENDMENTS

1968—Subsec. (b). Pub. L. 90-575, § 405(b) substituted “50 per centum” for “33 $\frac{1}{3}$  per centum”.

Subsec. (c)(1). Pub. L. 90-575, § 291(b)(2), substituted “until he has obtained the advice and recommendations of a panel of specialists who are not employees of the Federal Government and who are competent to evaluate such applications” for “without the advice of the Advisory Committee established under section 733 of this title”.

§ 733. Repealed. Pub. L. 90-575, title II, § 291(b)(1), Oct. 16, 1968, 82 Stat. 1050.

Section, Pub. L. 88-204, title II, § 203, Dec. 16, 1963, 77 Stat. 371, established an Advisory Committee on Graduate Education. See section 1145 of this title.

#### SUBCHAPTER III.—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

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

(a) No loan pursuant to this subchapter title shall be made unless the Commissioner finds (1) that not

less than one-fourth of the development cost of the facility will be financed from non-Federal sources,

(2) that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this subchapter, (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (4) that, in the case of a project to construct an infirmary or other facility designed to provide primarily for outpatient care of students and institutional personnel, no financial assistance will be provided such project under title IV of the Housing Act of 1950.

(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 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 each of the succeeding fiscal years ending prior to July 1, 1971. 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(c), 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; Pub. L. 90-575, title IV, §§ 401(c), 402(a)(4), Oct. 16, 1968, 82 Stat. 1059, 1060.)

#### AMENDMENTS

1968—Subsec. (a)(4). Pub. L. 90-575, § 402(a)(4), added subsec. (a)(4).

Subsec. (c). Pub. L. 90-575, § 401(c), struck out “, during the fiscal year ending June 30, 1964, and each of the seven succeeding fiscal years,” following “The Commissioner shall”, and authorized to be appropriated the sum of \$400,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971.

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(a), 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 1968 AMENDMENT

Section 402(a) of Pub. L. 90-575 provided in part that the amendment to subsec. (a)(4) of this section by section 402(a)(4) of Pub. L. 90-575 shall be effective with respect to fiscal years ending on or after June 30, 1969.

#### 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, ad-

minister, 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 purpose 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.

#### § 746. Annual interest grants.

##### (a) Power of Commissioner.

To assist institutions of higher education and higher education building agencies to reduce the cost of borrowing from other sources for the construction of academic facilities, the Commissioner may make annual interest grants to such institutions and agencies.

##### (b) Maximum period and amount; approval by Secretary.

Annual interest grants to an institution of higher education or higher education building agency with respect to any academic facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount not greater than the difference between (1) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amounts if the applicable interest rate were the

maximum rate specified in section 743(b) of this title: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

##### (c) Authorization of appropriations; aggregate amount of contracts.

(1) There are hereby authorized to be appropriated to the Commissioner such sums as may be necessary for the payment of annual interest grants to institutions of higher education and higher education building agencies in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into under this section shall not exceed \$5,000,000, which amount shall be increased by \$6,750,000 on July 1, 1969, and by \$13,500,000 on July 1, 1970.

##### (d) Maximum amount of funds usable in one State.

Not more than 12½ per centum of the funds provided for in this section for grants may be used within any one State.

##### (e) Prerequisites; nature of financing.

No annual interest grant pursuant to this section shall be made unless the Commissioner finds (1) that not less than 10 per centum of the development cost of the facility will be financed from non-Federal sources, (2) that the applicant is unable to secure a loan in the amount of the loan with respect to which the annual interest grant is to be made, from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this subchapter, and (3) that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials. For purposes of this section, a loan with respect to which an interest grant is made under this section shall not be considered financing from a non-Federal source. For purposes of the other provisions of this chapter, such a loan shall be considered financing from a non-Federal source. (Pub. L. 88-204, title III, § 306, as added Pub. L. 90-575, title IV, § 403, Oct. 16, 1968, 82 Stat. 1060.)

#### 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,<sup>1</sup> 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; and, for purposes of subchapters I and III of this chapter, such term includes infirmaries or other

<sup>1</sup> So in original.



facilities designed to provide primarily for outpatient care of students and institutional personnel. 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.

(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 50 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 50 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; Pub. L. 90-575, title IV, §§ 402(a) (5), 405(a), Oct. 16, 1968, 82 Stat. 1060, 1061.)

#### AMENDMENTS

1968—Subsec. (a) (1). Pub. L. 90-575, § 402(a) (5), provided that for the purposes of subchapters I and III of this chapter, "academic facilities" includes infirmaries or other facilities designed to provide for outpatient care of students and institutional personnel.

Subsec. (d). Pub. L. 90-575, § 405(a), substituted "50 per centum" for "33 $\frac{1}{3}$  per centum" and "50 per centum" for "40 per centum".

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 (i) and (ii), 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 1968 AMENDMENT

Section 402(a) of Pub. L. 90-575 provided in part that the amendment to subsec. (a) of this section by section 402(a) (5) of Pub. L. 90-575 shall be effective with respect to fiscal years ending on or after June 30, 1969.

#### 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, 1971, 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 provide 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; Pub. L. 90-575, title IV, § 404, Oct. 16, 1968, 82 Stat. 1061.)

#### AMENDMENTS

1968—Subsec. (a). Pub. L. 90-575 substituted "July 1, 1971" for "July 1, 1967".

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