paid or payable (except money paid hereunder as reimbursement for funeral expenses or as reimbursement with respect to payments of workmen's compensation or in the nature of workmen's compensation benefits), or rights existing under said subchapter, shall be subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

(Dec. 2, 1942, ch. 668, title II, § 207, 56 Stat. 1035.)

CHAPTER 13—SCHOOL LUNCH PROGRAMS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1633, 1643, 1772, 1776, 1776a, 1776b, 1779, 1782, 1785, 9858m of this title; title 7 sections 1431c, 4004; title 8 sections 1255a, 1613, 1615, 1632; title 20 sections 1070a–23, 2341, 6313; title 31 section 3803; title 40 section 474; title 48 section 1666.

§ 1751. Congressional declaration of policy

It is declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

(June 4, 1946, ch. 281, § 2, 60 Stat. 230; Nov. 10, 1989, Pub. L. 101–147, title III, § 312(1), 103 Stat. 916.)

AMENDMENTS

1989—Pub. L. 101–147 substituted ''school lunch'' for ''school-lunch''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2 of Pub. L. 101–147 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Short Title of 1989 Amendment note below] shall take effect on the date of the enactment of this Act [Nov. 10, 1989].''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–149, § 1, May 29, 1996, 110 Stat. 1379, provided that: ''This Act [amending section 1758 of this title] may be cited as the 'Healthy Meals for Children Act'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–448, § 1(a), Nov. 2, 1994, 108 Stat. 4699, provided that: ''This Act [enacting sections 1766b and 1769f to 1769h of this title, amending sections 280c–6, 1396a, 1755, 1756, 1758, 1759a, 1760, 1761, 1762a, 1766, 1769, 1769a, 1769b–1, 1769c, 1773, 1776, 1779, 1786, and 1788 of this title, section 2018 of Title 7, Agriculture, section 1484a of Title 20, Education, and section 3803 of Title 31, Money and Finance, enacting provisions set out as notes under this section and sections 1755, 1758, 1760, 1761, 1762a, 1769f, and 1786 of this title, amending provisions set out as notes under section 1786 of this title and section 612c of Title 7, and repealing provisions set out as a note under section 1786 of this title] may be cited as the 'Healthy Meals for Healthy Americans Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–342, § 1, Aug. 14, 1992, 106 Stat. 911, provided that: ''This Act [enacting section 1790 of this title, amending sections 1766, 1769, and 1786 of this title, enacting provisions set out as a note under section 1769 of this title, and amending provisions set out as a note under section 612c of Title 7, Agriculture] may be cited as the 'Child Nutrition Amendments of 1992'.''

SHORT TITLE OF 1989 AMENDMENT

Section 1(a) of Pub. L. 101–147 provided that: ''This Act [enacting sections 1766a, 1769b–1, 1769c, 1769d, and 1769e of this title, amending this section and sections 1753, 1755–1758, 1759a, 1760, 1761, 1762a, 1765, 1766, 1769–1769b, 1772, 1773, 1776, 1779, 1783, 1784, 1786, and 1788 of this title, repealing sections 1762 and 1763 of this title, enacting provisions set out as notes under this section and sections 1755, 1758, 1761, 1762a, 1766, 1766a, 1769, 1769c, 1773, 1776, and 1786 of this title, and amending provisions set out as a note under section 1766 of this title] may be cited as the 'Child Nutrition and WIC Reauthorization Act of 1989'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–661, § 4001(a), Nov. 14, 1986, 100 Stat. 4070, provided that: ''This division [div. D (§§ 4001–4503) of Pub. L. 99–661, amending sections 1752, 1755, 1758, 1760, 1761, 1762a, 1766, 1769 to 1769b, 1772, 1773, 1776, 1784, 1786, 1788, and 1789 of this title, repealing sections 1767, 1768, and 1769c of this title, and enacting provisions set out as notes under sections 1758, 1760, 1766, 1772, 1773, and 1786 of this title and section 1431e of Title 7, Agriculture] may be cited as the 'Child Nutrition Amendments of 1986'.''

Pub. L. 99–500, title III, § 301(a), Oct. 18, 1986, 100 Stat. 1783–359, and Pub. L. 99–591, title III, § 301(a), Oct. 30, 1986, 100 Stat. 3341–362, provided that: ''This title [amending sections 1752, 1755, 1758, 1760, 1761, 1762a, 1766, 1769 to 1769b, 1772, 1773, 1776, 1784, 1786, 1788, and 1789 of this title and section 1929a of Title 7, Agriculture, repealing sections 1767, 1768, and 1769c of this title, and enacting provisions set out as notes under sections 1758, 1760, 1766, 1772, 1773, and 1786 of this title and sections 1431e and 1929a of Title 7] may be cited as the 'School Lunch and Child Nutrition Amendments of 1986'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–627, § 1, Nov. 10, 1978, 92 Stat. 3603, provided: ''That this Act [enacting section 1769c of this title, amending sections 1755, 1757, 1758, 1759a to 1761, 1762a, 1766, 1769, 1772 to 1774, 1776, 1784, and 1786 of this title, and enacting provisions set out as notes under sections 1755, 1773 and 1786 of this title] may be cited as the 'Child Nutrition Amendments of 1978'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–166, § 1, Nov. 10, 1977, 91 Stat. 1325, provided: ''That this Act [enacting sections 1769, 1769a, and 1788 of this title, amending sections 1754 to 1758, 1759a, 1760, 1761, 1762a, 1763, 1766, 1772 to 1774, 1776, 1779, 1784, and 1786 of this title, and enacting provisions set out as

notes under sections 1755 and 1772 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Amendments of 1977'.''

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–105, §1, Oct. 7, 1975, 89 Stat. 511, provided: ''That this Act [enacting sections 1765, 1766, 1767, 1768, and 1787 of this title, amending sections 1752, 1755, 1756, 1758, 1759, 1759a, 1760, 1761, 1762a, 1772, 1773, 1774, 1784, and 1786 of this title, repealing section 1764 of this title, and enacting provisions set out as notes under sections 1758, 1760, 1761, and 1786 of this title] may be cited as the 'National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–326, §1, June 30, 1974, 88 Stat. 286, provided: ''That this Act [enacting section 1762a of this title and amending sections 1752, 1755, 1758, 1763, 1774, and 1786 of this title] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1974'.''

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–150, §1, Nov. 7, 1973, 87 Stat. 560, provided: ''That this Act [amending sections 1753, 1755, 1757, 1758, 1759, 1759a, 1763, 1772, 1773, and 1786 of this title, and enacting provisions set out as notes under this section and section 240 of Title 20, Education] may be cited as the 'National School Lunch and Child Nutrition Act Amendments of 1973'.''

SHORT TITLE

Section 1 of act June 4, 1946, provided: ''That this Act [enacting this chapter] may be cited as the 'National School Lunch Act'.''

COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SERVICE PROGRAMS

Pub. L. 104–193, title VII, §741, Aug. 22, 1996, 110 Stat. 2307, provided that:

''(a) COORDINATION.—

''(1) IN GENERAL.—The Secretary of Agriculture shall develop proposed changes to the regulations under the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.), the summer food service program under section 13 of that Act (42 U.S.C. 1761), and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

''(2) CONSULTATION.—In developing proposed changes to the regulations under paragraph (1), the Secretary of Agriculture shall consult with local, State, and regional administrators of the programs described in such paragraph.

''(b) REPORT.—Not later than November 1, 1997, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report containing the proposed changes developed under subsection (a).''

SUPPLEMENTAL NUTRITION PROGRAMS; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 103–448, §2, Nov. 2, 1994, 108 Stat. 4700, provided that: ''Congress finds that—

''(1) undernutrition can permanently retard physical growth, brain development, and cognitive functioning of children;

''(2) the longer a child's nutritional, emotional, and educational needs go unmet, the greater the likelihood of cognitive impairment;

''(3) low-income children who attend school hungry score significantly lower on standardized tests than non-hungry low-income children; and

''(4) supplemental nutrition programs under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.''

STUDY OF ADULTERATION OF JUICE PRODUCTS SOLD TO SCHOOL MEAL PROGRAMS

Pub. L. 103–448, title I, §125, Nov. 2, 1994, 108 Stat. 4734, directed Comptroller General of the United States, not later than 1 year after Nov. 2, 1994, to conduct study and to submit a report to Congress on costs and problems associated with sale of adulterated fruit juice and juice products to the school lunch program under this chapter and school breakfast program under section 1773 of this title.

CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM

Pub. L. 103–448, title III, §301, Nov. 2, 1994, 108 Stat. 4749, provided that:

''(a) IN GENERAL.—Notwithstanding any provision of [the] National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as otherwise provided in this section, the Secretary of Agriculture shall, not later than 18 months after the date of enactment of this Act [Nov. 2, 1994], develop and implement regulations to consolidate the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) into a comprehensive meal program.

''(b) REQUIREMENTS.—In establishing the comprehensive meal program under subsection (a), the Secretary shall meet the following requirements:

''(1) The Secretary shall ensure that the program continues to serve children who are eligible for free and reduced price meals. The meals shall meet the nutritional requirements of section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) and section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

''(2) The Secretary shall continue to make breakfast assistance payments in accordance with section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and food assistance payments in accordance with the National School Lunch Act (42 U.S.C. 1751 et seq.).

''(3) The Secretary may not consolidate any aspect of the school lunch program or the school breakfast program with respect to any matter described in any of subparagraphs (A) through (N) of section 12(*l*)(4) of the National School Lunch Act (42 U.S.C. 1760(*l*)(4)).

''(c) PLAN AND RECOMMENDATIONS.—

''(1) PLAN FOR CONSOLIDATION AND SIMPLIFICATION.—Not later than 180 days prior to implementing the regulations described in subsection (a), the Secretary shall prepare and submit to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan for the consolidation and simplification of the school lunch program and the school breakfast program.

''(2) RECOMMENDATIONS WITH RESPECT TO CHANGE IN PAYMENT AMOUNTS.—If the Secretary proposes to change the amount of the breakfast assistance payment or the food assistance payment under the comprehensive meal program, the Secretary shall not include the change in the consolidation and shall prepare and submit to the Committee on Education and Labor [now Committee on Education and the Workforce], and the Committee on Agriculture, of the House of Representatives and the Committee on Agri-

culture, Nutrition, and Forestry of the Senate recommendations for legislation to effect the change.''

STUDY AND REPORT RELATING TO USE OF PRIVATE FOOD ESTABLISHMENTS AND CATERERS UNDER SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM

Pub. L. 103–448, title III, § 302, Nov. 2, 1994, 108 Stat. 4750, directed Comptroller General of the United States, in conjunction with the Director of the Office of Technology Assessment, to conduct a study and submit a report to Congress, not later than Sept. 1, 1996, on the use of private food establishments and caterers by schools that participate in the school lunch program under this chapter or the school breakfast program under section 1773 of this title.

SCHOOL LUNCH STUDIES

Pub. L. 101–624, title XVII, § 1779, Nov. 28, 1990, 104 Stat. 3816, directed Secretary of Agriculture to determine the quantity of bonus commodities lost, by State, since the 1987–88 school year, the amount that school food service authorities charged students for non-free or reduced price meals, and the trends in school participation and student participation, by State and for the United States, and directed Secretary also to determine the cost to produce school lunches and breakfasts, including indirect and local administrative costs, the reasons why schools choose not to participate in the National school lunch program, the State costs incurred to administer the school programs, and the reasons why children eligible for free or reduced price meals do not apply for benefits or participate, with Secretary to submit to Congress a final report on results of the studies not later than Oct. 1, 1993.

COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS; REPORT TO CONGRESS

Pub. L. 93–150, § 10, Nov. 7, 1973, 87 Stat. 564, directed Secretary of Agriculture to carry out a comprehensive study to determine if the benefits of the National School Lunch Act and the Child Nutrition Act are accruing to the maximum extent possible to all of the nation's school children, and to determine if regional cost differentials exist in Alaska and other States so as to require additional reimbursement, such report with recommendations to be submitted to Congress no later than June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1755 of this title.

§ 1752. Authorization of appropriations; "Secretary" defined

For each fiscal year, there is authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as ''the Secretary'') to carry out the provisions of this chapter, other than sections 1761 and 1766 of this title. Appropriations to carry out the provisions of this chapter and of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of this chapter and the Child Nutrition Act of 1966 shall remain available for the purposes of the Act for which appropriated until expended.

(June 4, 1946, ch. 281, § 3, 60 Stat. 230; Oct. 15, 1962, Pub. L. 87–823, § 1, 76 Stat. 944; May 8, 1968, Pub. L. 90–302, § 1, 82 Stat. 117; May 14, 1970, Pub. L. 91–248, § 1(a), 84 Stat. 208; June 30, 1974, Pub. L. 93–326, § 7, 88 Stat. 287; Oct. 7, 1975, Pub. L. 94–105, § 24, 89 Stat. 529; Oct. 18, 1986, Pub. L. 99–500, title III, § 371(a)(2), 100 Stat. 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, § 371(a)(2), 100 Stat. 3341–371; Nov. 14, 1986, Pub. L. 99–661, div. D, title V, § 4501(a)(2), 100 Stat. 4080.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in text, is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1986—Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, which identically directed amendment of section by substituting ''sections 1761 and 1766'' for ''sections 1761, 1766, and 1768'' were executed making the substitution for ''sections 1761, 1766 and 1768'' as the probable intent of Congress.

1975—Pub. L. 94–105 substituted ''sections 1761, 1766 and 1768'' for ''section 1761''.

1974—Pub. L. 93–326 substituted ''other than section 1761 of this title'' for ''other than sections 1759a and 1761 of this title''.

1970—Pub. L. 91–248 provided that appropriations for child food service programs may be made a year in advance of the beginning of the fiscal year in which the funds become available and that funds appropriated for such programs remain available until expended.

1968—Pub. L. 90–302 inserted section 1761 to enumeration of sections excepted from application of this section.

1962—Pub. L. 87–823 struck out '', beginning with the fiscal year ending June 30, 1947,'' after ''fiscal year'' and inserted '', other than section 1759a of this title.''

APPROPRIATIONS AS FUNCTIONS OF HEALTH AND HUMAN SERVICES

Section 1 of Pub. L. 90–302, as amended by Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, provided in part that: ''Appropriations shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1786 of this title.

§ 1753. Apportionments to States

(a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 1752 of this title shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this chapter.

(b)(1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title) served during such fiscal year in schools in such State which participate in the school lunch program under this chapter under agreements with such State educational agency; by

(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 1759a(a) of this title) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.

(June 4, 1946, ch. 281, § 4, 60 Stat. 230; July 12, 1952, ch. 699, § 1(a), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87–823, § 2, 76 Stat. 944; Sept. 26, 1972, Pub. L. 92–433, § 4(c), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, § 2(a), 87 Stat. 560; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 801(a), 819(g), 95 Stat. 521, 533; Nov. 10, 1989, Pub. L. 101–147, title III, §§ 301, 312(2), 103 Stat. 913, 916.)

AMENDMENTS

1989—Pub. L. 101–147, § 301, inserted ''Apportionments to States'' as section catchline.

Subsec. (b)(2). Pub. L. 101–147, § 312(2), substituted ''reduced price'' for ''reduced-price''.

1981—Subsec. (a). Pub. L. 97–35, §§ 801(a)(1), (2), 819(g), designated existing provisions as subsec. (a), struck out exclusion of sum specified in section 1754 of this title, and struck out provisions relating to food assistance payments.

