

peal by Pub. L. 101-392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 203 of Pub. L. 88-210 was classified to section 2372 of this title, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 203 of Pub. L. 88-210 was classified to section 2333 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101-392.

#### AMENDMENTS

2008—Subsec. (a)(1)(B)(i)(I)(bb)(AA). Pub. L. 110-315 substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

### § 2374. Consortium applications

#### (a) In general

Each consortium that desires to receive a grant under this subchapter shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall require.

#### (b) Plan

Each application submitted under this section shall contain a 6-year plan for the development and implementation of tech prep programs under this subchapter, which plan shall be reviewed after the second year of the plan.

#### (c) Approval

The eligible agency shall approve applications under this subchapter based on the potential of the activities described in the application to create an effective tech prep program.

#### (d) Special consideration

The eligible agency, as appropriate, shall give special consideration to applications that—

- (1) provide for effective employment placement activities or the transfer of students to baccalaureate or advanced degree programs;
- (2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;
- (3) address effectively the issues of school dropout prevention and reentry, and the needs of special populations;
- (4) provide education and training in an area or skill, including an emerging technology, in which there is a significant workforce shortage based on the data provided by the eligible entity in the State under section 2328 of this title;
- (5) demonstrate how tech prep programs will help students meet high academic and employability competencies; and
- (6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C of subchapter I.

#### (e) Performance levels

##### (1) In general

Each consortium receiving a grant under this subchapter shall enter into an agreement with the eligible agency to meet a minimum level of performance for each of the performance indicators described in sections 2323(b) and 2373(e) of this title.

##### (2) Resubmission of application; termination of funds

An eligible agency—

(A) shall require consortia that do not meet the performance levels described in paragraph (1) for 3 consecutive years to re-submit an application to the eligible agency for a tech prep program grant; and

(B) may choose to terminate the funding for the tech prep program for a consortium that does not meet the performance levels described in paragraph (1) for 3 consecutive years, including when the grants are made on the basis of a formula determined by the eligible agency.

#### (f) Equitable distribution of assistance

In awarding grants under this subchapter, the eligible agency shall ensure an equitable distribution of assistance between or among urban and rural participants in the consortium.

(Pub. L. 88-210, title II, §204, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 741.)

#### PRIOR PROVISIONS

A prior section 2374, Pub. L. 88-210, title II, §205, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3120, related to consortium applications, prior to the general amendment of this chapter by Pub. L. 109-270.

A prior section 204 of Pub. L. 88-210 was classified to section 2373 of this title, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 204 of Pub. L. 88-210 was classified to section 2334 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101-392.

### § 2375. Report

Each eligible agency that receives an allotment under this subchapter annually shall prepare and submit to the Secretary a report on the effectiveness of the tech prep programs assisted under this subchapter, including a description of how grants were awarded within the State.

(Pub. L. 88-210, title II, §205, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

#### PRIOR PROVISIONS

A prior section 2375, Pub. L. 88-210, title II, §206, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3120, required a report from grantees, prior to the general amendment of this chapter by Pub. L. 109-270.

A prior section 205 of Pub. L. 88-210 was classified to section 2374 of this title, prior to the general amendment of this chapter by Pub. L. 109-270.

### § 2376. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for fiscal year 2007 and each of the 5 succeeding fiscal years.

(Pub. L. 88-210, title II, §206, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 742.)

#### PRIOR PROVISIONS

A prior section 2376, Pub. L. 88-210, title II, §207, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3121, related to demonstration programs, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2376, Pub. L. 88-210, title III, §326, as added Pub. L. 100-418, title VI, §6131(a)(3), Aug. 23, 1988, 102 Stat. 1509, provided findings and purpose of special program of financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training,

retraining, and employment development of adults who had completed or left high school and were preparing to enter or had entered the labor market, including workers who were 55 years of age and older, in order to equip adults with competencies and skills required for productive employment, prior to repeal by Pub. L. 101-392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 206 of Pub. L. 88-210 was classified to section 2375 of this title, prior to the general amendment of this chapter by Pub. L. 109-270.

A prior section 2377, Pub. L. 88-210, title II, §208, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3121, which related to authorization of appropriations, was omitted in the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2377 and prior section 2378 were repealed by Pub. L. 101-392, title III, §305, title VII, §702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

Section 2377, Pub. L. 88-210, title III, §327, as added Pub. L. 100-418, title VI, §6131(a)(3), Aug. 23, 1988, 102 Stat. 1509; amended Pub. L. 101-476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized giving of grants and uses of funds in connection with special program.

Section 2378, Pub. L. 88-210, title III, §328, as added Pub. L. 100-418, title VI, §6131(a)(3), Aug. 23, 1988, 102 Stat. 1510, provided for coordination of special program with Job Training Partnership Act.

Prior sections 2381 to 2383 were omitted in the general amendment of this chapter by Pub. L. 105-332.

Section 2381, Pub. L. 88-210, title III, §321, formerly §331, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2462; renumbered §321, Pub. L. 101-392, title III, §306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to grants for career guidance and counseling.

Section 2382, Pub. L. 88-210, title III, §322, formerly §332, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2462; renumbered §322 and amended Pub. L. 101-392, title III, §306(a)(2), (c), Sept. 25, 1990, 104 Stat. 786, 787, related to use of funds from career guidance and counseling grants.

Section 2383, Pub. L. 88-210, title III, §323, formerly §333, as added Pub. L. 98-524, §1, Oct. 19, 1984, 98 Stat. 2463; amended Pub. L. 99-159, title VII, §708, Nov. 22, 1985, 99 Stat. 906; renumbered §323, Pub. L. 101-392, title III, §306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to information dissemination and leadership.

## SUBCHAPTER III—GENERAL PROVISIONS

### PART A—FEDERAL ADMINISTRATIVE PROVISIONS

#### § 2391. Fiscal requirements

##### (a) Supplement not supplant

Funds made available under this chapter for career and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out career and technical education activities and tech prep program activities.

##### (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 ca-

reer 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,