

**(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 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 II, §211, formerly title III, §311, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 742; renumbered title II, §211, and amended Pub. L. 115-224, title II, §201(a)(1), (5), (6), July 31, 2018, 132 Stat. 1620, 1621.)

**Editorial Notes****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.

**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.”

**Statutory Notes and Related Subsidiaries****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 available only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88-210, title II, §212, formerly title III, §312, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743; renumbered title II, §212, Pub. L. 115-224, title II, §201(a)(5), (6), July 31, 2018, 132 Stat. 1621.)

**Editorial Notes****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.

**Statutory Notes and Related Subsidiaries****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.

**§ 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 II, §213, formerly title III, §313, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743; renumbered title II, §213, Pub. L. 115-224, title II, §201(a)(5), (6), July 31, 2018, 132 Stat. 1621.)

**Editorial Notes****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.

#### Statutory Notes and Related Subsidiaries

##### 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.

#### § 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 pathway or program of study; 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 II, §214, formerly title III, §314, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 743; renumbered title II, §214, and amended Pub. L. 115-224, title II, §201(a)(2), (5), (6), July 31, 2018, 132 Stat. 1621.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2394, Pub. L. 88-210, title III, §314, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3123, related to voluntary selection and participation, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2394 and prior sections 2394a to 2394e were omitted in the general amendment of this chapter by Pub. L. 105-332.

Section 2394, Pub. L. 88-210, title III, §342, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 789, stated findings and purpose of Congress.

Section 2394a, Pub. L. 88-210, title III, §343, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 789; amended Pub. L. 102-103, title III, §315, Aug. 17, 1991, 105 Stat. 508, authorized grants for tech-prep education programs.

Section 2394b, Pub. L. 88-210, title III, §344, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 790; amended Pub. L. 103-239, title VII, §711(a), May 4, 1994, 108 Stat. 606, related to use of grant funds.

Section 2394c, Pub. L. 88-210, title III, §345, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 791; amended Pub. L. 103-239, title VII, §711(b), May 4, 1994, 108 Stat. 606, related to applications for grants.

Section 2394d, Pub. L. 88-210, title III, §346, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 792, related to reports.

Section 2394e, Pub. L. 88-210, title III, §347, as added Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 792; amended Pub. L. 105-244, title I, §102(a)(6)(E), Oct. 7, 1998, 112 Stat. 1618, defined terms for purposes of tech-prep education grant program.

##### AMENDMENTS

2018—Par. (1). Pub. L. 115-224, §201(a)(2), substituted “career pathway or program of study” for “career path or major”.

#### Statutory Notes and Related Subsidiaries

##### 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.

##### SHORT TITLE

Pub. L. 88-210, title III, §341, as added by Pub. L. 101-392, title III, §308, Sept. 25, 1990, 104 Stat. 788, which provided that part E of title III of Pub. L. 88-210, enacting part E (§2394 et seq.) of former subchapter III of this chapter, could be cited as the “Tech-Prep Education Act”, was omitted in the general amendment of Pub. L. 88-210 by Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

#### § 2395. Limitation for certain students

No funds received under this chapter may be used to provide career and technical education programs or programs of study to students prior to the the<sup>1</sup> middle grades (as such term is defined in section 7801 of this title), except that equipment and facilities purchased with funds under this chapter may be used by such students.

(Pub. L. 88-210, title II, §215, formerly title III, §315, as added Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 744; renumbered title II, §215, and amended Pub. L. 115-224, title II, §201(a)(3), (5), (6), July 31, 2018, 132 Stat. 1621.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 2395, Pub. L. 88-210, title III, §315, as added Pub. L. 105-332, §1(b), Oct. 31, 1998, 112 Stat. 3123, imposed a limitation for certain students, prior to the general amendment of this chapter by Pub. L. 109-270.

Another prior section 2395 and prior sections 2395a to 2395e were omitted in the general amendment of this chapter by Pub. L. 105-332.

Section 2395, Pub. L. 88-210, title III, §351, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 792, stated purpose of supplementary State grant program.

Section 2395a, Pub. L. 88-210, title III, §352, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allotment to States.

Section 2395b, Pub. L. 88-210, title III, §353, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allocations to local educational agencies.

Section 2395c, Pub. L. 88-210, title III, §354, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to use of grant funds.

Section 2395d, Pub. L. 88-210, title III, §355, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to State applications for grants.

Section 2395e, Pub. L. 88-210, title III, §356, as added Pub. L. 101-392, title III, §309, Sept. 25, 1990, 104 Stat. 794, related to local applications for grants.

##### AMENDMENTS

2018—Pub. L. 115-224, §201(a)(3), inserted “or programs of study” after “career and technical education programs” and substituted “the middle grades (as such term is defined in section 7801 of this title)” for “seventh grade”.

#### Statutory Notes and Related Subsidiaries

##### 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.

<sup>1</sup> So in original.