

(Pub. L. 88-210, title I, §116, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 707; amended Pub. L. 114-95, title IX, §9215(n)(5), Dec. 10, 2015, 129 Stat. 2169; Pub. L. 115-224, title I, §115, July 31, 2018, 132 Stat. 1598.)

Editorial Notes

REFERENCES IN TEXT

The Indian Employment, Training and Related Services Demonstration Act of 1992, referred to in subsec. (f), is Pub. L. 102-477, Oct. 23, 1992, 106 Stat. 2302, which is classified generally to chapter 36 (§3401 et seq.) of Title 25, Indians. The Act was renamed the Indian Employment, Training and Related Services Act of 1992 by Pub. L. 115-93, §2, Dec. 18, 2017, 131 Stat. 2026. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 2326, Pub. L. 88-210, title I, §116, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3094; amended Pub. L. 107-110, title VII, §702(b), (c), Jan. 8, 2002, 115 Stat. 1946, 1947, related to Native American program, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2326, Pub. L. 88-210, title I, §116, as added Pub. L. 101-392, title I, §116, Sept. 25, 1990, 104 Stat. 772, related to State assessments of program quality, prior to the general amendment of this chapter by Pub. L. 105-332.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-224, §115(1), redesignated pars. (4) and (5) as (3) and (4), respectively, made technical amendments to capitalization of “Native” and “Hawaiian” in headings of pars. (1), (3), and (4) of original Act requiring no change in text and to reference in par. (4) of original Act which appears in text as reference to section 7517 of this title, and struck out former par. (3) which defined “Indian”, “Indian tribe”, and “tribal organization” as having the meanings given those terms in section 5304 of title 25.

Subsec. (b)(1). Pub. L. 115-224, §115(2)(A), substituted “Indian Tribes, Tribal organizations,” for “Indian tribes, tribal organizations,”.

Subsec. (b)(2). Pub. L. 115-224, §115(2)(B)(iii), (iv), made technical amendment to references in original Act which appear in text as references to section 5321 of title 25 and sections 5345, 5346, and 5347 of title 25.

Pub. L. 115-224, §115(2)(B)(i), (ii), substituted “INDIAN TRIBES AND TRIBAL ORGANIZATIONS” for “INDIAN TRIBES AND TRIBAL ORGANIZATIONS” in heading of original Act which appears in heading as “Indian Tribes and Tribal organizations” and substituted “Indian Tribe or Tribal organization” for “Indian tribe or tribal organization” in text.

Subsec. (b)(3). Pub. L. 115-224, §115(2)(C), substituted “Bureau of Indian Education” for “Bureau of Indian Affairs” in heading and text and substituted “An Indian Tribe, a Tribal organization,” for “An Indian tribe, a tribal organization,”.

Subsec. (b)(4). Pub. L. 115-224, §115(2)(D), substituted “Bureau of Indian Education” for “Bureau of Indian Affairs” wherever appearing and “Director of the Bureau of Indian Education” for “Assistant Secretary of the Interior for Indian Affairs”.

Subsec. (b)(5)(A). Pub. L. 115-224, §115(2)(E), substituted “Indian Tribes, Tribal organizations, and individual Tribal members” for “Indian tribes, tribal organizations, and individual tribal members”.

Subsec. (b)(6). Pub. L. 115-224, §115(2)(F), substituted “Indian Tribe, Tribal organization,” for “Indian tribe, tribal organization,” in two places.

Subsec. (c)(2), (3). Pub. L. 115-224, §115(3), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (d) to (g). Pub. L. 115-224, §115(4)–(7), substituted “Tribe” for “tribe” and “Tribal” for “tribal” wherever appearing.

2015—Subsec. (a)(5). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7517 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-224 effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as a note under section 2301 of this title.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 2327. Tribally controlled postsecondary career and technical institutions

(a) Grant program

Subject to the availability of appropriations, the Secretary shall make grants under this section, to provide basic support for the education and training of Indian students, to tribally controlled postsecondary career and technical institutions that are not receiving Federal assistance as of the date on which the grant is provided under—

(1) title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.); or

(2) the Navajo Community College Act (Public Law 92-189; 85 Stat. 646).

(b) Uses of grants

Amounts made available under this section shall be used for career and technical education programs for Indian students and for the institutional support costs of the grant, including the expenses described in subsection (e).

(c) Amount of grants

(1) In general

If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(2) Per capita determination

For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary career and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian stu-

dent count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(3) Indirect costs

Notwithstanding any other provision of law or regulation, the Secretary shall not require the use of a restricted indirect cost rate for grants issued under this section.

(d) Applications

To be eligible to receive a grant under this section, a tribally controlled postsecondary career and technical institution that is not receiving Federal assistance under title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.) or the Navajo Community College Act (Public Law 92-189; 85 Stat. 646) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) Expenses

(1) In general

The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary career and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

(D) institutional support of career and technical education.