Subsec. (b). Pub. L. 97–35, § 801(a)(3), added subsec. (b).

1973—Pub. L. 93–150 increased national average food assistance payments from 8 to 10 cents per lunch.

1972—Pub. L. 92–433 substituted new formula for food assistance payments to State educational agencies by taking into account the number of lunches served during the year, the children in the schools in such State participating in the school lunch program, and the national average payment per lunch set up by the Secretary, with certain limitations, for apportionment formula limiting the apportionable funds to 75 per cent of the available funds for such year, and taking into account the participation rate for the State, the need rate for the State, and providing for a method of apportionment, special provisions for disposal of excess or unused funds and for fiscal years beginning July 1, 1962, July 1, 1963, July 1, 1964 and fixing the funds for American Samoa at $25,000 for each year for the five fiscal years beginning July 1, 1962.

1962—Pub. L. 87–823 amended section generally, and, among other changes, substituted as factors for apportionment of funds among the States ''(1) the participation rate for the State, and (2) the assistance need rate for the State'' for ''(1) the number of school children in the State and (2) the need for assistance in the State as indicated by the relation of the per capita income of the United States to the per capita income in the State''; inserted, in provision for determination of amount of apportionment in clause designated ''second'', ''(exclusive of American Samoa for periods ending before July 1, 1967)''; inserted provisions for use of transitional formulas in apportionment of funds for fiscal years beginning in 1962, 1963, and 1964 and apportioning to American Samoa $25,000 annually for five fiscal years in period beginning July 1, 1962 and ending June 30, 1967; and struck out apportionment formula for Puerto Rico, Guam, American Samoa, and the Virgin Islands, which limited apportionments to 3 per centum of the total fund to be apportioned but required the apportionment to each to be not less than an amount which would result in an allotment per child of school age equal to that for the State with the lowest per capita income, definition of school (incorporated in section 1760(d)(7) of this title), provision for use of latest per capita income figures certified by the Department of Commerce (incorporated in section 1760(d)(6)(ii) of this title), and definition of school children which provided that the number of school children should be the number between ages of five and seventeen.

Pub. L. 87–688 inserted ''American Samoa,'' after ''Guam,'' in two places and ''the apportionment for American Samoa,'' after ''the apportionment for Guam,''.

1952—Act July 12, 1952, removed Alaska and Hawaii from 3 percent limitation imposed on Puerto Rico and Virgin Islands, made limitation applicable to Guam, and modified effects of 3 percent limitation.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 820(a) of title VIII of Pub. L. 97–35 provided that: ''The provisions of this title shall take effect as follows:

''(1) The amendments made by the following sections shall take effect on the first day of the month following the date of the enactment of this Act [Aug. 13, 1981] or on September 1, 1981, whichever is earlier:

''(A) section 801 [amending this section and sections 1759a and 1773 of this title];

''(B) that portion of the amendment made by section 810(c) [amending section 1766 of this title] pertaining to the reimbursement rate for supplements;

''(C) that portion of the amendment made by section 810(d)(1) [amending section 1766 of this title] pertaining to the limitation on the number of meals for which reimbursement may be made under the child care food program;

''(D) that portion of the amendment made by section 810(d)(3) [amending section 1766 of this title] which reduces the meal reimbursement factor by 10 percent; and

''(E) section 811 [amending section 1758 of this title].

''(2) The amendments made by sections 802 and 804 [amending sections 1755 and 1756 of this title] shall take effect on July 1, 1981.

''(3) The amendments made by sections 807 [amending section 1772 of this title], 808 [amending sections 1760 and 1784 of this title], and 810(a)(2) [amending section 1766 of this title] shall take effect on the first day of the second month following the date of the enactment of this Act [Aug. 13, 1981].

''(4) The amendments made by the following sections shall take effect October 1, 1981: sections 805 [repealing sections 1754 and 1774 of this title], 806 [amending section 1788 of this title], 809 [amending section 1761 of this title], 810(a)(1) [amending section 1766 of this title], 810(f) [amending section 1766 of this title], 810(g) [amending section 1766 of this title], 812 [amending section 1759a of this title], 814 [amending section 1776 of this title], 817 [enacting section 1774 of this title and amending sections 1759, 1761, 1766, 1773, and 1788 of this title], and 819 [amending this section and sections 1755, 1757, 1759a, 1760, 1762a, 1763, 1766, 1773, 1776, and 1780 of this title].

''(5) The amendments made by section 813 [amending sections 1759a, 1760, 1762a, and 1772 of this title] shall take effect 90 days after the date of the enactment of this Act [Aug. 13, 1981].

''(6) The amendments made by the following provisions shall take effect January 1, 1982: subsections (b), (c), (d), and (e) of section 810 [amending section 1766 of this title], except that—

''(A) the amendment made by section 810(c) pertaining to the reimbursement rate for supplements shall take effect as provided under paragraph (1) of this subsection;

''(B) the amendment made by section 810(d)(1) pertaining to the limitation on the number of meals for which reimbursement may be made shall take effect as provided under paragraph (1) of this subsection; and

''(C) the amendment made by section 810(d)(3) which reduces the meal reimbursement factor by 10 percent shall take effect as provided under paragraph (1) of this subsection.

''(7) The following provisions shall take effect on the date of the enactment of this Act [Aug. 13, 1981]:

''(A) the amendments made by subsections (a) and (b) [amending section 1758 of this title] of section 803 and the provisions of subsections (c) and (d) [amending provisions set out as notes under section 1758 of this title] of section 803;

''(B) the amendment made by section 815 [amending section 1786 of this title];

''(C) the amendment made by section 816 [amending section 1785 of this title]; and

''(D) the provisions of section 818.''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4(c) of Pub. L. 92–433 provided that the amendment made by that section is effective after the fiscal year ending June 30, 1973.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 3(b) of Pub. L. 87–688 provided that: ''The amendments made by this section [amending this section and sections 1754 and 1760 of this title] shall be applicable only with respect to funds appropriated after the date of enactment of this Act [Sept. 25, 1962].''

EFFECTIVE DATE OF 1952 AMENDMENT

Section 1(d) of act July 12, 1952, provided that: ''The amendments made by this Act [amending this section and sections 1754 and 1760 of this title] shall be effective only with respect to funds appropriated after the date on which this Act is enacted [July 12, 1952].''

PROMULGATION OF REGULATIONS

Section 820(c) of title VIII of Pub. L. 97–35 provided that: ''Not later than 60 days after the date of the enactment of this Act [Aug. 13, 1981], the Secretary of Agriculture shall promulgate regulations to implement the amendments made by this title [see Tables for classification].''

REDUCTION IN GENERAL REIMBURSEMENT FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96–499, title II, § 201(a), Dec. 5, 1980, 94 Stat. 2599, provided that the national average payment per lunch under this chapter shall be reduced by 2½ cents for certain school food authorities for fiscal year ending Sept. 30, 1981, and that the amount of reimbursements under section 1776 of this title for fiscal year ending Sept. 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 1756 of this title for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended, prior to repeal by Pub. L. 97–35, title VIII, § 820(b)(1), Aug. 13, 1981, 95 Stat. 535, effective Sept. 1, 1981, or the first day of the first month following Aug. 1981, whichever is earlier.

USE OF FUNDS APPROPRIATED UNDER SECTION 612c OF TITLE 7 FOR IMPLEMENTING THIS SECTION AND REIMBURSEMENT OF SUCH FUNDS

Section 4(a) of Pub. L. 92–433 provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)), as may be necessary, in addition to the funds available therefor, to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973. Funds expended under the foregoing provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 4 of the National School Lunch Act [this section] and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], to be available for the purposes of said section 32.''

ADDITIONAL FUNDS FOR APPORTIONMENT TO STATES AND FOR SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT OF SEPARATE FUND FROM SUPPLEMENTAL APPROPRIATION

Pub. L. 92–153, § 1, Nov. 5, 1971, 85 Stat. 419, provided: ''That, notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as may be necessary, in addition to the funds now available therefor, to carry out the purposes of section 11 of the National School Lunch Act [section 1759a of this title] and provide a rate of reimbursement which will assure every needy child of free or reduced price lunches during the fiscal year ending June 30, 1972, and to carry out the purposes of section 4 of the National School Lunch Act [this section] and provide an average rate of reimbursement of 6 cents per meal within each State. In determining the amount of funds needed and the requirements of the various States therefor, the Secretary shall consult with the National Advisory Council on Child Nutrition and interested parties. Funds expended under the foregoing provisions of this resolution shall be reimbursed out of any supplemental appropriation hereafter enacted [on and after Nov. 5, 1971] for the purpose of carrying out section 4 [this section] and section 11 of the National School Lunch Act [section 1759a of this title], and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], to be available for the purposes of said section 32 [section 612c of Title 7].''

APPORTIONMENT OF ADDITIONAL FUNDS TO STATES

Section 4(b) of Pub. L. 92–433 provided that: ''Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable.''

Pub. L. 92–153, § 2, Nov. 5, 1971, 85 Stat. 420, provided that: ''Funds made available by this joint resolution [amending sections 1758 and 1759a of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced price lunches and to meet the objective of this joint resolution [amending sections 1758 and 1759a of this title and enacting provisions set out as notes under this section and sections 1758 and 1773 of this title] with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act [this section], and such funds shall be apportioned and paid as expeditiously as may be practicable.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1756, 1757, 1759a, 1760, 1762a, 1766, 1776 of this title.

§ 1754. Repealed. Pub. L. 97–35, title VIII, § 805(a), Aug. 13, 1981, 95 Stat. 527

Section, acts June 4, 1946, ch. 281, § 5, 60 Stat. 231; July 12, 1952, ch. 699, § 1(b), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587; Oct. 15, 1962, Pub. L. 87–823, § 3(a), 76 Stat. 945; Nov. 10, 1977, Pub. L. 95–166, § 3, 91 Stat. 1332, related to amount, apportionment, etc., for food service equipment assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 1753 of this title.

§ 1755. Direct expenditures for agricultural commodities and other foods

(a) Administrative expenses; nutritional education; pilot projects; cash-in-lieu of commodities study; refusal of commodities and receipt of other commodities available to the State in lieu of the refused commodities

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 thereof [42 U.S.C. 1772] less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for the Secretary's administrative expenses under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.];

(2) the amount apportioned by the Secretary pursuant to section 1753 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 4 and 7 of the Child Nutrition Act of 1966 [42 U.S.C. 1773 and 1776]; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 [42 U.S.C. 1772], which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 1769 of this title, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 1751 of this title, and section 2 of the Child Nutrition Act of 1966 [42 U.S.C. 1771],

shall be available to the Secretary during such year for direct expenditure by the Secretary for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] in accordance with the needs as determined by the local school and service institution authorities. Except as provided in the next 2 sentences, any school participating in food service programs under this chapter may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence. The provisions of law contained in the proviso of section 713c of title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Delivery of commodities

The Secretary shall deliver, to each State participating in the school lunch program under this chapter, commodities valued at the total level of assistance authorized under subsection (c) of this section for each school year for the school lunch program in the State, not later than September 30 of the following school year.

(c) Interim source of funds, pending supplemental appropriation of additional funds for carrying out subsection (b)

Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 612c of title 7 to make any payments to States authorized under such subsection. Any section 612c of title 7 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 612c of title 7 to be available for the purpose of said section 612c of title 7.

(d) State matching provisions inapplicable to subsection (b) or (c) funds

Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 1756 of this title.

(e) Level of commodity assistance; computation of index; calculation of total assistance to each State; emphasis on high protein foods; per meal value of donated foods

(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food com-

ponents in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2) To the maximum extent feasible, each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

(f) Termination of commodity assistance based upon school breakfast program

Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773].

(g) Minimum percentage of commodity assistance

(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 1753 of this title, this section, and section 1759a of this title shall be in the form of commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section.

(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 1762a(a) of this title to meet the requirement for the school year.

(June 4, 1946, ch. 281, § 6, 60 Stat. 231; Oct. 15, 1962, Pub. L. 87–823, § 3(b), 76 Stat. 945; May 8, 1968, Pub. L. 90–302, § 2(a), 82 Stat. 117; May 14, 1970, Pub. L. 91–248, § 3, 84 Stat. 209; Mar. 30, 1973, Pub. L. 93–13, § 2, 87 Stat. 10; Nov. 7, 1973, Pub. L. 93–150, § 5, 87 Stat. 562; June 30, 1974, Pub. L. 93–326, § 3, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94–105, §§ 4, 11, 89 Stat. 511, 515; Nov. 10, 1977, Pub. L. 95–166, §§ 5, 7, 10(1), 19(a), 91 Stat. 1334–1336, 1345; Nov. 10, 1978, Pub. L. 95–627, §§ 5(b), 12(a), 92 Stat. 3619, 3625; Dec. 5, 1980, Pub. L. 96–499, title II, § 202(b), 94 Stat. 2600; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 802, 819(h), 95 Stat. 524, 533; Oct. 18, 1986, Pub. L. 99–500, title III, §§ 321, 371(c)(2), 100 Stat. 1783–360, 1783–369, and Oct. 30, 1986, Pub. L. 99–591, title III, §§ 321, 371(c)(2), 100 Stat. 3341–364, 3341–372; Nov. 14, 1986, Pub. L. 99–661, div. D, title II, § 4201, title V, § 4501(c)(2), 100 Stat. 4071, 4080; Jan. 8, 1988, Pub. L. 100–237, § 3(j), 101 Stat. 1738; Nov. 10, 1989, Pub. L. 101–147, title I, § 131(a), title III, § 302, 103 Stat. 906, 913; Nov. 2, 1994, Pub. L. 103–448, title I, §§ 101–103, 108 Stat. 4700, 4701.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–448, § 101, substituted in second sentence "Except as provided in the next 2 sentences, any school" for "Any school" and inserted after second sentence "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence."

Subsec. (b). Pub. L. 103–448, § 102, amended subsec. (b) generally. Prior to amendment, subsec. (b) related to cash donations in lieu of commodity donations during school year for school food service programs and withholding of funds for States administered by Secretary for disbursement to participating schools to be used to purchase commodities and other food for their food service programs.

Subsec. (g). Pub. L. 103–448, § 103, added subsec. (g).

1989—Subsec. (a). Pub. L. 101–147, § 302, substituted "the Secretary's" for "his" in par. (1), substituted "the Secretary" for "him" in par. (2), and, in concluding provisions, substituted "expenditure by the Secretary" for "expenditure by him" and made technical amendments to the references to section 713c of title 15 and section 612c of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (e)(1). Pub. L. 101–147, § 131(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as fol-

lows: ''The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.''

Subsec. (e)(2). Pub. L. 101–147, §131(a)(2), substituted ''To the maximum extent feasible, each State agency'' for ''Each State agency''.

1988—Subsec. (e). Pub. L. 100–237 designated existing provisions as par. (1) and added par. (2).

1986—Subsecs. (a)(3), (b). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended section identically, in subsec. (a)(3), making technical amendment to reference to section 1769 of this title to reflect renumbering of corresponding section of original act and, in subsec. (b), substituting ''June 1'' for ''May 15'' and ''July 1'' for ''June 15''.

1981—Subsec. (a)(2). Pub. L. 97–35, §819(h), struck out references to section 1754 of this title, and section 5 of the Child Nutrition Act of 1966.

Subsec. (e). Pub. L. 97–35, §802, substituted provisions requiring value to be set at 11 cents, as adjusted on July 1, 1982, and each July 1, thereafter, for provisions requiring value to be set at not less than 10 cents, as adjusted on an annual basis each school year after June 30, 1975.

