

**TITLE III
GENERAL PROVISIONS**

PART A— FEDERAL ADMINISTRATIVE PROVISIONS

Sec. 311. 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.~~

Except as provided for in subparagraphs (B), (C) or (D), a State shall receive its full allotment of funds under this Act for any fiscal year in which the Secretary finds that the State's fiscal effort per student or the aggregate expenditures of the State with respect to career and technical education by the State for the preceding fiscal year was not less than the fiscal effort or aggregate expenditures for the second preceding fiscal year.

(B) Computation

In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary ~~shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.~~ may, at the request of the eligible agency, exclude competitive or incentive-based programs established by the state, capital expenditures, special one-time project costs, and the cost of pilot programs.

(C) Reestablishing a new State Baseline

The Secretary shall grant each eligible agency the opportunity, as part of the State plan submission as required in section 122(a), to establish a new level of fiscal effort and pursuant to subparagraph (A) which shall be calculated based on such expenditures during the first fiscal year following the enactment of [INSERT LAW NAME HERE]

(D) 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.~~

(A) The Secretary shall grant a waiver of the requirements of this section 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 by granting the state the opportunity to establish a new state baseline pursuant to Section 311 (1)(C) except that the new state baseline:

(i) will be established through a state plan amendment rather than as part of the original state plan submission; and

(ii) is not more than a 10 percent reduction of expenditures by an eligible agency.

(B) The waiver shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency within 90 days of the date the Secretary receives the waiver request. The Secretary shall not fully disapprove a waiver request, except after giving the eligible agency written notice and an opportunity for a hearing.

(C) The 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 and must be included in the Secretary's determination described in subparagraph (B).