

(b) Maintenance of effort**(1) Determination****(A) In general**

Except as provided in subparagraphs (B) and (C), no payments shall be made under this chapter for any fiscal year to a State for career and technical education programs or tech prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs for the second fiscal year preceding the fiscal year for which the determination is made.

(B) Computation

In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special 1-time project costs, and the cost of pilot programs.

(C) Decrease in Federal support

If the amount made available for career and technical education programs under this chapter for a fiscal year is less than the amount made available for career and technical education programs under this chapter for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Waiver

The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(Pub. L. 88-210, title III, §311, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

PRIOR PROVISIONS

A prior section 2391, Pub. L. 88-210, title III, §311, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3121, related to fiscal requirements, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2391, Pub. L. 88-210, title III, §331, formerly §341, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2463; renumbered §331 and amended Pub. L. 101-392, title III, §307(a)(2), (c), Sept. 25, 1990, 104

Stat. 787, stated findings of Congress, prior to the general amendment of this chapter by Pub. L. 105-332.

A prior section 311 of Pub. L. 88-210 was classified to section 2361 of this title, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2392. Authority to make payments

Any authority to make payments or to enter into contracts under this chapter shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88-210, title III, §312, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743.)

PRIOR PROVISIONS

A prior section 2392, Pub. L. 88-210, title III, §312, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3122, related to authority to make payments, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2392, Pub. L. 88-210, title III, §332, formerly §342, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2464; amended Pub. L. 99-159, title VII, §709, Nov. 22, 1985, 99 Stat. 906; renumbered §332 and amended Pub. L. 101-392, title III, §307(a)(2), (d), Sept. 25, 1990, 104 Stat. 787, authorized business-labor-education partnership training grants, prior to the general amendment of this chapter by Pub. L. 105-332.

A prior section 312 of Pub. L. 88-210 was classified to section 2362 of this title, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2393. Construction

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this chapter.

(Pub. L. 88-210, title III, §313, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743.)

PRIOR PROVISIONS

A prior section 2393, Pub. L. 88-210, title III, §313, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3122, related to construction of this chapter, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2393, Pub. L. 88-210, title III, §333, formerly §343, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2465; amended Pub. L. 100-418, title VI, §6134(a), Aug. 23, 1988, 102 Stat. 1512; renumbered §333, Pub. L. 101-392, title III, §307(a)(2), Sept. 25, 1990, 104 Stat. 787, related to use of grant funds, prior to the general amendment of this chapter by Pub. L. 105-332.

A prior section 313 of Pub. L. 88-210 was classified to section 2363 of this title, prior to the general amendment of this chapter by Pub. L. 105-332.

§ 2394. Voluntary selection and participation

No funds made available under this chapter shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; or

(2) to mandate that any individual participate in a career and technical education program, including a career and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

(Pub. L. 88-210, title III, §314, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743.)