1980—Subsec. (f). Pub. L. 96–499 added subsec. (f).

1978—Subsec. (e). Pub. L. 95–627, §5(b), substituted provision relating to Price Index for Food Used in Schools and Institutions for provision relating to Consumer Price Index.

Pub. L. 95–627, §12(a), which provided for inserting ''(which may include domestic seafood commodities and their products)'' after ''alternatives'' was executed by inserting that parenthetical after ''alternates'' as the probable intent of Congress.

1977—Subsec. (a). Pub. L. 95–166, §§7, 10(1), inserted provision which authorized refusal of commodities and receipt of other commodities available to State, in lieu of refused commodities, and in cl. (3) authorized grants for pilot projects and cash-in-lieu of commodities study required to be carried out under section 1769 of this title.

Subsec. (b). Pub. L. 95–166, §5, in revising subsec. (b), changed commodity distribution program to a school year from a fiscal year basis, and among other changes, extended deadline for estimated valuation and payment to May 15 and June 15 from February 15 and March 15, and struck out provision respecting apportionment among State educational agencies on basis of meals served in all the States during the fiscal year and specific reference to regulations of the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

Subsec. (e). Pub. L. 95–166, §19(a), substituted ''school years'' and ''school year after June 30, 1975'' for ''fiscal years'' and ''fiscal year after June 30, 1975'', respectively.

1975—Subsec. (a). Pub. L. 94–105, §11(a), inserted provision prohibiting issuance of specifications in purchase of agricultural commodities and other foods unless such specifications result in significant advantages to the authorized food service programs.

Subsec. (b). Pub. L. 94–105, §4, substituted references to all schools of States for references to only nonprofit private schools of States in provisions covering Secretary's direct administration of school food service programs.

Subsec. (e). Pub. L. 94–105, §11(b), inserted provision mandating that not less than 75 per centum of assistance under this subsection shall be in form of donated foods for the school lunch program.

1974—Subsec. (e). Pub. L. 93–326 added subsec. (e).

1973—Subsec. (a). Pub. L. 93–13 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 93–150, in revising text to make provisions applicable each fiscal year rather than only for fiscal year ending June 30, 1973, substituted in: first sentence, ''As of February 15 of each fiscal year'' and ''during that fiscal year'' for ''As of March 15, 1973'' and ''during the fiscal year ending June 30, 1973''; second sentence, ''for that fiscal year'', ''March 15 of that fiscal year'', and ''as of February 15 of such fiscal year'' for ''for the fiscal year ending June 30, 1973'', ''April 15, 1973'', and ''as of March 15, 1973''; third sentence, ''during the preceding fiscal year'' for ''during the fiscal year ending June 30, 1972''; and proviso of third sentence, ''during that fiscal year'' for ''during the fiscal year ending June 30, 1972,''.

Pub. L. 93–13 added subsec. (b).

Subsec. (c). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (c).

Subsec. (d). Pub. L. 93–150 reenacted provisions without change.

Pub. L. 93–13 added subsec. (d).

1970—Pub. L. 91–248 increased amount authorized for administrative expenses by 3½ percent of the amount appropriated to carry out this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, made such amount available for the Secretary's administrative expenses, authorized use of up to 1 percent of the funds appropriated for this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, for nutritional training and education and studies of food service requirements in connection with those programs, reduced, to the extent funds were used for administrative expenses other than for this chapter or nutritional training or education or studies, the share of this chapter's appropriations which may be used for direct expenditure by the Secretary for agricultural commodities and other foods, and authorized distribution of such foods to schools and service institutions participating in food service programs under this chapter and the Child Nutrition Act of 1966.

1968—Pub. L. 90–302 inserted ''except section 1761 of this title'' after ''The funds appropriated for any fiscal year for carrying out the provisions of this chapter,''.

1962—Pub. L. 87–823 substituted '', less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, and less the amount appropriated pursuant to section 1759a of this title'' for ''and less the amount apportioned to him pursuant to sections 1753, 1754, and 1759 of this title''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 401 of Pub. L. 103–448 provided that: ''Except as otherwise provided in this Act [see Short Title of 1994 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act shall become effective on October 1, 1994.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 131(c) of Pub. L. 101–147 provided that: ''The amendments made by this section [amending this section and section 1766 of this title] shall become effective on July 1, 1989.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 802 and 819(h) of Pub. L. 97–35 effective July 1, 1981, and Oct. 1, 1981, respectively, see

section 820(a)(2), (4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 14 of Pub. L. 95–627 provided that: ''The provisions of this Act [enacting section 1769c of this title, amending this section and sections 1757, 1760, 1761, 1762a, 1766, 1769, 1773, 1774, 1776, 1784, and 1786 of this title and enacting provisions set out as notes under this section, sections 1773 and 1786 of this title], except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act [amending section 1759a of this title] shall become effective Jan[u]ary 1, 1979. The provisions of sections 5 [amending this section and sections 1759a, 1761, and 1772 of this title] and 8 [amending section 1758 of this title] of this Act shall become effective July 1, 1979, except that the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 [section 1786 of this title] not earlier than October 1, 1978, and not later than July 1, 1979.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 19 of Pub. L. 95–166 provided that the amendment made by that section is effective July 1, 1977.

REDUCTION IN COMMODITY ASSISTANCE FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Section 202(a) of Pub. L. 96–499 provided that for the fiscal year ending Sept. 30, 1981, the national average value of donated foods or cash payments in lieu thereof, as determined under subsec. (e) of this section, shall be reduced by 2 cents, prior to repeal by Pub. L. 97–35, title VIII, § 820(b)(2), Aug. 13, 1981, 95 Stat. 535, effective July 1, 1981.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 1 of Pub. L. 93–13 provided that: ''The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act [amending this section] to provide an effective and immediate solution to this nutritional crisis.''

CROSS REFERENCES

Utilization of services and facilities of Commodity Credit Corporation in carrying out program under this section, see section 1424 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1762a, 1765, 1766 of this title; title 7 section 1424.

§ 1756. Payments to States

(a) State revenue matching requirements; special provisions for lower than average income per capita States

(1) Funds appropriated to carry out section 1753 of this title during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this chapter, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this chapter. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 1753 of this title for the school year beginning July 1, 1980.

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 1753 of this title for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) Disbursements; private schools

The State revenues provided by any State to meet the requirement of subsection (a) of this section shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this chapter. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a) of this section.

(c) Certification of payments by Secretary

The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.

(d) Combined Federal and State commodity purchases

Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 1753 or 1759a of this title may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this chapter.

(June 4, 1946, ch. 281, § 7, 60 Stat. 232; May 14, 1970, Pub. L. 91–248, § 4, 84 Stat. 209; Sept. 26, 1972, Pub. L. 92–433, § 10, 86 Stat. 731; Oct. 7, 1975, Pub. L. 94–105, § 5, 89 Stat. 511; Nov. 10, 1977, Pub. L. 95–166, § 19(b), 91 Stat. 1345; Aug. 13, 1981, Pub. L. 97–35, title VIII, § 804, 95 Stat. 526; Nov. 10, 1989, Pub. L. 101–147, title III, § 303, 103 Stat. 913; Nov. 2, 1994, Pub. L. 103–448, title I, § 104, 108 Stat. 4701.)

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–448 added subsec. (d).

1989—Pub. L. 101–147, § 303(a), inserted ''Payments to States'' as section catchline.

Subsec. (a)(2). Pub. L. 101–147, § 303(b), substituted ''the'' for ''the the'' before ''school year beginning''.

1981—Subsec. (a). Pub. L. 97–35 designated existing provisions as subsec. (a) and substituted provisions relating to funds appropriated to carry out section 1753 of this title during any fiscal year, for provisions relating to funds appropriated to carry out sections 1753 and 1754 of this title during any fiscal year.

Subsecs. (b), (c). Pub. L. 97–35 added subsecs. (b) and (c).

1977—Pub. L. 95–166, among other changes, substituted in first sentence ''Funds appropriated to carry out'' and ''food service equipment assistance'' for ''Funds apportioned to any State pursuant to'' and ''nonfood assistance''; substituted in third sentence ''fiscal or school year thereafter'' for ''fiscal year thereafter''; substituted in fourth sentence ''fiscal or school year'' for ''fiscal year''; and substituted sixth sentence ''For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year'' for ''For the fiscal year beginning July 1, 1971, and the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 4 per centum of the matching requirement for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years, at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter at least 10 per centum of the matching requirement for the preceding fiscal year''.

1975—Pub. L. 94–105 made requirements of section that each dollar of Federal assistance be matched by $3 from sources within the State inapplicable with respect to the payments made to participating schools under section 1753 of this title, with the proviso that such inapplicability not affect the level of State matching required by the sixth sentence of the section.

1972—Pub. L. 92–433 substituted ''per centum of the matching requirement for the preceding fiscal year'' for ''per centum of the matching requirement'' in four places.

1970—Pub. L. 91–248 inserted provision requiring that State revenues represent a prescribed minimum of the local funds required to match Federal funds apportioned under this chapter, required that amounts derived by the State from the program, or expended by it for salaries or administrative expenses at the State level, would not count toward meeting the State revenue share of the matching requirement, and required State funds disbursed to each school, to the extent practicable, on the basis of its share of the funds apportioned for the regular school lunch program, the special assistance program to schools to assure lunches for low-income children, the school breakfast program for needy children, and the nonfood assistance program for schools drawing from poor economic areas.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective July 1, 1981, see section 820(a)(2) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 19 of Pub. L. 95–166 provided that the amendment made by that section is effective July 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1759a of this title.

§ 1757. State disbursement to schools

(a) Disbursement by State educational agency

Funds paid to any State during any fiscal year pursuant to section 1753 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary, as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b) Permanent, amendable agreements

The agreements described in subsection (a) of this section shall be permanent agreements that may be amended as necessary.

(c) Suspension or termination of agreements

The State educational agency may suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(d) Use of funds

Use of funds paid to States may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing or handling thereof.

(e) Limitation

In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this chapter during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.

(f) Increase in meal reimbursement

In any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate, for the type of lunch served, shall be increased by a like amount.

(g) In advance or as reimbursement

Lunch assistance disbursements to schools under this section and under section 1759a of this title may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(June 4, 1946, ch. 281, § 8, 60 Stat. 232; Sept. 26, 1972, Pub. L. 92–433, § 8, 86 Stat. 729; Nov. 7, 1973, Pub. L. 93–150, § 2(b), 87 Stat. 560; Nov. 10, 1977, Pub. L. 95–166, § 3, 91 Stat. 1332; Nov. 10, 1978, Pub. L. 95–627, § 10(d)(1), 92 Stat. 3624; Aug. 13, 1981, Pub. L. 97–35, title VIII, § 819(d), 95 Stat. 533; Nov. 10, 1989, Pub. L. 101–147, title II, § 201, title III, §§ 304, 312(1), 103 Stat. 908, 914, 916; Aug. 22, 1996, Pub. L. 104–193, title VII, § 701(a), 110 Stat. 2287.)

AMENDMENTS

1996—Pub. L. 104–193 designated first and second sentences as subsecs. (a) and (b), respectively, substituted ''in subsection (a) of this section'' for ''in the preceding sentence'' in subsec. (b), designated third sentence as subsec. (c) and substituted ''The State educational agency may'' for ''Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to'', struck out fourth and fifth sentences, designated sixth sentence as subsec. (d) and substituted ''Use of funds paid to States'' for ''Such food costs'', and designated seventh to ninth sentences as subsecs. (e) to (g), respectively. Prior to amendment, fourth and fifth sentences read as follows: ''Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school lunch program. The terms 'child' and 'children' as used in this chapter shall be deemed to include individuals regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any child care institution as defined in section 1766 of this title or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with mental or physical handicaps: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 1766 of this title shall be deemed so eligible because of this sentence.''

1989—Pub. L. 101–147, § 312(1), substituted ''school lunch'' for ''school-lunch'' in three places.

Pub. L. 101–147, § 304, which directed the amendment of subsec. (d) by substituting ''individuals'' for ''persons'', ''to have 1 or more mental or physical handicaps'' for ''to be mentally or physically handicapped'', and ''for individuals with mental or physical handicaps'' for ''for mentally or physically handicapped'', was executed by making the substitutions in the undesignated text before the proviso as the probable intent of Congress because the section contains no subsection designations.

Pub. L. 101–147, § 201, inserted after first sentence ''The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.''

1981—Pub. L. 97–35 substituted references to per meal reimbursement rate, for references to Federal food-cost contribution rate wherever appearing, and struck out reference to section 1754 of this title, and food service equipment assistance.

1978—Pub. L. 95–627 inserted provision relating to definition of ''child'' and ''children''.

1977—Pub. L. 95–166 substituted ''food service equipment assistance'' for ''nonfood assistance''.

1973—Pub. L. 93–150 provided that in any fiscal year in which the national average payment per lunch determined under section 1753 of this title is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.

1972—Pub. L. 92–433 substituted provision that disbursement to schools be made for the purpose of assisting them to finance the costs of agricultural commodities, for provision that such disbursement be made for the purpose of reimbursing them for such costs and inserted provision that lunch assistance disbursements to schools under this section and section 1759a of this title may be made in advance or by way of reimbursement according to procedure prescribed by the Secretary.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

§ 1758. Program requirements

(a) Nutritional standards; medical and special dietary needs of individual students; compliance assistance; fluid milk; acceptance of offered foods

(1)(A) Lunches served by schools participating in the school lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements—

(i) shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students; and

(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.

(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this chapter, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2) Lunches served by schools participating in the school lunch program under this chapter—

(A) shall offer students fluid milk; and

(B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

(3) Students in senior high schools that participate in the school lunch program under this chapter (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this chapter to any such school for such lunch.

(b) Income eligibility guidelines for free and reduced price school lunches; duty of Secretary; time to prescribe; relationship to other poverty guidelines; revision; publication; application, verification and approval; use or disclosure of eligibility information; maximum reduced price; nondiscrimination or identification of recipients

(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

(i) the official poverty line (as defined by the Office of Management and Budget); by

(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

(B) Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

(I) a household that is receiving food stamps under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.]; or

(II) a family that is receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

(I) a person directly connected with the administration or enforcement of this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either this chapter or such Act;

(II) a person directly connected with the administration or enforcement of—

(aa) a Federal education program;

(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and

(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any infor-

mation obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(D) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this chapter unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.

(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged for a reduced price lunch shall not exceed 40 cents.

(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there by[1] any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means.

(5) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—

(i) a member of a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(ii) a member of a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.))that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; or

(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(B) Proof of receipt of food stamps or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).

(c) Operation on nonprofit basis; donation of agricultural commodities

School lunch programs under this chapter shall be operated on a nonprofit basis. Commodities purchased under the authority of section 612c of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this chapter as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any provision of law.

(d) Social Security numbers and other documentation required as condition of eligibility

(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C) of this section.

[1] So in original. Probably should be ''be''.

(2) No member of a household may be provided a free or reduced price lunch under this chapter unless—

(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.] has been provided to the appropriate local school food authority; or

(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(e) Limitation on meal contracting

A school or school food authority participating in a program under this chapter may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

(f) Nutritional requirements

(1) NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 5341 of title 7; and

(B) provide, on the average over each week, at least—

(i) with respect to school lunches, ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

(ii) with respect to school breakfasts, ¼ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

(2) State educational agencies may grant waivers from the requirements of subparagraph (A)[2] subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

(3) To assist schools in meeting the requirements of this paragraph,[2] the Secretary—

(A) shall—

(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

(B) may provide to schools information regarding other approaches, as determined by the Secretary.

