

references to section 7703(a)(1) of this title wherever appearing.

Subsec. (a)(1). Pub. L. 114-95, § 7001(d)(6), made technical amendment to reference in original act which appears in text as reference to section 7703(b) of this title.

Subsec. (a)(2). Pub. L. 114-95, § 7001(d)(7), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7703(b)(1) of this title.

Subsec. (a)(3)(A)(i)(I). Pub. L. 114-95, § 7007(1)(A)(i), redesignated subcl. (II) relating to 20 percent of the amount appropriated as (I).

Subsec. (a)(3)(A)(i)(II). Pub. L. 114-95, § 7007(1)(A)(ii), made technical amendment to reference in original act which appears in text as reference to section 7708(a) of this title.

Pub. L. 114-95, § 7007(1)(A)(i), redesignated subcl. (II) relating to 20 percent of the amount appropriated as (I).

Pub. L. 114-95, § 7001(d)(5), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(2) of this title.

Subsec. (a)(3)(B)(i)(II). Pub. L. 114-95, § 7001(d)(5), made technical amendment to reference in original act which appears in text as reference to section 7703(a)(2) of this title.

Subsec. (a)(4). Pub. L. 114-95, § 7007(1)(B), made technical amendment to reference in original act which appears in text as reference to section 7713(3) of this title.

Subsec. (b)(3)(A)(i)(III). Pub. L. 114-95, § 7001(d)(8), made technical amendment to reference in original act which appears in text as reference to section 7703(b)(2) of this title.

Subsec. (b)(3)(C)(i)(I). Pub. L. 114-95, § 7001(d)(6), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7703(b) of this title.

Subsec. (b)(3)(C)(i)(I)(cc). Pub. L. 114-95, § 7007(2)(A), added item (cc).

Subsec. (b)(3)(C)(ii). Pub. L. 114-95, § 7001(d)(1), made technical amendment to reference in original act which appears in text as reference to section 7702 of this title.

Subsec. (b)(6). Pub. L. 114-95, § 7007(2)(B)(i), in introductory provisions, substituted “and in such manner” for “, in such manner, and accompanied by such information”.

Subsec. (b)(6)(A). Pub. L. 114-95, § 7007(2)(B)(ii), inserted before period at end “, and containing such additional information as may be necessary to meet any award criteria for a grant under this subsection as provided by any other Act”.

Subsec. (b)(6)(F). Pub. L. 114-95, § 7007(2)(B)(iii), struck out subpar. (F) which read as follows: “Such other information and assurances as the Secretary may reasonably require.”

2014—Subsec. (b)(7). Pub. L. 113-188 struck out par. (7) which required annual reports containing justifications for each grant awarded under subsec. (b) for the prior fiscal year.

2002—Subsec. (b). Pub. L. 107-110 amended heading and text generally, reorganizing and revising provisions relating to emergency and modernization grants.

2000—Pub. L. 106-398 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) authorizing payments to certain local educational agencies for construction.

1996—Subsec. (a)(2)(B). Pub. L. 104-134 struck out “and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency’s eligible voters a bond referendum for the purposes of school construction or renovation” before semicolon at end.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section

5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

##### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

#### § 7708. Facilities

##### (a) Current facilities

From the amount appropriated for any fiscal year under section 7714(e) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

##### (b) Transfer of facilities

###### (1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950<sup>1</sup> (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950<sup>1</sup> (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

###### (2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89-10, title VII, § 7008, formerly title VIII, § 8008, as added Pub. L. 103-382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764; renumbered title VII, § 7008, and amended Pub. L. 114-95, title VII, §§ 7001(c)(2), 7008, Dec. 10, 2015, 129 Stat. 2074, 2086.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103-382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as added by Pub. L. 85-620, title I, § 101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103-382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1),

<sup>1</sup> See References in Text note below.

probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85-620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

#### AMENDMENTS

2015—Subsec. (a). Pub. L. 114-95, § 7008, substituted “section 7714(e) of this title” for “section 7714(f) of this title”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, and effective with respect to appropriations for use under this subchapter beginning fiscal year 2017, except as otherwise provided in such amendment, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

### § 7709. State consideration of payments in providing State aid

#### (a) General prohibition

Except as provided in subsection (b), a State may not—

(1) consider payments under this subchapter in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

#### (b) State equalization plans

##### (1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under section 7703(a)(2)(B) of this title and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

##### (2) Computation

###### (A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not

exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

#### (B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

#### (3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

#### (c) Procedures for review of State equalization plans

##### (1) Written notice

###### (A) In general

Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

###### (B) Contents

Such notice shall be in the form that the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

##### (2) Opportunity to present views

Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

##### (3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—