

Another prior section 2377 and prior section 2378 were repealed by Pub.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.

#### EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as an Effective Date of 2018 Amendment note under section 2301 of this title.

### 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 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.)

#### AMENDMENT OF SECTION

*Pub. L. 115-224, §4, title II, §201(a)(1), (5), (6), July 31, 2018, 132 Stat. 1564, 1620, 1621, provided that, effective July 1, 2019, this section is renumbered section 211 of title II of Pub. L. 88-210, and amended. After July 1, 2019, this section will read as follows:*

#### § 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.*

##### (b) Maintenance of effort

##### (1) Determination

##### (A) In general

*Except as provided in subparagraph (B), (C), or (D), in order for a State to receive its full allotment of funds under this chapter for any fiscal year, the Secretary must find that the State's fiscal effort per student, or the aggregate expenditures of such State, with respect to career and technical education for the preceding fiscal year was not less than the fiscal effort per student, or the aggregate expenditures of such State, for the second preceding fiscal year.*

##### (B) Computation

*In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall, at the request of the State, ex-*

clude competitive or incentive-based programs established by the State, capital expenditures, special one-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.

(D) *Establishing the state baseline*

For purposes of applying subparagraph (A) for years which require the calculation of the State's fiscal effort per student, or aggregate expenditures of such State, with respect to career and technical education for the first full fiscal year following July 31, 2018, the State may determine the State's fiscal effort per student, or aggregate expenditures of such State, with respect to career and technical education for such first full fiscal year by—

(i) continuing to use the State's fiscal effort per student, or aggregate expenditures of such State, with respect to career and technical education, as was in effect on the day before July 31, 2018; or

(ii) establishing a new level of fiscal effort per student, or aggregate expenditures of such State, with respect to career and technical education, which is not less than 95 percent of the State's fiscal effort per student, or the aggregate expenditures of such State, with respect to career and technical education for the preceding fiscal year.

(2) *Failure to meet*

(A) *In general*

The Secretary shall reduce the amount of a State's allotment of funds under this chapter for any fiscal year in the exact proportion by which the State fails to meet the requirement of paragraph (1) by falling below the State's fiscal effort per student or the State's aggregate expenditures (using the measure most favorable to the State), if the State failed to meet such requirement (as determined using the measure most favorable to the State) for 1 or more of the 5 immediately preceding fiscal years.

(B) *Special rule*

No such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) *Waiver*

The Secretary may waive paragraph (2) due to exceptional or uncontrollable circumstances affecting the ability of the State to meet the requirement of paragraph (1) 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 subse-

quent 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.

See 2018 Amendment notes below.

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.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-224, § 201(a)(1)(A), struck out “and tech prep program activities” before period at end.

Subsec. (b)(1)(A). Pub. L. 115-224, § 201(a)(1)(B)(i)(I), amended subpar. (A) generally. Prior to amendment, text read as follows: “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.”

Subsec. (b)(1)(B). Pub. L. 115-224, § 201(a)(1)(B)(i)(II), substituted “shall, at the request of the State, exclude competitive or incentive-based programs established by the State, capital expenditures, special one-time project costs, and the cost of pilot programs.” for “shall exclude capital expenditures, special 1-time project costs, and the cost of pilot programs.”

Subsec. (b)(1)(D). Pub. L. 115-224, § 201(a)(1)(B)(i)(III), added subpar. (D).

Subsec. (b)(2), (3). Pub. L. 115-224, § 201(a)(1)(B)(ii), added pars. (2) and (3) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “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.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-224 effective July 1, 2019, see section 4 of Pub. L. 115-224, set out as a note under section 2301 of this title.

§ 2392. **Authority to make payments**

Any authority to make payments or to enter into contracts under this chapter shall be avail-