(2) Accounting

Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) Other programs

(1) In general

Except as specifically provided in this chapter, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary career and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.],

or under any other applicable program for the benefit of institutions of higher education or career and technical education.

(2) Prohibition on alteration of grant amount

The amount of any grant for which tribally controlled postsecondary career and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under section 13 of title 25.

(3) Prohibition on contract denial

No tribally controlled postsecondary career and technical institution for which an Indian Tribe has designated a portion of the funds appropriated for the Tribe from funds appropriated under section 13 of title 25, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Complaint resolution procedure

The Secretary shall establish (after consultation with tribally controlled postsecondary career and technical institutions) a complaint resolution procedure for grant determinations and calculations under this section for tribally controlled postsecondary career and technical institutions.

(h) Definitions

In this section:

(1) Indian; Indian Tribe

The terms “Indian” and “Indian Tribe” have the meanings given the terms “Indian” and “Indian tribe”, respectively, in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801).

(2) Indian student count

(A) In general

The term “Indian student count” means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with subparagraph (B).

(B) Determination

(i) Enrollment

For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of—

(I) in the case of the fall term, the third week of the fall term; and

(II) in the case of the spring term, the third week of the spring term.

(ii) Calculation

For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution shall be the quotient obtained by dividing—

(I) the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and

technical institution (as determined under clause (i)); by (II) 12.

(iii) Summer term

Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.

(iv) Students without secondary school degrees

(I) In general

A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.

(II) Presumption

The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.

(III) Credits toward secondary school degree

No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.

(v) Continuing education programs

Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit hour basis in accordance with the system of the institution for providing credit for participation in the program.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

- (1) \$9,762,539 for fiscal year 2019;
- (2) \$9,899,215 for fiscal year 2020;
- (3) \$10,037,804 for fiscal year 2021;
- (4) \$10,178,333 for fiscal year 2022;
- (5) \$10,320,829 for fiscal year 2023; and
- (6) \$10,465,321 for fiscal year 2024.

(Pub. L. 88-210, title I, § 117, as added Pub. L. 109-270, § 1(b), Aug. 12, 2006, 120 Stat. 710; amended Pub. L. 110-315, title IX, § 941(j)(2), (k)(2)(D)(ii), Aug. 14, 2008, 122 Stat. 3465, 3466; Pub. L. 115-224, title I, § 116, July 31, 2018, 132 Stat. 1599.)

Editorial Notes

REFERENCES IN TEXT

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsecs. (a)(1) and (d), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325. Title I of the Act is classified generally to subchapter I (§ 1802 et seq.) of chapter 20 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Navajo Community College Act, referred to in subsecs. (a)(2) and (d), is Pub. L. 92-189, Dec. 15, 1971, 85 Stat. 646, which was classified to section 640a et seq. of Title 25, Indians, and was omitted from the Code as being of special and not general application.

The Higher Education Act of 1965, referred to in subsec. (f)(1), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f)(3), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§ 5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 2327, Pub. L. 88-210, title I, § 117, as added Pub. L. 105-332, § 1(b), Oct. 31, 1998, 112 Stat. 3097; amended Pub. L. 106-554, § 1(a)(1) [title III, § 310], Dec. 21, 2000, 114 Stat. 2763, 2763A-46; Pub. L. 107-20, title II, § 2701(a), July 24, 2001, 115 Stat. 181, related to tribally controlled postsecondary vocational and technical institutions, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2327, Pub. L. 88-210, title I, § 117, as added Pub. L. 101-392, title I, § 116, Sept. 25, 1990, 104 Stat. 772, related to program evaluation and improvement, prior to the general amendment of this chapter by Pub. L. 105-332.

AMENDMENTS

2018—Subsecs. (a)(2), (d). Pub. L. 115-224, § 116(1), (2), substituted “(Public Law 92-189; 85 Stat. 646)” for “(25 U.S.C. 640a et seq.)”.

Subsec. (f)(3). Pub. L. 115-224, § 116(3), substituted “Tribe” for “tribe” in two places.

Subsec. (h). Pub. L. 115-224, § 116(4), substituted “INDIAN TRIBE” for “INDIAN TRIBE” in heading of original Act which appears in heading as “Indian Tribe” and substituted “terms ‘Indian’ and ‘Indian Tribe’ have the meanings given the terms ‘Indian’ and ‘Indian tribe’, respectively, in” for “terms ‘Indian’ and ‘Indian tribe’ have the meanings given the terms in” in text.

Subsec. (i). Pub. L. 115-224, § 116(5), added subsec. (i) and struck out former subsec. (i) which authorized appropriations as necessary for fiscal years 2007 through 2012.