(4) USE OF ANY REASONABLE APPROACH.—

(A) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this paragraph,[2] including—

(i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

(ii) using any of the approaches described in paragraph (3).

(B) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this paragraph.[2]

(g) Justification of production records; paperwork reduction

Not later than 1 year after November 2, 1994, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.

(June 4, 1946, ch. 281, §9, 60 Stat. 233; May 8, 1968, Pub. L. 90–302, §2(b), 82 Stat. 117; May 14, 1970, Pub. L. 91–248, §6(a), (b), (d), (e), 84 Stat. 210; Nov. 5, 1971, Pub. L. 92–153, §5, 85 Stat. 420; Sept. 26, 1972, Pub. L. 92–433, §5, 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, §9, 87 Stat. 564; June 30, 1974, Pub. L. 93–326, §4, 88 Stat. 286; Oct. 7, 1975, Pub. L. 94–105, §6, 89 Stat. 512; Nov. 10, 1977, Pub. L. 95–166, §8, 91 Stat. 1335; Nov. 10, 1978, Pub. L. 95–627, §8, 92 Stat. 3622; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§803(a), (b), 811, 95 Stat. 524, 525, 529; Oct. 18, 1986, Pub. L. 99–500, title III, §§322–324, 100 Stat. 1783–361, and Oct. 30, 1986, Pub. L. 99–591, title III, §§322–324, 100 Stat. 3341–364; Nov. 14, 1986, Pub. L. 99–661, div. D, title II, §§4202–4204, 100 Stat. 4072; June 28, 1988, Pub. L. 100–356, §1, 102 Stat. 669; Nov. 10, 1989, Pub. L. 101–147, title I, §101, title II, §202(a)(1), (2)(A), (b), title III, §§305, 312(1), (2), 103 Stat. 878, 908, 914, 916; Nov. 2, 1994, Pub. L. 103–448, title I, §§105(a), 106–109(a), 110, 108 Stat. 4701–4705; May 29, 1996, Pub. L. 104–149, §2, 110 Stat. 1379; Aug. 22, 1996, Pub. L. 104–193, title I, §109(g), title VII, §§702, 703, 110 Stat. 2170, 2288, 2289.)

REFERENCES IN TEXT

The Food Stamp Act of 1977, referred to in subsecs. (b)(2)(C)(ii)(I), (6)(A)(i) and (d)(2)(B), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in subsecs. (b)(2)(C)(ii)(II), (iii)(II)(bb), (6)(A)(ii), (B) and (d)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV and title XIX of the Act are classified generally to part A (§601 et seq.) of subchapter IV and subchapter XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

[2] See References in Text note below.

The Child Nutrition Act of 1966, referred to in subsec. (b)(2)(C)(iii)(I), (6)(A), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Head Start Act, referred to in subsec. (b)(6)(A)(iii), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Subparagraph (A), referred to in subsec. (f)(2), was a reference to subparagraph (A) of subsec. (f)(2) which was redesignated par. (1) of subsec. (f) and was struck out and a new par. (1) enacted by Pub. L. 104–193, title VII, § 702(c)(2)–(4), Aug. 22, 1996, 110 Stat. 2288.

This paragraph, referred to in subsec. (f)(3), (4)(A), (B), was a reference to paragraph (2) of subsec. (f) which was redesignated as the entire subsec. (f) by Pub. L. 104–193, title VII, § 702(c)(2), Aug. 22, 1996, 110 Stat. 2288.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–193, § 702(a)(1), redesignated par. (2)(A) as (2) and cls. (i) and (ii) of former subpar. (A) as subpars. (A) and (B), respectively, and struck out former subpar. (B) which read as follows:

''(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this chapter, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

''(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

''(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.''

Subsec. (a)(3), (4). Pub. L. 104–193, § 702(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this chapter without endangering the nutritional integrity of the lunches served by such schools.''

Subsec. (b)(2)(C)(ii)(II). Pub. L. 104–193, § 109(g)(1)(A), substituted ''State program funded'' for ''program for aid to families with dependent children'' and inserted before period at end ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''.

Subsec. (b)(2)(D). Pub. L. 104–193, § 703, added subpar. (D).

Subsec. (b)(6)(A)(ii). Pub. L. 104–193, § 109(g)(1)(B)(i), substituted ''a family (under the State program funded'' for ''an AFDC assistance unit (under the aid to families with dependent children program authorized'' and ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995'' for '', in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 9902(2) of this title)''.

Subsec. (b)(6)(B). Pub. L. 104–193, § 109(g)(1)(B)(ii), substituted ''assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995'' for ''aid to families with dependent children''.

Subsec. (c). Pub. L. 104–193, § 702(b)(2), struck out ''Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area or commodities donated by the Secretary.'' after ''operated on a nonprofit basis.'', ''The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 612c of title 7, under section 1431 of title 7 and under section 1446a–1 of title 7, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions.'' after ''authorized to receive such commodities.'', and ''None of the requirements of this section in respect to the amount for 'reduced cost' meals and to eligibility for meals without cost shall apply to schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title) which participate in the school lunch program under this chapter until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 1759 of this title the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.'' at end.

Pub. L. 104–193, § 702(b)(1), substituted ''provision of law'' for ''of the provisions of law referred to in the preceding sentence'' in fifth sentence.

Subsec. (d)(2)(C). Pub. L. 104–193, § 109(g)(2), substituted ''State program funded'' for ''program for aid to families with dependent children'' and inserted before period at end ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''.

Subsec. (f). Pub. L. 104–193, § 702(c)(1)–(3), struck out ''(2)'' designation before ''(A) Except as provided'', redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, and struck out former par. (1) which read as follows: ''Not later than the first day of the 1996–97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

''(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

''(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7 (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.''

Subsec. (f)(1). Pub. L. 104–193, § 702(c)(4), added par. (1) and struck out former par. (1), as redesignated by Pub. L. 104–193, § 702(c)(3), which read as follows: ''Except as provided in subparagraph (B), not later than the first

day of the 1996–97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) of this section and section 4(e)(1)).''

Subsec. (f)(2)(D). Pub. L. 104–149 added subpar. (D) and struck out former subpar. (D) which read as follows: ''Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis.''

Subsec. (f)(3). Pub. L. 104–193, §702(c)(5), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and subcls. (I) and (II) of subpar. (A) as cls. (i) and (ii), respectively.

Subsec. (f)(4). Pub. L. 104–193, §702(c)(6), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, in subpar. (A), redesignated subcls. (I) and (II) as cls. (i) and (ii), respectively, and in subpar. (A)(ii), substituted ''paragraph (3)'' for ''subparagraph (C)''.

Subsec. (h). Pub. L. 104–193, §702(d), struck out subsec. (h) which read as follows: ''In carrying out this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.''

1994—Subsec. (a)(1). Pub. L. 103–448, §§105(a), 106(a), designated existing provisions as subpar. (A) and cl. (i) of subpar. (A) and added cl. (ii) of subpar. (A) and subpar. (B).

Subsec. (a)(2). Pub. L. 103–448, §107, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Lunches served by schools participating in the school lunch program under this chapter shall offer students fluid whole milk and fluid unflavored lowfat milk.''

Subsec. (b)(2)(C)(iii) to (v). Pub. L. 103–448, §108, added cls. (iii) to (v) and struck out former cl. (iii), which read as follows: ''School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this chapter and the Child Nutrition Act of 1966.''

Subsec. (b)(6)(A). Pub. L. 103–448, §109(a)(1), struck out ''a member of'' after ''if the child is'' in introductory provisions, inserted ''a member of'' after ''(i)'' and ''(ii)'', and added cl. (iii).

Subsec. (b)(6)(B). Pub. L. 103–448, §109(a)(2), inserted '', or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),'' after ''aid to families with dependent children''.

Subsecs. (f) to (h). Pub. L. 103–448, §§106(b), (c), 110, added subsecs. (f) to (h).

1989—Subsec. (a). Pub. L. 101–147, §101(a), amended subsec. (a), as amended identically by Pub. L. 99–500 and 99–591, §322, and Pub. L. 99–661, §4202, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (a)(1). Pub. L. 101–147, §312(1), substituted ''school lunch'' for ''school-lunch''.

Subsec. (a)(2). Pub. L. 101–147, §101(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.''

Subsec. (b). Pub. L. 101–147, §§305(b)(1), 312(2), substituted ''reduced price'' for ''reduced-price'' and ''family size'' for ''family-size'' wherever appearing.

Pub. L. 101–147, §202(a)(1), (2)(A), amended subsec. (b), as amended identically by Pub. L. 99–500 and Pub. L. 99–591, §323, and Pub. L. 99–661, §4203, and as amended by Pub. L. 100–356, §1, to read as if only the amendment by Pub. L. 99–661 was enacted, and further amended subsec. (b) identically to the amendments that were made by Pub. L. 100–356, §1, resulting in no change in text, see 1986 and 1988 Amendment notes below.

Subsec. (b)(2)(C). Pub. L. 101–147, §202(b)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''Eligibility determinations shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, States, and local school food authorities may seek verification of the data contained in the application. Local school food authorities shall undertake such verification of the information contained in these applications as the Secretary may by regulation prescribe and, in accordance with such regulations, make appropriate changes in the eligibility determinations on the basis of such verification.''

Subsec. (c). Pub. L. 101–147, §§305(b)(2), 312(1), substituted ''School lunch'' for ''School-lunch'', substituted ''school lunch'' for ''school-lunch'' wherever appearing, and made technical amendments to the references to sections 612c, 1431, and 1446a–1 of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (d)(1). Pub. L. 101–147, §§202(b)(2)(A), 312(2), substituted ''reduced price'' for ''reduced-price'' and ''number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C) of this section.'' for ''numbers of all adult members of the household of which such person is a member.''

Subsec. (d)(2). Pub. L. 101–147, §312(2), substituted ''reduced price'' for ''reduced-price''.

Subsec. (d)(2)(A). Pub. L. 101–147, §202(b)(2)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''appropriate documentation, as prescribed by the Secretary, of the income of such household has been provided to the appropriate local school food authority; or''.

Subsec. (d)(2)(C). Pub. L. 101–147, §202(b)(2)(B)(ii), (iii), added subpar. (C).

Subsec. (e). Pub. L. 101–147, §312(2), substituted ''reduced price'' for ''reduced-price''.

Pub. L. 101–147, §305(a), amended subsec. (e), as amended identically by Pub. L. 99–500 and Pub. L. 99–591, §324, and Pub. L. 99–661, §4204, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

1988—Subsec. (b)(1)(A). Pub. L. 100–356 substituted ''The'' for ''For the school years ending June 30, 1982, and June 30, 1983, the'' in second sentence and struck out provisions which equated income guidelines for determining eligibility for free lunches with gross income eligibility standards for participation in food stamp program.

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591, §322, and Pub. L. 99–661, §4202, amended subsec. (a) identically, designating existing provisions as pars. (1), (3), and (4) and adding par. (2).

Subsec. (b)(6). Pub. L. 99–500 and Pub. L. 99–591, §323, and Pub. L. 99–661, §4203, amended subsec. (b) identically, adding par. (6).

Subsec. (e). Pub. L. 99–500 and Pub. L. 99–591, §324, and Pub. L. 99–661, §4204, amended section identically, adding subsec. (e).

1981—Subsec. (a). Pub. L. 97–35, §811, struck out ''in any junior high school or middle school'' after ''grade level''.

Subsec. (b). Pub. L. 97–35, §803(a), in par. (1) substituted provisions relating to income eligibility guidelines, for provisions relating to income poverty guidelines, redesignated former par. (2) as (5) and, as so redesignated, struck out ''solely'' after ''sentence'', and added pars. (2) to (4).

Subsec. (d). Pub. L. 97–35, §803(b), added subsec. (d).

1978—Subsec. (b)(1). Pub. L. 95–627 substituted guidelines prescribed by the Office of Management and Budg-

et for the Consumer Price Index for purposes of determining the income poverty guidelines.

1977—Subsec. (a). Pub. L. 95–166 inserted parenthetical text authorizing students in any grade level in any junior high school or middle school, when approved by local school district or nonprofit private school, to refuse to accept offered foods they do not intend to consume.

1975—Subsec. (a). Pub. L. 94–105, § 6(a), directed Secretary to establish administrative procedures designed to diminish food waste in school lunch programs and made provision for senior high school students to refuse food which they do not intend to consume without affecting lunch charges or payments to schools for lunches served.

Subsec. (b)(1). Pub. L. 94–105, § 6(b), designated existing provisions as subsec. (b)(1), struck out ''if a school elects to serve reduced-price lunches'' after ''reduced price not to exceed 20 cents'', inserted provision for a reduced price lunch for any child eligible under reduced price lunch income guidelines, established income guidelines for reduced price lunches, beginning with fiscal year ending June 30, 1976, at 95 per centum above applicable family size income levels in income poverty guidelines, and provided for a reduced price lunch not to exceed 20 cents to any child belonging to a household whose income falls between guidelines for a free lunch and 95 per centum above income levels in the income poverty guidelines.

Pub. L. 94–105, § 6(c), substituted provision adjusting income poverty guidelines that take effect July 1 of each year according to percentage change in Consumer Price Index for 12-month period ending in April of that year, except that the first adjustment, effective July 1, 1976, shall be made according to percentage change between average Consumer Price Index for 1974, on which the 1975–1976 guidelines are based, and Consumer Price Index for April 1976 for provision basing the guidelines on average Consumer Price Index for previous calendar year.

Subsec. (b)(2). Pub. L. 94–105, § 6(d), added par. (2).

Subsec. (c). Pub. L. 94–105, § 6(e), substituted ''schools (as defined in section 1760(d)(6) of this title which are private and nonprofit as defined in the last sentence of section 1760(d)(6) of this title)'' for ''nonprofit private schools''.

1974—Subsec. (b). Pub. L. 93–326 substituted ''beginning with the fiscal year ending June 30, 1974'' for ''for the fiscal year ending June 30, 1974'' in provision authorizing State educational agencies to establish income guidelines for reduced price lunches at not more than 75 per centum above applicable family size income levels in income poverty guidelines as prescribed by Secretary.

1973—Subsec. (b). Pub. L. 93–150 inserted proviso relating to income guidelines for reduced price lunches.

1972—Subsec. (a). Pub. L. 92–433, § 5(a), designated first sentence as subsec. (a).

Subsec. (b). Pub. L. 92–433, § 5(b), designated second through seventh sentences of existing provisions as subsec. (b), separated provisions relating to free and reduced price lunches, substituted May 15 of each year for July 1 of each year as the date by which the Secretary is required to prescribe an income poverty guideline, prescribed free lunch for children of households below the guideline instead of prior provision requiring free lunch or lunch at reduced price, authorized State educational agencies to set up family-size income levels for free and reduced price lunches to be within certain percentage limitations of the guideline prescribed by the Secretary, and provided for continuation until July 1, 1973 of higher guidelines established prior to July 1, 1972.

Subsec. (c). Pub. L. 92–433, § 5(c), designated eighth through thirteenth sentences as subsec. (c) and in last sentence inserted provision that requirements of this section are not applicable to nonprofit private schools which participate in the school lunch program under this chapter until the State educational agency certifies about the funds.

