

“(B) the most recent data available which is adjusted to such fiscal year.”

EFFECTIVE AND TERMINATION DATES OF 2013  
AMENDMENT

Amendment by Pub. L. 112-239 effective for a 2-year period beginning on Jan. 2, 2013, and repealed on the day after the 2-year period and this subchapter to be applied as if the amendment had never been enacted, see section 563(c) of Pub. L. 112-239 set out as a note under section 7702 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, §537(b), Nov. 24, 2003, 117 Stat. 1475, provided that: “The amendment made by subsection (a) [amending this section] shall take effect beginning with basic support payments under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-279, title IV, §406(b), Nov. 5, 2002, 116 Stat. 1987, provided that: “The amendment made by section 406(a) [amending this section] shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years.”

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.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title XVIII, §1804(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-375, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to payments to a local educational agency for fiscal years beginning before, on, or after the date of the enactment of this Act [Oct. 30, 2000].”

EFFECTIVE DATE OF 1997 AMENDMENT

Title III of Pub. L. 105-78, Nov. 13, 1997, 111 Stat. 1497, provided in part that: “The amendment made by this proviso [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1996”.

Pub. L. 105-18, title VI, §60005(b), June 12, 1997, 111 Stat. 215, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1997.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(e) [title III, §307(b)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-262, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995.”

Pub. L. 104-195, §3(b), Sept. 16, 1996, 110 Stat. 2381, provided that: “Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(a)(4)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.”

Pub. L. 104-195, §4(b), Sept. 16, 1996, 110 Stat. 2381, provided that: “Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(b)(3)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.”

Pub. L. 104-195, §5(c), Sept. 16, 1996, 110 Stat. 2382, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to fiscal years after fiscal year 1996.”

TRANSITION PROVISIONS

Pub. L. 107-110, title VIII, §802(a)(2), Jan. 8, 2002, 115 Stat. 1949, provided that: “The Secretary shall consider an application for a payment under section 8003(b)(2) [20 U.S.C. 7703(b)(2)] for fiscal year 2002 from a qualified local educational agency described in section

8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act [Jan. 8, 2002].”

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT  
BENEFIT DEPENDENTS OF MEMBERS OF ARMED  
FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EM-  
PLOYEES

Pub. L. 102-484, div. A, title III, §386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103-160, div. A, title III, §373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103-382, title III, §391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104-106, div. A, title X, §1074(c)-(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105-85, div. A, title III, §381(e), Nov. 18, 1997, 111 Stat. 1709; Pub. L. 106-65, div. A, title III, §351(e), Oct. 5, 1999, 113 Stat. 572, which required the Secretary of Defense, in consultation with the Secretary of Education, to provide financial assistance to certain local educational agencies in States, was repealed by Pub. L. 109-163, div. A, title V, §572(g), Jan. 6, 2006, 119 Stat. 3273. See section 7703b of this title.

NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES  
OF ENROLLMENT CHANGES DUE TO BASE CLOSURES  
AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101-189, set out as a note under section 2687 of Title 10, Armed Forces.

**§ 7703a. Impact aid for children with severe disabilities**

**(a) Payments**

Subject to subsection (f) of this section, the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 7703(a)(1) of this title that serves two or more such children with severe disabilities, for costs incurred in providing a free appropriate public education to each such child.

**(b) Payment amount**

The amount of the payment under subsection (a) of this section to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

- (1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less
- (2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to de-

fray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

**(c) Exclusions**

No payment shall be made under subsection (a) of this section on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

**(d) Ratable reduction**

If the amount available for a fiscal year for payments under subsection (a) of this section is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

**(e) Report**

Each local educational agency desiring a payment under subsection (a) of this section shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

**(f) Payments subject to appropriation**

Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

**(g) Local educational agency defined**

In this section, the term “local educational agency” has the meaning given that term in section 7713(9) of this title.

(Pub. L. 106–398, §1 [[div. A], title III, §363], Oct. 30, 2000, 114 Stat. 1654, 1654A–77.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year

2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

**§ 7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees**

**(a) Assistance to schools with significant numbers of military dependent students**

**(1) Assistance authorized**

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

**(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations**

**(1) Assistance authorized**

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

**(2) Eligible local educational agencies**

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) of this section for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of