2008—Subsec. (a). Pub. L. 110-315, § 941(j)(2)(A), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary career and technical institutions that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) to provide basic support for the education and training of Indian students.”

Subsec. (d). Pub. L. 110-315, § 941(j)(2)(B), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “Any tribally controlled postsecondary career and technical institution that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community

College Act (25 U.S.C. 640a et seq.) that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require.”

Subsec. (h)(1). Pub. L. 110-315, §941(k)(2)(D)(ii), substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-224 effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as a note under section 2301 of this title.

§ 2328. Repealed. Pub. L. 115-224, title I, § 117, July 31, 2018, 132 Stat. 1599

Section, Pub. L. 88-210, title I, §118, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 713; amended Pub. L. 113-128, title V, §512(e)(1), July 22, 2014, 128 Stat. 1706. Pub. L. 115 related to occupational and employment information and grants to States.

A prior section 2328, Pub. L. 88-210, title I, §118, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3100, related to occupational and employment information, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2328, Pub. L. 88-210, title I, §118, as added Pub. L. 101-392, title I, §116, Sept. 25, 1990, 104 Stat. 773, related to criteria for services and activities for individuals who are members of special populations, prior to the general amendment of this chapter by Pub. L. 105-332.

A prior section 2331, Pub. L. 88-210, title II, §201, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 776, related to State programs and State leadership activities, prior to the general amendment of this chapter by Pub. L. 105-332.

Another prior section 2331 and prior sections 2332 to 2334 were omitted in the general amendment of this subchapter by Pub. L. 101-392.

Section 2331, Pub. L. 88-210, title II, §201, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2450; amended Pub. L. 100-297, title II, §2401(a), Apr. 28, 1988, 102 Stat. 324, related to use of a portion of a State's allotment to provide vocational education services and activities to meet special needs of handicapped individuals, disadvantaged individuals, single parents, homemakers, or single pregnant women, and other groups.

Section 2332, Pub. L. 88-210, title II, §202, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2452; amended Pub. L. 100-202, §101(h) [title III, §300], Dec. 22, 1987, 101 Stat. 1329-256, 1329-279; Pub. L. 100-297, title II, §2401(b), (c), Apr. 28, 1988, 102 Stat. 324, related to distribution of assistance from State allotment to provide vocational education opportunities.

Section 2333, Pub. L. 88-210, title II, §203, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2453; amended Pub. L. 99-159, title VII, §705, Nov. 22, 1985, 99 Stat. 905, related to allocation within individual States of the funds available for vocational education services and activities for the handicapped.

Section 2334, Pub. L. 88-210, title II, §204, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2454; amended Pub. L. 101-476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to criteria for services and activities for the handicapped and for the disadvantaged.

Prior sections 2335 to 2336 were omitted in the general amendment of this chapter by Pub. L. 105-332.

Section 2335, Pub. L. 88-210, title II, §221, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 777, related to programs for single parents, displaced homemakers, and single pregnant women.

Section 2335a, Pub. L. 88-210, title II, §222, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to sex equity programs.

Section 2335b, Pub. L. 88-210, title II, §223, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 778,

related to competitive award of amounts and evaluation of programs.

Section 2336, Pub. L. 88-210, title II, §225, as added Pub. L. 101-392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to programs for criminal offenders.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as an Effective Date of 2018 Amendment note under section 2301 of this title.

PART B—STATE PROVISIONS

§ 2341. State administration

(a) Eligible agency responsibilities

The responsibilities of an eligible agency under this subchapter shall include—

(1) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this subchapter, including preparation for non-traditional fields;

(2) consultation with the Governor and appropriate agencies, groups, and individuals including teachers, faculty, specialized instructional support personnel, paraprofessionals, school leaders, authorized public chartering agencies and charter school leaders (consistent with State law), employers, representatives of business (including small businesses), labor organizations, eligible recipients, local program administrators, State and local officials, Indian Tribes or Tribal organizations present in the State, parents, students, and community organizations;

(3) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this subchapter, but not less than 4 times annually; and

(4) the adoption of such procedures as the eligible agency considers necessary to—

(A) implement State level coordination with the activities undertaken by the State boards under section 3111 of title 29; and

(B) make available to the one-stop delivery system under section 3151 of title 29 within the State a listing of all school dropout, postsecondary education, and adult programs assisted under this subchapter.

(b) Exception

Except with respect to the responsibilities set forth in subsection (a), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, or supervision of activities assisted under this subchapter, in whole or in part, to 1 or more appropriate State agencies.

(Pub. L. 88-210, title I, §121, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 715; amended Pub. L. 113-128, title V, §512(e)(2), July 22, 2014, 128 Stat. 1706; Pub. L. 115-224, title I, §121, July 31, 2018, 132 Stat. 1599.)