

paragraph (2) was in effect on the day before August 12, 2006);

(bb) the amount reserved under paragraph (1)(C) for fiscal year 2006 (as such paragraph (1)(C) was so in effect); and

(cc) \$827,671.

(ii) Qualifying State

The term “qualifying State” means a State (except the United States Virgin Islands) that, for the fiscal year for which a determination under this paragraph is made, would receive, under the allotment formula under paragraph (2) (without the application of this paragraph and paragraphs (3) and (5)), an amount that would be less than the amount the State would receive under subparagraph (A) for such fiscal year.

(5) Hold harmless

(A) In general

No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before October 31, 1998) for fiscal year 1998.

(B) Ratable reduction

If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment

If the Secretary determines that any amount of any State’s allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State’s allotment for the year in which the amount is obligated.

(c) Allotment ratio

(1) In general

The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation

The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) Definition of per capita income

For the purpose of this section, the term “per capita income” means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination

For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) Definition of State

For the purpose of this section, the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(Pub. L. 88-210, title I, §111, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 691.)

REFERENCES IN TEXT

Paragraphs (1)(C) and (2), as such paragraphs were in effect on the day before August 12, 2006, referred to in subsec. (a)(4)(B)(ii)(I), (C)(i), (D)(i)(II)(aa), (bb), mean paragraphs (1)(C) and (2) of section 2321(a) of this title, as added by Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3083, as amended, prior to the general amendment of this chapter by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 691. See Prior Provisions note below.

Part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act, as such part was in effect on the day before October 31, 1998, referred to in subsec. (a)(5)(A), means part A of title I of Pub. L. 88-210, as added by Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2438, as amended, which was classified to part A (§2311 et seq.) of subchapter I of this chapter prior to the general amendment of this chapter by Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

A prior section 2321, Pub. L. 88-210, title I, §111, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3083; amended Pub. L. 106-246, div. B, title II, §2403(b), July 13, 2000, 114 Stat. 555, related to reservations and State allotment, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2321, Pub. L. 88-210, title I, §111, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2441; amended Pub. L. 101-392, title I, §111, Sept. 25, 1990, 104 Stat. 763; Pub. L. 103-382, title III, §391(s)(1), Oct. 20, 1994, 108 Stat. 4024, related to State administration, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2322. Within State allocation

(a) In general

From the amount allotted to each State under section 2321 of this title for a fiscal year, the eligible agency shall make available—

(1) not less than 85 percent for distribution under section 2351 or 2352 of this title, of which

not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

(2) not more than 10 percent to carry out State leadership activities described in section 2344 of this title, of which—

(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 2321 of this title for the fiscal year shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

(B) not less than \$60,000 and not more than \$150,000 shall be available for services that prepare individuals for non-traditional fields; and

(3) an amount equal to not more than 5 percent, or \$250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

- (A) developing the State plan;
- (B) reviewing a local plan;
- (C) monitoring and evaluating program effectiveness;
- (D) assuring compliance with all applicable Federal laws;
- (E) providing technical assistance; and
- (F) supporting and developing State data systems relevant to the provisions of this chapter.

(b) Matching requirement

Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

(c) Reserve

From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for career and technical education activities described in section 2355 of this title in—

- (1) rural areas;
- (2) areas with high percentages of career and technical education students; and
- (3) areas with high numbers of career and technical education students.

(Pub. L. 88-210, title I, §112, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 695.)

PRIOR PROVISIONS

A prior section 2322, Pub. L. 88-210, title I, §112, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3086, related to allocations within States, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2322, Pub. L. 88-210, title I, §112, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2443; amended Pub. L. 99-159, title VII, §703, Nov. 22, 1985, 99 Stat. 905; Pub. L. 101-392, title I, §112, Sept. 25, 1990, 104 Stat. 765; Pub. L. 102-367, title VI, §601(b)(1), Sept. 7, 1992, 106 Stat. 1102, related to State councils on vocational education, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2323. Accountability

(a) Purpose

The purpose of this section is to establish and support State and local performance accountability systems, comprised of the activities de-

scribed in this section, to assess the effectiveness of the State and the eligible recipients of the State in achieving statewide progress in career and technical education, and to optimize the return of investment of Federal funds in career and technical education activities.

(b) State performance measures

(1) In general

Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

(A) the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2);

(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(C); and

(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

(2) Indicators of performance

(A) Core indicators of performance for career and technical education students at the secondary level

Each eligible agency shall identify in the State plan core indicators of performance for career and technical education students at the secondary level that are valid and reliable, and that include, at a minimum, measures of each of the following:

(i) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by a State in accordance with section 6311(b)(1) of this title and measured by the State determined proficient levels on the academic assessments described in section 6311(b)(3) of this title.

(ii) Student attainment of career and technical skill proficiencies, including student achievement on technical assessments, that are aligned with industry-recognized standards, if available and appropriate.

(iii) Student rates of attainment of each of the following:

(I) A secondary school diploma.

(II) A General Education Development (GED) credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities).

(III) A proficiency credential, certificate, or degree, in conjunction with a secondary school diploma (if such credential, certificate, or degree is offered by the State in conjunction with a secondary school diploma).

(iv) Student graduation rates (as described in section 6311(b)(2)(C)(vi) of this title).

(v) Student placement in postsecondary education or advanced training, in military service, or in employment.

(vi) Student participation in and completion of career and technical education programs that lead to non-traditional fields.