

Public Law 98-95
98th Congress

An Act

Sept. 26, 1983
[S. 1872]

To increase endowment funds for eligible individuals under part C of title III of the Higher Education Act of 1965.

Challenge Grant
Amendments of
1983.
20 USC 1001
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Challenge Grant Amendments of 1983".

SEC. 2. Part C of title III of the Higher Education Act of 1965 (hereinafter in this Act referred to as "the Act") is amended by adding after section 332 the following new section:

"ENDOWMENT GRANTS

20 USC 1065a.

"SEC. 333. (a)(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fundraising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

Definitions.

"(2) For purposes of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

Post, p. 711.

"(b)(1) From sums available for this section under section 347, the Secretary is authorized to award endowment grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

Matching funds
requirement.

"(2) No institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

Grant period.

"(3)(A) The period of a grant under this section shall be not more than twenty years.

"(B) During the grant period, an institution may not withdraw or expend any of the endowment fund corpus.

"(C) After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

Eligibility.

"(B) No institution shall be ineligible for an endowment grant for a fiscal year by reason of the previous receipt of such a grant, but no institution shall be eligible to receive such a grant for more than two fiscal years out of any period of five consecutive fiscal years.

20 USC 1064.

"(5) An endowment grant under this section to an eligible institution year shall—

"(A) not be less than \$50,000 for any fiscal year; and

"(B) not be more than (i) \$250,000 for fiscal year 1984; or (ii) \$500,000 for fiscal year 1985 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulations;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulations, including any monetary liability that may arise as a result of such violation.

"(c)(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

Agreement with Secretary.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

Investment requirements.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of expenditure.

- “(ii) The Secretary may permit an institution to spend more than 50 per centum of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) another unusual occurrence or exigent circumstance.
- Repayment.** “(d)(1) If at any time an institution withdraws part of the endowment fund corpus, it shall repay to the Secretary an amount equal to 50 per centum of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.
- “(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the grantee shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.
- Audit and examination.** “(e) An institution receiving a grant under this section shall provide to the Secretary (or his designee) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.
- Priority consideration.** “(f) In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—
- “20 USC 1057, 1060. “(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section; and
- “(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;
- “(3) consider—
- “(A) the effort made by the applicant to build or maintain its existing endowment fund; and
- “(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.
- Application.** “(g) Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.
- Grant termination and recovery.** “(h)(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—
- “(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);
- “(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

“(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

“(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of the original grant or grants under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.”.

SEC. 3. Section 347 of the Act is amended—

20 USC 1069c.

(1) by inserting after the period at the end of subsection (a)(2) the following: “Of the amount appropriated for such part for fiscal year 1984, 20 per centum shall be available for grants under section 333 of such part, and of the amount appropriated for such part for fiscal year 1985, 100 per centum shall be available for grants under such section”; and

Ante, p. 708.

(2) by adding at the end thereof the following new subsection: “(f) For each fiscal year, the Secretary may reserve from the appropriation for part B not more than an amount equal to the aggregate amount grantees receiving grants under part B would contribute under section 324 to the cost of the grants in that fiscal year, assuming the grant amounts remain the same as those received in the prior fiscal year, and may use those funds to award grants to eligible institutions under section 333. In reserving and awarding such funds, the Secretary shall assure that funds that would have been reserved under part B for the institutions described in subsection (c) or (e) shall continue to be set aside under section 333 for those institutions.”.

Reserve funds.
20 USC 1060.

20 USC 1063.

Ante, p. 708.

SEC. 4. (a) Section 516(c) of the Omnibus Education Reconciliation Act of 1981 is amended by striking out paragraph (1) and inserting in lieu thereof the following:

20 USC 1069c
note.

“(1) The total amount of appropriations to carry out title III of the Higher Education Act of 1965 shall not exceed \$134,416,000 for fiscal year 1984.”.

20 USC 1051.

(b) Section 503 of such Act is amended by striking out “1982, 1983, and 1984” and inserting in lieu thereof “1982 and 1983 and \$159,700,000 for fiscal year 1984”.

20 USC 123 note.

(c) Notwithstanding section 516(g) of such Act, there are authorized to be appropriated such sums as may be necessary to carry out parts A and B of title VII of the Higher Education Act of 1965.

20 USC 1132a-1
note.

(d) Subsections (a)(2), (b), and (c) of section 721 of the Higher Education Act of 1965 shall not apply to funds appropriated by Public Law 98-63 for part B of title VII of the Higher Education Act

20 USC 1132b,
1132c.

20 USC 1132c.
Ante, p. 301.

20 USC 1132c.
20 USC 1132b-2.

of 1965. Such funds shall be used in accordance with section 713(g) of such Act and distributed in accordance with the statement of the managers pertaining to the appropriation of such funds, as contained in the conference report on Public Law 98-63 (H. Rep. 98-308, p. 53).

Approved September 26, 1983.

LEGISLATIVE HISTORY—S. 1872 (H.R. 2144):

HOUSE REPORT No. 98-76 accompanying H.R. 2144 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Sept. 22, considered and passed Senate.

Sept. 26, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 39 (1983):

Sept. 26, Presidential statement.