1971—Pub. L. 92–153 inserted provisions for consideration of income poverty guidelines during fiscal year 1972 as a national minimum standard of eligibility and for reimbursement of State agencies during such fiscal year pursuant to eligibility standards established by State agencies prior to Oct. 1, 1971.

1970—Pub. L. 91–248 placed a ceiling of 20 cents on any reduced price meal offered under the school lunch program, provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general, but, under which, by Jan. 1, 1971, such determination shall be based on the income poverty guidelines with first priority given to providing free meals to the neediest children, provided that there be no overt identification of those children who receive free and reduced price meals, authorized the Secretary to prescribe such terms and conditions for food service in the non-national School Lunch Act schools as well as schools under this Act which are receiving Federal assistance in the form of commodities, and excepted from requirements of this section with respect to amount for reduced cost meals and eligibility for meals without cost nonprofit private schools which participate in the school lunch program under the provisions of section 1759 of this title until the Secretary certifies that sufficient funds are available to enable such schools to meet the requirements of this section.

1968—Pub. L. 90–302 provided that minimum nutritional requirements prescribed by the Secretary on basis of tested nutritional research which lunches served by participating schools must meet could not be construed to prohibit substitution of foods to accommodate medical or other special dietary needs of individual students.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 109(g) of Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(a) and 106 to 108 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

Section 109(c) of Pub. L. 103–448 provided that: ''The amendments made by this section [amending this section and section 1766 of this title] shall become effective on September 25, 1995.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 202(a)(2)(B) of Pub. L. 101–147 provided that: ''The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Sections 322 to 324 of Pub. L. 99–500 and Pub. L. 99–591 and sections 4202 to 4204 of Pub. L. 99–661 provided that the amendments made by those sections are effective July 1, 1986.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 803(a), (b) and 811 of Pub. L. 97–35 effective Aug. 13, 1981, and Sept. 1, 1981, respectively, see section 820(a)(1)(E), (7)(A) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective July 1, 1979, except as specifically provided, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(c) of Pub. L. 94–105 provided that the amendment made by that section is effective Jan. 1, 1976.

PROMULGATION OF REGULATIONS

Section 202(c) of Pub. L. 101–147 provided that: ''Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b) [amending this section].''

INCOME ELIGIBILITY GUIDELINES

Pub. L. 96–499, title II, § 203(a)–(c), Dec. 5, 1980, 94 Stat. 2600, as amended by Pub. L. 97–35, title VIII, § 820(b)(3), Aug. 13, 1981, 95 Stat. 535, provided that:

''(a), (b) [Repealed].

''(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications.''

VERIFICATION OF ELIGIBILITY DATA SUBMITTED ON A SAMPLE OF APPLICATIONS FOR FREE AND REDUCED-PRICE MEALS

Section 803(c) of Pub. L. 97–35 provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture shall conduct a pilot study to verify the data submitted on a sample of applications for free and reduced-price meals. In conducting the pilot study, the Secretary may require households included in the study to furnish social security numbers of all household members and such other information as the Secretary may require, including, but not limited to, pay stubs, documentation of the current status of household members who are recipients of public assistance, unemployment insurance documents, and written statements from employers, as a condition for receipt of free or reduced-price meals.''

PROCEDURES FOR IMPLEMENTING NEW INCOME ELIGIBILITY GUIDELINES FOR FREE AND REDUCED-PRICE LUNCHES

Section 803(d) of Pub. L. 97–35 provided that: ''For the school year ending June 30, 1982, the Secretary may prescribe procedures for implementing the revisions made by the amendments contained in this section [amending this section] to the income eligibility guidelines for free and reduced-price lunches under section 9 of the National School Lunch Act [this section]. Such procedures may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income eligibility guidelines, or (2) distribute new applications and make determinations using such applications.''

LOWERING MINIMUM STANDARD OF ELIGIBILITY AND REDUCTION IN NUMBER OF CHILDREN SERVED, FISCAL YEAR 1972

Section 6 of Pub. L. 92–153 provided that: ''The Secretary shall not lower minimum standards of eligibility for free and reduced price meals nor require a reduction in the number of children served in any school district during a fiscal year to be effective for that fiscal year. This section shall apply to fiscal year 1972.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1759a, 1762a, 1766, 1769, 1773, 1786 of this title.

§ 1759. Direct disbursement to schools by Secretary

(a) The Secretary shall withhold funds payable to a State under this chapter and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this chapter to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b) of this section). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this chapter. If the Secretary is administering (in whole or in part) any program authorized under this chapter, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this chapter to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

(June 4, 1946, ch. 281, § 10, 60 Stat. 233; Oct. 15, 1962, Pub. L. 87–823, § 4, 76 Stat. 945; May 14, 1970, Pub. L. 91–248, § 1(b), 84 Stat. 208; Sept. 26, 1972, Pub. L. 93–433, § 4(d), 86 Stat. 726; Nov. 7, 1973, Pub. L. 93–150, § 3(b), 87 Stat. 562; Oct. 7, 1975, Pub. L. 94–105, § 7, 89 Stat. 514; Aug. 13, 1981, Pub. L. 97–35, title VIII, § 817(a), 95 Stat. 531.)

AMENDMENTS

1981—Pub. L. 97–35 designated existing provisions as subsec. (a), substituted provisions relating to disbursement of funds directly to schools, institutions, or service institutions for the purposes authorized by this chapter, for provisions relating to disbursement of funds directly to schools for the purposes and subject to conditions authorized or required for disbursements to schools within the State by the State educational agency, and added subsec. (b).

1975—Pub. L. 94–105 altered provisions of section to accommodate authorization of direct payments to private nonprofit schools and institutions in conformity with revised allocation method for school lunch funds and expanded definition of ''school'' to include any public or licensed nonprofit residential child care institution, including but not limited to, orphanages and homes for the mentally retarded.

1973—Pub. L. 93–150 inserted in proviso reference to section 1759a of this title.

1972—Pub. L. 92–433 inserted proviso that beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments directly to the nonprofit private schools for the purpose of section 1753 of this title under the same conditions as are prescribed for State educational agencies.

1970—Pub. L. 91–248 provided that data upon which State apportionments are calculated is the program year completed two years immediately prior to the fiscal year for which the appropriation is requested.

1962—Pub. L. 87–823 substituted ''an amount which bears the same ratio to such funds as the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the preceding fiscal year by all nonprofit private schools participating in the program under this chapter within the State, as determined by the Secretary, bears to the participation rate for the State'' for ''the same proportion of the funds as the number of children between the ages of 5 and 17, inclusive, attending nonprofit private schools within the State, is of the total number of persons of those ages within the State attending school''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1757, 1766, 1769, 1776 of this title.

§ 1759a. Special assistance funds

(a) Formula for computation of payments; computation for lunches to eligible children in schools funding service to ineligible children from non-Federal sources; special assistance factors; annual adjustments

(1)(A) Except as provided in section 1759 of this title, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 1758(a) of this title) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(B) Except as provided in subparagraph (C), (D), or (E), in the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the ''first school year'') are eligible for free lunches or reduced price lunches, special assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(C)(i) Except as provided in subparagraph (D), in the case of any school that—

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

(D)(i) In the case of any school that is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period.

(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 5-school-year period for which the school receives special assistance

payments under this paragraph, for the purpose of calculating the special assistance payments.

(iv) For the purpose of updating information and reimbursement levels, a school described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

(E)(i) In the case of any school that—

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).

(iii) Not later than 1 year after November 2, 1994, the Secretary shall evaluate the effects of this subparagraph and notify the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the results of the evaluation.

(2) The special assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special assistance factor for reduced price lunches shall be 40 cents less than the special assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 1753 of this title).

(ii) The special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966 [42 U.S.C. 1773 (b)]).

(iv) The national average payment rates for supplements (as established under section 1766(c) of this title).

(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed to the nearest one-fourth cent, except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period.

(b) Financing cost of free and reduced price lunches on basis of need of school for special assistance; maximum per lunch amount

Except as provided in section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779], the special assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in providing free and reduced price lunches served to children pursuant to section 1758(b) of this title. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Payments to States

Special assistance payments to any State under this section shall be made as provided in the last sentence of section 1756 of this title.

(d) Report of school to State educational agency, contents; report of State educational agency to Secretary, contents

(1) The Secretary, when appropriate, may request each school participating in the school lunch program under this chapter to report monthly to the State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) On request of the Secretary, the State educational agency of each State shall report to the

Secretary the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(e) Eligibility of commodity only schools for special assistance payments; free and reduced price meals; discrimination and identification prohibited

Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 1758(b) of this title, and shall serve meals at a reduced price, not exceeding the price specified in section 1758(b)(3) of this title, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced-priced[1] lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.

(June 4, 1946, ch. 281, § 11, as added Oct. 15, 1962, Pub. L. 87–823, § 6, 76 Stat. 946; amended May 14, 1970, Pub. L. 91–248, § 7, 84 Stat. 211; Nov. 5, 1971, Pub. L. 92–153, § 4, 85 Stat. 420; Nov. 7, 1973, Pub. L. 93–150, § 3(a), 87 Stat. 561; Oct. 7, 1975, Pub. L. 94–105, § 8, 89 Stat. 514; Nov. 10, 1977, Pub. L. 95–166, § 9, 91 Stat. 1336; Nov. 10, 1978, Pub. L. 95–627, §§ 4, 5(c), 92 Stat. 3619, 3620; Dec. 5, 1980, Pub. L. 96–499, title II, § 204(a), 94 Stat. 2601; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 801(b), 812, 813(b), 819(a), 95 Stat. 522, 530, 533; Nov. 10, 1989, Pub. L. 101–147, title II, § 203, title III, § 312(2), (3), 103 Stat. 909, 916; Nov. 2, 1994, Pub. L. 103–448, title I, § 111, 108 Stat. 4706; Aug. 22, 1996, Pub. L. 104–193, title VII, § 704(a), (b)(1), (c), 110 Stat. 2289, 2290.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(1)(C)(i)(II), (E)(i)(II), (3)(B), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of that Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(1)(D)(i). Pub. L. 104–193, § 704(a), struck out ", on November 2, 1994," after "any school that".

Subsec. (a)(3)(B). Pub. L. 104–193, § 704(b)(1), inserted before period at end ", except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period".

Subsec. (d). Pub. L. 104–193, § 704(c)(1), (3) redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this chapter, including those applicable to funds apportioned or paid pursuant to section 1753 of this title but excluding the provisions of section 1756 of this title relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section."

Subsec. (e). Pub. L. 104–193, § 704(c)(3), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2). Pub. L. 104–193, § 704(c)(2), substituted "On request of the Secretary, the State educational agency" for "The State educational agency" and struck out "each month" after "report to the Secretary".

Subsec. (f). Pub. L. 104–193, § 704(c)(3), redesignated subsec. (f) as (e).

1994—Subsec. (a)(1). Pub. L. 103–448 designated first sentence as subpar. (A) and second sentence as subpar. (B), substituted "Except as provided in subparagraph (C), (D), or (E), in the case of" for "In the case of" in subpar. (B), added subpars. (C) to (E), and struck out at end "In the case of any school that (A) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (B) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this chapter with respect to the number of lunches served during that period, special assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced price lunches who are served lunches during such period."

1989—Subsecs. (a), (b). Pub. L. 101–147, § 312(2), (3), substituted "reduced price" for "reduced-price" and "special assistance" for "special-assistance" wherever appearing in pars. (1) and (2) of subsec. (a) and first sentence of subsec. (b).

Subsec. (e)(1). Pub. L. 101–147, § 203, substituted "The Secretary, when appropriate, may request each school participating in the school lunch program under this chapter to report monthly to the State educational agency" for "Each school participating in the school lunch program under this chapter shall report each month to its State educational agency".

Subsec. (f). Pub. L. 101–147, § 312(2), (3), substituted "reduced price" for "reduced-price" and "special assistance" for "special-assistance".

1981—Subsec. (a). Pub. L. 97–35, § 801(b), redesignated existing provisions as par. (1), substituted "(A)" for "(1)" and "(B)" for "(2)", and struck out provisions relating to special assistance factors, adjustments, etc., for funds for the fiscal year beginning July 1, 1973, and after, and added pars. (2) and (3).

Subsec. (b). Pub. L. 97–35, § 819(a)(1), struck out "financing the cost of" before "providing free".

Subsec. (d). Pub. L. 97–35, § 819(a)(2), struck out reference to section 1754 of this title.

Subsec. (e). Pub. L. 97–35, § 812, struck out par. (1) which related to submission of State plan for child nutrition operations. Former pars. (2) and (3) were redesignated as (1) and (2), respectively, and in such pars. as so redesignated, struck out requirement respecting estimation of eligible children by participating State.

Subsec. (f). Pub. L. 97–35, § 813(b), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–499 struck out provision that if in any State all schools charged students a uniform price for reduced-price lunches, and such price was less than twenty cents, the special assistance factor prescribed for reduced-price lunches in such State was to be equal to the special assistance factor for free lunches reduced by either ten cents or the price charged for reduced-price lunches in such State, whichever was greater.

1978—Subsec. (a). Pub. L. 95–627 substituted "20 cents" for "10 cents" after "which shall be", inserted

[1] So in original. Probably should be "reduced price".

''for All Urban Consumers'' after ''Consumer Price Index'', and inserted provision relating to the special assistance factor prescribed for reduced-price lunches in any State in which all schools charge students a uniform price for lunches.

1977—Subsec. (a). Pub. L. 95–166 provided for special-assistance payments to the State educational agency where 80 percent of children in attendance during the school year are eligible for free lunches or reduced-price lunches and for determination of number of lunches served to children eligible for free lunches and reduced-price lunches where the school serves all students, eligible and noneligible, and funds for noneligible students are from other than Federal funds.

1975—Subsec. (e)(1). Pub. L. 94–105 substituted ''Each year by not later than a date specified by the Secretary'' for ''Not later than January 1 of each year'', and ''following school year'' for ''following fiscal year''.

1973—Subsec. (a). Pub. L. 93–150 added subsec. (a) and struck out former subsec. (a) provisions relating to appropriations authorization for fiscal year ending June 30, 1971, and succeeding fiscal years of such sums as may be necessary to provide special assistance to assure access to the school lunch program under this chapter by children of low-income families.

Subsec. (b). Pub. L. 93–150 added subsec. (b) and struck out former subsec. (b) provisions relating to formula for apportionment of funds and need for additional funds.

Subsec. (c). Pub. L. 93–150 redesignated subsec. (d) as (c), substituted ''Special assistance payments to any State'' for ''Payment of the funds apportioned to any State'', and struck out former subsec. (c) provisions relating to basis for apportionment among States and need for additional funds.

Subsec. (d). Pub. L. 93–150 redesignated subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 93–150 redesignated subsec. (h) as (e) struck out former subsec. (e) provisions relating to State disbursement to schools for financing operating costs of the school lunch program and basis for determination of amount of funds. Subject matter was covered by subsecs. (a) and (b) of this section.

Subsec. (f). Pub. L. 93–150 struck out subsec. (f) provisions relating to withholding of funds from State educational agencies not permitted to disburse funds to nonprofit private schools and direct disbursement to nonprofit private schools, and conditions thereof.

Subsecs. (g), (h). Pub. L. 93–150 redesignated subsecs. (g) and (h) as (d) and (e), respectively.

1971—Subsec. (e). Pub. L. 92–153 established a reimbursement rate as amount of funds to be disbursed to schools in a State, provided for receipt of a greater amount or reimbursement per meal if the school established financial inability to support service of meals, and prescribed maximum per meal amount and higher maximum per meal amount for especially needy schools.

1970—Subsec. (a). Pub. L. 91–248 authorized for fiscal year ending June 30, 1971, and for each succeeding fiscal year such sums as may be necessary to provide assistance to assure access to school lunch program by children of low-income families.

Subsec. (b). Pub. L. 91–248 substituted formula for apportionment of funds among Puerto Rico, the Virgin Islands, Guam, and American Samoa based on the ratio of the number of children aged three to seventeen, inclusive, in such State as compared to the total number of such children in all such States, for a ratio based on the number of free or reduced price lunches served in the preceding fiscal year in such State as compared to the number of such lunches served in all such States in the preceding fiscal year.

Subsec. (c). Pub. L. 91–248 struck out provision requiring that not less than 50 percent of the remaining sums appropriated be apportioned among the States other than Puerto Rico, the Virgin Islands, Guam, and American Samoa, substituted formula for apportionment of special assistance funds among the States based on the total number of children aged three to seventeen, inclusive, in households with incomes of less than $4,000 per annum, for a formula based on the number of free or reduced price lunches served in the preceding fiscal year and the assistance need rate, and provided that further apportionment be made on the same basis as the initial apportionment to any State which justifies the need for additional funds.

Subsec. (e). Pub. L. 91–248 substituted provision requiring that funds disbursed by the State be used to assist schools in financing all or part of the operating costs of the school lunch program, for requirement that disbursed funds be used to assist schools in the purchase of agricultural commodities and other foods, struck out provision relating to the selection of schools to receive funds, and substituted as a basis for determination of the amount of funds to go to each school the need of that school for assistance in meeting the requirements of section 1758 of this title, for such factors as economic condition of area from which school draws attendance, the percentages of free and reduced price lunches being served in such schools, the price of lunches in such schools compared with the average prevailing price of lunches served in the State under this chapter and the need of such schools for assistance as reflected by the financial position of the school's lunch programs.

Subsec. (f). Pub. L. 91–248 substituted ''in the fiscal year beginning two years immediately prior to the fiscal year for which the funds are appropriated'' for ''in the preceding fiscal year''.

Subsec. (h). Pub. L. 91–248 added subsec. (h).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 704(b)(2) of Pub. L. 104–193 provided that: ''The amendment made by paragraph (1) [amending this section] shall become effective on July 1, 1997.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 801 of Pub. L. 97–35 effective Sept. 1, 1981, amendment by sections 812 and 819 of Pub. L. 97–35 effective Oct. 1, 1981, and amendment by section 813 of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, see section 820(a)(1)(A), (4), (5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by sections 4 and 5(c) of Pub. L. 95–627 effective Jan. 1, 1979, and July 1, 1979, respectively, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

SEMIANNUAL ADJUSTMENTS REFLECTING THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS DURING FISCAL YEAR ENDING SEPTEMBER 30, 1981

Section 204(b) of Pub. L. 96–499 related to annual and semiannual adjustments required under the former

sixth sentence of subsec. (a) of this section during the fiscal year ending Sept. 30, 1981.

ADDITIONAL FUNDS FOR FOOD SERVICE PROGRAMS FOR CHILDREN; APPORTIONMENT TO STATES SPECIAL ASSISTANCE; CONSULTATION WITH CHILD NUTRITION COUNCIL; REIMBURSEMENT FROM SUPPLEMENTAL APPROPRIATION

Additional funds for food service programs for children from appropriations under section 612(c) of Title 7, Agriculture, apportionment to States, special assistance programs, consultation with National Advisory Council on Child Nutrition, and reimbursement from supplemental appropriation, see section 1 of Pub. L. 92–153, set out as a note under section 1753 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1753, 1755, 1756, 1757, 1760, 1766, 1766a, 1769, 1773, 1776 of this title.

§ 1760. Miscellaneous provisions

(a) Accounts and records

States, State educational agencies, and schools participating in the school lunch program under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) Agreements with State educational agencies

The Secretary shall incorporate, in the Secretary's agreements with the State educational agencies, the express requirements under this chapter with respect to the operation of the school lunch program under this chapter insofar as they may be applicable and such other provisions as in the Secretary's opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter.

(c) Requirements with respect to teaching personnel, curriculum, instruction, etc.

In carrying out the provisions of this chapter, the Secretary shall not impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) Definitions

For the purposes of this chapter—

(1) CHILD.—

(A) IN GENERAL.—The term ''child'' includes an individual, regardless of age, who—

(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more mental or physical disabilities; and

(ii) is attending any institution, as defined in section 1766(a) of this title, or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.

(B) RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.—No institution that is not otherwise eligible to participate in the program under section 1766 of this title shall be considered eligible because of this paragraph.

(2) ''Commodity only schools'' means schools that do not participate in the school lunch program under this chapter, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

(3) ''School'' means (A) any public or nonprofit private school of high school grade or under, and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor). For purposes of this paragraph, the term ''nonprofit'', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26.

(4) ''School year'' means the annual period from July 1 through June 30.

(5) ''Secretary'' means the Secretary of Agriculture.

(6) ''State'' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(7) ''State educational agency'' means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(e) Value of assistance as income or resources under Federal or State laws

The value of assistance to children under this chapter shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

(f) Adjustment of national average payment rate for Alaska, Hawaii, territories and possessions, etc.

In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 1753 and 1759a of this title and section 1773 of this title, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

(g) Criminal penalties

Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], whether received directly or indirectly from the United States Department of Agri-

culture, or whoever receives, conceals, or retains such funds, assets, or property to personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) Combined allocation for breakfast and lunch

No provision of this chapter or of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] shall require any school receiving funds under this chapter and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs.

(i) Use of school lunch facilities for elderly programs

Facilities, equipment, and personnel provided to a school food authority for a program authorized under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(j) Reimbursement for final claims

(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.

(k) Expedited rulemaking

(1) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the guidelines contained in the most recent ''Dietary Guidelines for Americans'' that is published under section 5341 of title 7. The final regulations shall include—

(A) rules permitting the use of food-based menu systems; and

(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

(2) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

***(l)* Waiver of statutory and regulatory requirements**

(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either this chapter or such Act, for a State or eligible service provider that requests a waiver if—

(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

(i) identifies the statutory or regulatory requirements that are requested to be waived;

(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted; and

(iv) includes a description of the impediments to the efficient operation and administration of the program.

(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

(3) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

(4) The Secretary may not grant a waiver under this subsection that increases Federal costs or that relates to—

(A) the nutritional content of meals served;

(B) Federal reimbursement rates;

(C) the provision of free and reduced price meals;

(D) limits on the price charged for a reduced price meal;

(E) maintenance of effort;

(F) equitable participation of children in private schools;

(G) distribution of funds to State and local school food service authorities and service institutions participating in a program under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(H) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

(I) prohibiting the operation of a profit producing program;

(J) the sale of competitive foods;

(K) the commodity distribution program under section 1762a of this title;

(L) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or

(M) enforcement of any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

(6) The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

(A) summarizing the use of waivers by the State and eligible service providers;

(B) describing whether the waivers resulted in improved services to children;

(C) describing the impact of the waivers on providing nutritional meals to participants; and

(D) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

(7) As used in this subsection, the term ''eligible service provider'' means—

(A) a local school food service authority;

(B) a service institution or private nonprofit organization described in section 1761 of this title; or

(C) a family or group day care home sponsoring organization described in section 1766 of this title.

(m) Food and nutrition projects

(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

(C) create community service learning opportunities or educational programs;

(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.

(June 4, 1946, ch. 281, § 12, formerly § 11, 60 Stat. 233; July 12, 1952, ch. 699, § 1(c), 66 Stat. 591; Sept. 25, 1962, Pub. L. 87–688, § 3(a), 76 Stat. 587; renumbered § 12 and amended Oct. 15, 1962, Pub. L. 87–823, § 5, 76 Stat. 945; May 14, 1970, Pub. L. 91–248, § 1(b), 84 Stat. 208; Oct. 7, 1975, Pub. L. 94–105, § 9, 89 Stat. 514; Nov. 10, 1977, Pub. L. 95–166, §§ 3, 19(c), 91 Stat. 1332, 1345; Nov. 10, 1978, Pub. L. 95–627, §§ 6(a), 10(a), (b), 92 Stat. 3620, 3623; Dec. 5, 1980, Pub. L. 96–499, title II, § 205, 94 Stat. 2601; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 808(a), 813(d), 819(c), 95 Stat. 527, 530, 533; Oct. 18, 1986, Pub. L. 99–500, title III, §§ 325(a), 326, 373(a), 100 Stat. 1783–361, 1783–369, and Oct. 30, 1986, Pub. L. 99–591, title III, §§ 325(a), 326, 373(a), 100 Stat. 3341–364, 3341–365, 3341–372; Nov. 14, 1986, Pub. L. 99–661, div. D, title II, §§ 4205(a), 4206, title V, § 4503(a), 100 Stat. 4072, 4073, 4081; July 11, 1987, Pub. L. 100–71, title I, § 101(a), 101 Stat. 429; Nov. 10, 1989, Pub. L. 101–147, title III, §§ 306, 312(1), 103 Stat. 914, 916; Nov. 2, 1994, Pub. L. 103–448, title I, §§ 112(a)(1), (b)–(d), 113, 108 Stat. 4708–4712; Aug. 22, 1996, Pub. L. 104–193, title VII, §§ 701(b), 705, 110 Stat. 2288, 2290.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (g) to (i) and (*l*)(1)(A), (4)(G), is Pub. L. 89–642, Oct.

11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (i), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (*l*)(4)(M)(i), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (*l*)(4)(M)(iii), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1001 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (*l*)(4)(M)(iv), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (*l*)(4)(M)(v), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (*l*)(4)(M)(vi), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, §705(a), substituted ''be available at any reasonable time'' for ''at all times be available''.

Subsec. (c). Pub. L. 104–193, §705(b), substituted ''the Secretary shall not'' for ''neither the Secretary nor the State shall''.

Subsec. (d)(1). Pub. L. 104–193, §705(c)(3), redesignated par. (9) as (1). Former par. (1) redesignated (6).

Pub. L. 104–193, §705(c)(1), substituted ''the Commonwealth of the Northern Mariana Islands'' for ''the Trust Territory of the Pacific Islands''.

Subsec. (d)(2). Pub. L. 104–193, §705(c)(3), redesignated par. (7) as (2). Former par. (2) redesignated (7).

Subsec. (d)(3). Pub. L. 104–193, §705(c)(2), (3), redesignated par. (5) as (3) and struck out former par. (3) which read as follows: '' 'Participation rate' for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 1758 of this title, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this chapter in the State, as determined by the Secretary.''

Subsec. (d)(4). Pub. L. 104–193, §705(c)(2), (3), redesignated par. (6) as (4) and struck out former par. (4) which read as follows: '' 'Assistance need rate' (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967.''

Subsec. (d)(5). Pub. L. 104–193, §705(c)(3), redesignated par. (8) as (5). Former par. (5) redesignated (3).

Subsec. (d)(6), (7). Pub. L. 104–193, §705(c)(3), redesignated pars. (1) and (2) as (6) and (7), respectively. Former pars. (6) and (7) redesignated (4) and (2), respectively.

Subsec. (d)(8). Pub. L. 104–193, §705(c)(3), redesignated par. (8) as (5).

Subsec. (d)(9). Pub. L. 104–193, §705(c)(3), redesignated par. (9) as (1).

Pub. L. 104–193, §701(b), added par. (9).

Subsec. (f). Pub. L. 104–193, §705(d), struck out ''the Trust Territory of the Pacific Islands,'' after ''the Virgin Islands of the United States,''.

Subsec. (k)(1). Pub. L. 104–193, §705(e)(3), substituted ''with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7'' for ''with the Guidelines'' in introductory provisions.

Pub. L. 104–193, §705(e)(1), (2), redesignated par. (3) as (1) and struck out former par. (1) which read as follows: ''Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 5341 of title 7 (referred to in this subsection as the 'Guidelines'), the Secretary shall issue proposed regulations permitting the use of food-based menu systems.''

Subsec. (k)(2). Pub. L. 104–193, §705(e)(1), (2), redesignated par. (4) as (2) and struck out former par. (2) which read as follows: ''Notwithstanding chapter 5 of title 5, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

''(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

''(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule.''

Subsec. (k)(3), (4). Pub. L. 104–193, §705(e)(2), redesignated pars. (3) and (4) as (1) and (2), respectively.

Subsec. (k)(5). Pub. L. 104–193, §705(e)(1), struck out par. (5) which read as follows: ''The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2).''

Subsec. (*l*)(2)(A)(iii) to (vii). Pub. L. 104–193, §705(f)(1), struck out ''and'' at end of cl. (iii), substituted period for semicolon at end of cl. (iv), and struck out cls. (v) to (vii) which read as follows:

''(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

''(vi) provides a timetable for implementing the waiver; and

''(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government.''

Subsec. (*l*)(3). Pub. L. 104–193, § 705(f)(2), designated subpar. (A) as par. (3) and struck out subpars. (B) to (D) which read as follows:

''(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

''(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

''(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

''(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program.''

Subsec. (*l*)(4). Pub. L. 104–193, § 705(f)(3)(A), substituted ''that increases Federal costs or that relates to'' for ''of any requirement relating to'' in introductory provisions.

Subsec. (*l*)(4)(D) to (K). Pub. L. 104–193, § 705(f)(3)(B), (C), redesignated subpars. (E) to (L) as (D) to (K), respectively, and struck out former subpar. (D) which read as follows: ''offer versus serve provisions;''.

Subsec. (*l*)(4)(L). Pub. L. 104–193, § 705(f)(3)(D), substituted ''or'' for ''and'' at end.

Pub. L. 104–193, § 705(f)(3)(C), redesignated subpar. (M) as (L). Former subpar. (L) redesignated (K).

Subsec. (*l*)(4)(M), (N). Pub. L. 104–193, § 705(f)(3)(C), redesignated subpar. (N) as (M). Former subpar. (M) redesignated (L).

Subsec. (*l*)(6). Pub. L. 104–193, § 705(f)(4), struck out subpar. (A) and designation of subpar. (B) and redesignated cls. (i) to (iv) of former subpar. (B) as subpars. (A) to (D). Prior to amendment, subpar. (A) read as follows:

''(A)(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that—

''(I) describes the use of the waiver by the eligible service provider; and

''(II) evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

''(ii) The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers.''

1994—Subsec. (d)(5). Pub. L. 103–448, § 112(a)(1), in first sentence struck out cl. (C) which read as follows: ''with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico'' and in second sentence struck out ''of clauses (A) and (B)'' after ''For purposes''.

Subsecs. (j) to (m). Pub. L. 103–448, §§ 112(b)–(d), 113, added subsecs. (j) to (m).

1989—Subsec. (a). Pub. L. 101–147, § 312(1), substituted ''school lunch'' for ''school-lunch''.

Subsec. (b). Pub. L. 101–147, §§ 306(b)(1), 312(1), substituted ''the Secretary's'' for ''his'' in two places and ''school lunch'' for ''school-lunch''.

Subsec. (d)(5). Pub. L. 101–147, § 306(b)(2), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (d)(8). Pub. L. 101–147, § 306(a)(1), amended par. (8), as amended identically by Pub. L. 99–500 and 99–591, § 373(a), and Pub. L. 99–661, § 4503(a), to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (g). Pub. L. 101–147, § 306(b)(3), substituted ''personal'' for ''his'' before ''use''.

Subsec. (i). Pub. L. 101–147, § 306(b)(4), struck out ''(42 U.S.C. 1771 et seq.)'' after ''Child Nutrition Act of 1966'' and ''(42 U.S.C. 3001 et seq.)'' after ''Older Americans Act of 1965''.

Pub. L. 101–147, § 306(a)(2), amended subsec. (i), as amended identically by Pub. L. 99–500 and 99–591, § 326, and Pub. L. 99–661, § 4206, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

1987—Subsec. (d)(5). Pub. L. 100–71 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''‘School’ means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term ‘nonprofit’, when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of title 26. On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.''

1986—Subsec. (d)(5). Pub. L. 99–661, § 4205(a)(2), inserted ''On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.''

Subsec. (d)(5)(A). Pub. L. 99–500 and Pub. L. 99–591, § 325(a), which directed the amendment of subpar. (A) by striking out ''except private schools whose average yearly tuition exceeds $1,500 per child,'' after ''grade or under,'' was executed by striking out ''except private schools whose average yearly tuition exceeds $2,000 per child,'' after ''grade or under,'' to reflect the probable intent of Congress and the intervening amendment of subpar. (A) by Pub. L. 99–661, § 4205(a)(1). See below.

Pub. L. 99–661, § 4205(a)(1), substituted ''$2,000'' for ''$1,500''.

Subsec. (d)(8). Pub. L. 99–500 and Pub. L. 99–591, § 373(a), and Pub. L. 99–661, § 4503(a), amended subsec. (d) identically, adding par. (8).

Subsec. (i). Pub. L. 99–500 and Pub. L. 99–591, § 326, and Pub. L. 99–661, § 4206, amended section identically, adding subsec. (i).

1981—Subsec. (d). Pub. L. 97–35, § 819(c)(1), struck out par. (3) which defined ''food service equipment assistance'', and redesignated pars. (4) to (8) as (3) to (7), respectively.

Pub. L. 97–35, § 808(a), inserted reference to private schools in par. (6).

Pub. L. 97–35, § 813(d), added par. (8).

Subsec. (h). Pub. L. 97–35, § 819(c)(2), struck out provisions relating to net cost of operating limitation.

1980—Subsec. (d)(6). Pub. L. 96–499 inserted '', but excluding Job Corps Centers funded by the Department of Labor''.

1978—Subsec. (d)(7). Pub. L. 95–627, § 10(b), substituted ''from July 1 through June 30'' for ''determined in accordance with regulations issued by the Secretary''.

Subsecs. (f), (g). Pub. L. 95–627, § 10(a), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 95–627, § 6(a), added subsec. (h).

1977—Subsec. (d)(3). Pub. L. 95–166, § 3, substituted ''food service equipment assistance'' for ''nonfood assistance''.

Subsec. (d)(7). Pub. L. 95–166, § 19(c), added par. (7).

1975—Subsec. (d)(1). Pub. L. 94–105, § 9(b), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (d)(3) to (7). Pub. L. 94–105, § 9(a), (c), struck out par. (3) defining ''Nonprofit private schools'', redes-

ignated pars. (4) to (7) as (3) to (6), respectively, and in par. (6), as so redesignated, expanded definition of ''school'' to include any public or licensed nonprofit private residential child care institution, including, but not limited to, orphanages and homes for the mentally retarded, and inserted provision defining ''nonprofit'' as any school or institution exempt under section 501(c)(3) of title 26.

Subsec. (e). Pub. L. 94–105, § 9(d), added subsec. (e).

1970—Subsec. (d)(5). Pub. L. 91–248 provided that data upon which State apportionments are calculated is program year completed two years immediately prior to fiscal year for which appropriation is requested.

1962—Subsec. (c). Pub. L. 87–823 struck out requirement of just and equitable distribution of funds in States maintaining separate schools for minority and majority races.

Subsec. (d). Pub. L. 87–823 redefined ''State'' in par. (1) to recognize Hawaiian and Alaskan statehood and to include American Samoa; ''State educational agency'' in par. (2) to exclude an exception applicable to the District of Columbia and language which was effective by its terms only through June 30, 1948; ''nonprofit private school'' in par. (3), substituting ''section 501(c)(3) of title 26'' for ''section 101(6) of title 26''; and ''nonfood assistance'' in par. (4), substituting ''used by schools'' for ''used on school premises''; and added pars. (5) to (7).

Pub. L. 87–688 inserted ''American Samoa,'' after ''Guam''.

1952—Subsec. (d)(1). Act July 12, 1952, included Guam within definition of State.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 112(a)(2) of Pub. L. 103–448 provided that: ''The amendments made by paragraph (1) [amending this section] shall become effective on October 1, 1995.''

Amendment by sections 112(b)–(d) and 113 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 101(c) of Pub. L. 100–71 provided that: ''The amendments made by subsections (a) and (b) [amending sections 1760 and 1784 of this title] shall take effect on July 1, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 4205(c) of Pub. L. 99–661 provided that:

''(1) The amendments made by subsections (a)(1) and (b)(1) [amending sections 1760 and 1784 of this title] shall apply for the fiscal year beginning on October 1, 1986, and each school year thereafter.

''(2) The amendments made by subsections (a)(2) and (b)(2) [amending sections 1760 and 1784 of this title] shall apply for the school year beginning on July 1, 1988, and each school year thereafter.''

Section 325(c) of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''The amendments made by this section [amending sections 1760 and 1784 of this title] shall take effect July 1, 1987.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 808 and 819 of Pub. L. 97–35 effective Oct. 1, 1981, and amendment by section 813 of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, see section 820(a)(3)–(5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 19 of Pub. L. 95–166 provided that the amendment made by that section is effective July 1, 1977.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–688 applicable only with respect to funds appropriated after Sept. 25, 1962, see section 3(b) of Pub. L. 87–688, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act July 12, 1952, effective only with respect to funds appropriated after July 12, 1952, see section 1(d) of act July 12, 1952, set out as a note under section 1753 of this title.

STUDY OF COST ACCOUNTING REQUIREMENTS

Section 21 of Pub. L. 94–105 prohibited Secretary from delaying or withholding or causing any State to delay or withhold payments for reimbursement of per-meal costs on basis of noncompliance with cost accounting procedures until requirements of subsec. (b) of this section have been met, and called for a study by Secretary of additional personnel and training needs of States, school districts, and schools resulting from requirement of full cost accounting procedures, such report with recommendations to be submitted to appropriate committees of Congress within one year after Oct. 7, 1975.

§ 1761. Summer food service programs for children in service institutions

(a) Assistance to States; definitions; facilities to be used; eligible service institutions; order of priority in participation; assistance to rural area eligible service institutions to participate in the programs; reimbursement of camps, limitations, local, municipal and county institutions to be run by government; eligible private nonprofit organizations

(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit food service programs for children in service institutions. For purposes of this section, (A) ''program'' means the summer food service program for children authorized by this section; (B) ''service institutions'' means public or private nonprofit school food authorities, local, municipal, or county governments, public or private nonprofit higher education institutions participating in the National Youth Sports Program,,[1] and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.]; (C) ''areas in which poor economic conditions exist'' means areas in which at least 50 percent of the children are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commis-

[1] So in original.

sions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) ''children'' means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public or nonprofit private school program established for the mentally or physically handicapped; and (E) ''State'' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Northern Mariana Islands.

(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist;

(ii) conduct a regularly scheduled food service primarily for homeless children; or

(iii) qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(A) Local schools.

(B) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

(C) New public institutions.

(D) New private nonprofit organizations eligible under paragraph (7).

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(6) Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7)(A) Private nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.

(B) As used in this paragraph, the term ''private nonprofit organizations'' means those organizations that—

(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or

(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);

(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university) or a school participating in the school lunch program under this chapter;

(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;

(iv) exercise full control and authority over the operation of the program at all sites under their sponsorship;

(v) provide ongoing year-around activities for children or families;

(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

(vii) meet applicable State and local health, safety, and sanitation standards.

(b) Service institutions

(1) PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

(i) $1.97 for each lunch and supper served;

(ii) $1.13 for each breakfast served; and

(iii) 46 cents for each meal supplement served.

(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.

(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to 3 meals, or 2 meals and 1 supplement, during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap.

(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c) Payments for meals served during May through September; exceptions for continuous school calendars or non-school sites; National Youth Sports Program

(1) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause.

(2) Children participating in National Youth Sports Programs operated by higher education institutions shall be eligible to participate in the program under this paragraph on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program.

(d) Advance program payments to States for monthly meal service; letters of credit, forwarding to States; determination of amount; valid claims, receipt

Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e) Advance program payments to service institutions for monthly meal service; certification of personnel training sessions; minimum days per month operations requirement; payments: computation, limitation; valid claims, receipt; withholding; demand for repayment; subtraction of disputed payments

(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution. The State shall not release the second month's advance program payment to any service institution (excluding a school) that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities. No advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service

institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided*, That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) Nutritional standards

(1) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research.

(2) The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection.

(3) Meals described in paragraph (1) shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.

(4) To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State.

(5) Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) conformance with standards set by local health authorities.

(6) Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

(g) Regulations, guidelines, applications, and handbooks; publication; startup costs

The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Direct disbursement to service institutions by Secretary

Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 1431 of title 7, or purchased under section 612c of title 7 or section 1446a–1 of title 7. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(i) Repealed. Pub. L. 97–35, title VIII, § 817(b), Aug. 13, 1981, 95 Stat. 532

(j) Administrative expenses of Secretary; authorization of appropriations

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k) Administrative costs of State; payment; adjustment; standards and effective dates, establishment; funds: withholding, inspection

(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to

that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(*l*) Food service management companies; subcontracts; assignments, conditions and limitations; meal capacity information in bids subject to review; registration; record, availability to States; small and minority-owned businesses for supplies and services; contracts: standard form, bid and contract procedures, bonding requirements and exemption, review by States, collusive bidding safeguards

(1) Service institutions (other than private nonprofit organizations eligible under subsection (a)(7) of this section) may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.

(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—

(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and

(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies, for the purpose of making such information available to the States.

(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

(m) Accounts and records

States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Management and administration plan; notification and submittal to Secretary; specific provisions

Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the pro-

gram and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children; (3) the State's plans for providing technical assistance and training eligible service institutions; (4) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (5) the State's plan for timely and effective action against program violators; and (6) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary.

(*o*) Violations and penalties

(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p) Monitoring of participating private nonprofit organizations

(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

(2) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraph (1) not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

(q) Authorization of appropriations

For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1998, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(June 4, 1946, ch. 281, § 13, as added May 8, 1968, Pub. L. 90–302, § 3, 82 Stat. 117; amended May 14, 1970, Pub. L. 91–248, § 6(c), (d), 84 Stat. 210; June 30, 1971, Pub. L. 92–32, § 7, 85 Stat. 86; Sept. 26, 1972, Pub. L. 92–433, §§ 1, 2, 86 Stat. 724; May 2, 1975, Pub. L. 94–20, 89 Stat. 82; Oct. 7, 1975, Pub. L. 94–105, § 13, 89 Stat. 515; Nov. 10, 1977, Pub. L. 95–166, § 2, 91 Stat. 1325; Nov. 10, 1978, Pub. L. 95–627, §§ 5(d), 7(b), 10(d)(2), 92 Stat. 3620, 3622, 3624; Dec. 5, 1980, Pub. L. 96–499, title II, § 206, 94 Stat. 2601; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 809, 817(b), 95 Stat. 527, 532; Oct. 18, 1986, Pub. L. 99–500, title III, § 311, 100 Stat. 1783–360, and Oct. 30, 1986, Pub. L. 99–591, title III, § 311, 100 Stat. 3341–363; Nov. 14, 1986, Pub. L. 99–661, div. D, title I, § 4101, 100 Stat. 4071; Sept. 19, 1988, Pub. L. 100–435, title II, § 213, 102 Stat. 1658; Nov. 10, 1989, Pub. L. 101–147, title I, § 102(a), title III, § 307, 103 Stat. 879, 915; Nov. 2, 1994, Pub. L. 103–448, title I, §§ 105(b), 114(a)–(g), 108 Stat. 4702, 4712, 4713; Aug. 22, 1996, Pub. L. 104–193, title VII, § 706(a)–(*l*), 110 Stat. 2291–2293.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(1), (5), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–193, § 706(a)(1)(A), substituted ''initiate and maintain nonprofit food service programs'' for ''initiate, maintain, and expand nonprofit food service programs'' in first sentence.

Subsec. (a)(1)(E). Pub. L. 104–193, § 706(a)(1)(B), struck out ''the Trust Territory of the Pacific Islands,'' before ''and the Northern Mariana Islands''.

Subsec. (a)(7)(A). Pub. L. 104–193, § 706(a)(2), substituted ''Private nonprofit organizations'' for ''Except as provided in subparagraph (C), private nonprofit organizations''.

Subsec. (b). Pub. L. 104–193, § 706(b), inserted heading.

Subsec. (b)(1). Pub. L. 104–193, § 706(b), added par. (1) and struck out former par. (1) which read as follows: ''Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such

amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.''

Subsec. (b)(2). Pub. L. 104–193, § 706(c), substituted ''3 meals, or 2 meals and 1 supplement,'' for ''four meals'' in first sentence and struck out at end ''The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.''

Subsec. (c)(2). Pub. L. 104–193, § 706(d)(3), (4), struck out '', and such higher education institutions,'' before ''shall be eligible to participate'' and substituted ''on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program'' for ''without application''.

Pub. L. 104–193, § 706(d)(1), (2), designated subpar. (B) as par. (2) and struck out subpars. (A), relating to eligibility of institutions operating National Youth Sports Program for meal and supplement reimbursements, and (C) to (E), relating to reimbursement rates, nutritional requirements and meal patterns, and issuance of regulations, respectively.

Subsec. (e)(1). Pub. L. 104–193, § 706(e), substituted ''each service institution. The State'' for ''each service institution: *Provided*, That (A) the State'', inserted ''(excluding a school)'' after ''program payment to any service institution'', and substituted ''responsibilities. No advance program payment'' for ''responsibilities, and (B) no advance program payment''.

Subsec. (f). Pub. L. 104–193, § 706(f)(5), redesignated pars. (4) to (7) as (3) to (6), respectively.

Pub. L. 104–193, § 706(f)(1)–(4), redesignated first to seventh sentences as pars. (1) to (7), respectively, struck out par. (3), substituted ''paragraph (1)'' for ''the first sentence'' in par. (4), and substituted ''conformance with standards set by local health authorities'' for ''that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality'' in par. (6)(B). Prior to repeal, par. (3) read as follows: ''The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements.''

Subsec. (f)(7). Pub. L. 104–193, § 706(g), added par. (7).

Subsec. (m). Pub. L. 104–193, § 706(h), substituted ''be available at any reasonable time for inspection and audit'' for ''at all times be available for inspection and audit'' in second sentence.

Subsec. (n)(2). Pub. L. 104–193, § 706(j)(1), which directed the striking out of '', including the State's methods of assessing need'', was executed by striking out '', including the State's methods for assessing need'' after ''needy children'' to reflect the probable intent of Congress.

Pub. L. 104–193, § 706(i), struck out '', and its plans and schedule for informing service institutions of the availability of the program'' before semicolon.

Subsec. (n)(3). Pub. L. 104–193, § 706(j)(2), (4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used;''.

Subsec. (n)(4). Pub. L. 104–193, § 706(j)(4), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Pub. L. 104–193, § 706(j)(3), struck out ''and schedule'' after ''State's plans''.

Subsec. (n)(5) to (7). Pub. L. 104–193, § 706(j)(4), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Subsec. (p). Pub. L. 104–193, § 706(*l*), redesignated subsec. (q) as (p) and struck out former subsec. (p) which read as follows: ''During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of this section of private nonprofit organizations for the program established under this section.''

Subsec. (q). Pub. L. 104–193, § 706(*l*)(2), redesignated subsec. (r) as (q). Former subsec. (q) redesignated (p).

Subsec. (q)(2). Pub. L. 104–193, § 706(k)(1), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.''

Subsec. (q)(3). Pub. L. 104–193, § 706(k)(3), redesignated par. (3) as (2).

Pub. L. 104–193, § 706(k)(2), substituted ''paragraph (1)'' for ''paragraphs (1) and (2) of this subsection''.

Subsec. (q)(4). Pub. L. 104–193, § 706(k)(1), struck out par. (4) which read as follows: ''For the purposes of this subsection, the term 'private nonprofit organization' has the meaning given such term in subsection (a)(7)(B) of this section.''

Subsec. (r). Pub. L. 104–193, § 706(*l*)(2), redesignated subsec. (r) as (q).

1994—Subsec. (a)(4)(A) to (F). Pub. L. 103–448, § 114(a), added subpars. (A) to (D) and struck out former subpars. (A) to (F) which read as follows:

''(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

''(B) service institutions that prepare meals at their own facilities or operate only one site;

''(C) service institutions that use local school food facilities for the preparation of meals;

''(D) other service institutions that have demonstrated ability for successful program operation;

''(E) service institutions that plan to integrate the program with Federal, State, or local employment programs; and

''(F) private nonprofit organizations eligible under paragraph (7).''

Subsec. (a)(7)(C). Pub. L. 103–448, § 114(b), struck out subpar. (C) which read as follows:

''(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.

''(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area.''

Subsec. (c)(1). Pub. L. 103–448, § 114(c), inserted before period at end ''or that provide meal service at nonschool sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause''.

Subsec. (f). Pub. L. 103–448, § 105(b), inserted after first sentence ''The Secretary shall provide technical assist-

ance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements.'' and substituted ''Meals described in the first sentence shall be served'' for ''Such meals shall be served''.

Subsec. (*l*)(3). Pub. L. 103–448, § 114(d), substituted ''that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies,'' for ''and their program record''.

Subsec. (n)(5). Pub. L. 103–448, § 114(e)(1), (2), redesignated cl. (7) as (5) and struck out former cl. (5) which read as follows: ''the State's schedule for application by service institutions;''.

Subsec. (n)(6). Pub. L. 103–448, § 114(e)(1)–(3), redesignated cl. (9) as (6), inserted ''and'' at end, and struck out former cl. (6) which read as follows: ''the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities;''.

Subsec. (n)(7). Pub. L. 103–448, § 114(e)(2), redesignated cl. (11) as (7). Former cl. (7) redesignated (5).

Subsec. (n)(8). Pub. L. 103–448, § 114(e)(1), struck out cl. (8) which read as follows: ''the State's plan and schedule for registering food service management companies;''.

Subsec. (n)(9). Pub. L. 103–448, § 114(e)(2), redesignated cl. (9) as (6).

Subsec. (n)(10). Pub. L. 103–448, § 114(e)(1), struck out cl. (10) which read as follows: ''the State's plan for determining the amounts of program payments to service institutions and for disbursing such payments;''.

Subsec. (n)(11). Pub. L. 103–448, § 114(e)(2), redesignated cl. (11) as (7).

Subsec. (n)(12). Pub. L. 103–448, § 114(e)(4), struck out cl. (12) which read as follows: ''the State's procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution's application for program participation or for program reimbursement.''

Subsec. (q)(2). Pub. L. 103–448, § 114(f)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum—

''(A) the criminal provisions and penalties established by subsection (*o*) of this section; and

''(B) the procedures for termination of participation in the program as established by regulations.''

Subsec. (q)(3). Pub. L. 103–448, § 114(f)(2), (3), redesignated par. (4) as (3) and substituted ''paragraphs (1) and (2)'' for ''paragraphs (1) and (3)''. Former par. (3) redesignated (2).

Subsec. (q)(4), (5). Pub. L. 103–448, § 114(f)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

Subsec. (r). Pub. L. 103–448, § 114(g), substituted ''1998'' for ''1994''.

1989—Subsec. (a)(3)(C). Pub. L. 101–147, § 102(a)(1)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and''.

Subsec. (a)(4)(F). Pub. L. 101–147, § 102(a)(1)(B), added subpar. (F).

Subsec. (a)(7)(A). Pub. L. 101–147, § 102(a)(1)(C)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Not later than May 1, 1989, the Secretary shall institute Statewide demonstration projects in five States in which private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under subsection (a)(1) of this section), shall be eligible for the program under the same terms and conditions as other service institutions.''

Subsec. (a)(7)(B)(i). Pub. L. 101–147, § 102(a)(1)(C)(ii)(I), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''serve no more than 2,500 children per day and operate at not more than 5 sites;''.

Subsec. (a)(7)(B)(ii). Pub. L. 101–147, § 102(a)(1)(C)(ii)(II), inserted ''or a school participating in the school lunch program under this chapter'' after ''university)''.

Subsec. (a)(7)(B)(v). Pub. L. 101–147, § 102(a)(1)(C)(ii)(III), inserted ''or families'' after ''children''.

Subsec. (a)(7)(C). Pub. L. 101–147, § 102(a)(1)(C)(iii), added subpar. (C).

Subsec. (c). Pub. L. 101–147, § 102(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 101–147, § 307(1), substituted ''July 1 of each year'' for ''July 1, of each year''.

Subsec. (f). Pub. L. 101–147, § 307(2), substituted ''prescribe'' for ''prescribed'' before ''model meal specifications''.

Subsec. (g). Pub. L. 101–147, § 307(3), struck out '': *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively'' after ''February 1 of each fiscal year''.

Subsec. (h). Pub. L. 101–147, § 307(4), made technical amendments to references to sections 612c, 1431, and 1446a–1 of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (*l*)(1). Pub. L. 101–147, § 102(a)(3), inserted ''(other than private nonprofit organizations eligible under subsection (a)(7) of this section)'' after ''Service institutions''.

Subsec. (p). Pub. L. 101–147, § 102(a)(4), (5), added subsec. (p) and redesignated former subsec. (p) as (r).

Subsec. (q). Pub. L. 101–147, § 102(a)(5), added subsec. (q).

Subsec. (r). Pub. L. 101–147, § 102(a)(6), substituted ''For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,'' for ''For the fiscal years beginning October 1, 1979, and ending September 30, 1989,''.

Pub. L. 101–147, § 102(a)(4), redesignated former subsec. (p) as (r).

1988—Subsec. (a)(1)(B). Pub. L. 100–435, § 213(a), inserted reference to public or private nonprofit higher education institutions participating in National Youth Sports Program.

Subsec. (a)(7). Pub. L. 100–435, § 213(b), added par. (7).

1986—Subsec. (p). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended subsec. (p) identically, substituting ''1989'' for ''1984''.

1981—Subsec. (a). Pub. L. 97–35, § 809, in par. (1)(B) substituted ''public or private nonprofit school food authorities, local, municipal, or county governments,'' for ''nonresidential public or private nonprofit institutions'' and in par. (1)(C) substituted ''50'' for ''33⅓'', and added par. (6).

Subsec. (i). Pub. L. 97–35, § 817(b), struck out subsec. (i) which related to administration of program by Secretary in event of nonadministration by State.

1980—Subsec. (b)(2). Pub. L. 96–499, § 206(1), restricted service institutions to serving only two meals per day unless such institutions were a camp or an institution serving meals primarily to migrant children.

Subsec. (p). Pub. L. 96–499, § 206(2), substituted ''September 30, 1984'' for ''September 30, 1980''.

1978—Subsec. (a)(1)(D)(ii). Pub. L. 95–627, § 10(d)(2), inserted ''or nonprofit private'' after ''in a public''.

Subsec. (b)(1). Pub. L. 95–627, § 5(d), inserted ''for All Urban Consumers'' after ''Consumer Price Index''.

Subsec. (k)(1). Pub. L. 95–627, § 7(b), substituted ''$100,000'' for ''$50,000'' in cl. (B), ''$250,000'' for ''$100,000'' in cl. (C), and ''2½ percent'' for ''2 percent'' in cl. (D).

1977—Subsec. (a). Pub. L. 95–166, in revising subsec. (a), among other changes: reenacted par. (1); inserted

cl. (A) definition of ''program''; reenacted as cl. (B) definition of ''service institutions'', inserting development of ''school vacation'' programs; reenacted as cl. (C) definition of ''areas in which poor economic conditions exist'' definition of ''poor economic conditions'' of former par. (3), substituting ''as determined by information'' for ''as shown by information'' and ''served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program'' for ''served to children attending schools located in the area of summer food sites, or from other applicable sources'' and striking out reference to information provided from model city target areas; inserted cl. (D) definition of ''children''; reenacted as cl. (E) definition of ''State'' last sentence of former par. (3), extending term to include the Northern Mariana Islands; enacted par. (2), which incorporated part of former par. (1) which had read ''To the maximum extent feasible, consistent with the purposes of this section, special summer programs shall utilize the existing food service facilities of public and nonprofit private schools.''; enacted par. (3), which incorporated part of former par. (2) which had read ''Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance.''; and added pars. (4) and (5).

Subsec. (b)(1). Pub. L. 95–166 incorporated existing provisions in part in text designated par. (1); substituted ''Payments'' for ''Disbursements'' increased payments for cost of lunch and supper, breakfast, and each meal supplement to 85.75 from 75.5, to 47.75 from 42, and to 22.50 from 19.75 cents respectively; substituted provision for adjustment of rates each January 1 based on the Consumer Price Index for twelve-month period ending November 30 for prior such provision for adjustment each March 1 based on the Index for year ending January 31; exclude from cost of food service operations administrative costs; and authorized adjustments, as appropriate, in the maximum reimbursement levels.

Subsec. (b)(2). Pub. L. 95–166 added par. (2) which incorporated in part existing provision which formerly stated that no institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

Subsec. (b)(3). Pub. L. 95–166 added par. (3) which supersedes part of existing provisions prescribing administrative costs of lunch and supper, breakfast, and meal supplement not to exceed 6, 3, and 1.5 cents respectively.

Subsec. (b)(4). Pub. L. 95–166 added par. (4).

Subsec. (c). Pub. L. 95–166 substituted ''Payments'' for ''Disbursements'' and ''except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar'' for ''except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section''.

Subsec. (d). Pub. L. 95–166, in revising text, substituted provision for advance program payment to States through letters of credit forwarded no later than April 15, May 15, and July 1, of each year for prior provision for forwarding advance payments no later than June 1, July 1, and August 1 of each year; inserted computation of payment amount provision; struck out prior provision for an amount no less than (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month, whichever is the greater, now covered in subsec. (e)(2) of this section; substituted provision for forwarding payments to States operating a program in months other than May through September by the first day of the month prior to the month in which the program is conducted for prior provision for receipt of advance payments not later than the first day of each month involved where institutions operate programs during nonsummer vacations during a continuous school year calendar; reenacted provision for payments within sixty days of receipt of valid claims; and struck out provision declaring that any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day, covered in subsec. (e)(2) of this section.

Subsec. (e). Pub. L. 95–166 added subsec. (e) which in incorporating in part provisions of former subsec. (d), substituted in par. (1) July 15 and August 15 for July 1 and August 1 and reenacted provision for payment not later than the first day of each month of operation where service institutions operate under a continuous school calendar, and in par. (2) substituted provision for computation of amount which is the greatest of the amount described in cls. (A), (B), and (C) for prior provision for such computation which is the greater of (1) the total payment made to the State for meals served for the calendar month of the preceding calendar year (covered in cl. (A)) or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served in the month (covered in cl. (C)). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95–166 redesignated former subsec. (e) as (f), substituted in first sentence ''receiving funds'' for ''to which funds are disbursed'', and inserted provisions respecting: charging ineligible children for meals served in camps, model specifications and standards for quality assurance, meal preparation contract requirements, and inspection and testing. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95–166 redesignated former subsec. (f) as (g), required publication of proposed regulations by November 1, instead of January 1, final regulations by January 1, instead of March 1, and guidelines, applications, and handbooks by February 1, instead of March 1, of each fiscal year, inserted proviso, substituted provision for payment of startup costs limited to 20 percent of administrative funds provided for in the administrative budget for prior limitation to 10 per centum of Federal funds provided the service institutions for meals served under this section during the preceding summer, and substituted provision for subtraction of startup costs from amounts otherwise payable for administrative costs made to the service institutions for prior provision for such reduction from payments made for meals served under subsec. (b) of this section. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–166 redesignated former subsec. (g) as (h), struck out ''participating'' before ''service institution'' and '', either nationally or in the institution area, or foods donated by the Secretary'' after ''abundance'', and substituted provision for donation of available or purchased food to States, for distribution to service institutions that can use commodities efficiently and effectively, as determined by the Secretary for prior provision for donation by the Secretary of available or purchased foods, irrespective of amount of appropriated funds, to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding program. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95–166 redesignated former subsec. (h) as (i), authorized Secretary's administration of the program when the State is unable for any reason to disburse the funds otherwise payable or does not operate the program as required by this section, prior provision

only requiring direct disbursements when the State educational agency was not permitted by law or was otherwise unable to disburse the funds, and required State notification of the Secretary of its intention not to administer the program. Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 95–166 redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (p).

Subsec. (k). Pub. L. 95–166 added subsec. (k) and struck out former subsec. (k) which required Secretary to pay administrative costs of each State in an amount equal to 2 per centum of funds distributed to the State and prescribing minimum sum of $10,000 each fiscal year, except where distribution of funds to the State totals less than $50,000 for the fiscal year.

Subsec. (*l*). Pub. L. 95–166 added subsec. (*l*) and struck out former subsec. (*l*) which provided that nothing in this section should be construed to preclude a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

Subsec. (m). Pub. L. 95–166 struck out ‘‘, State educational agencies,’’ after ‘‘States’’.

Subsecs. (n), (*o*). Pub. L. 95–166 added subsecs. (n) and (*o*).

Subsec. (p). Pub. L. 95–166 redesignated former subsec. (j) as (p) and made authorization applicable to fiscal years beginning Oct. 1, 1977, and ending Sept. 30, 1980.

1975—Subsec. (a). Pub. L. 94–105 substituted provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1977, for provisions authorizing to be appropriated sums for a summer food services program through Sept. 30, 1975.

Subsec. (a)(1). Pub. L. 94–20, §1(a), inserted ‘‘and for the period July 1, 1975, through September 30, 1975,’’ before ‘‘to enable’’.

Subsec. (b). Pub. L. 94–105 substituted provisions for payment to service institutions of the full cost of obtaining, preparing and serving food and administrative costs, with maximum rates for each kind of meal and its related administrative cost and adjustment of the rates each March 1 on the basis of changes in the series for food away from home of the Consumer Price Index for provisions apportioning among the states the appropriated sums, with a maximum basic grant of $50,000, and reserving 2 per centum of the appropriated sums for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Subsec. (c). Pub. L. 94–105 substituted provisions for disbursement to service institutions only for meals served during May through Sept. except for institutions with programs for children on school vacation at any time under a continuous school calendar for provisions for the disbursement of funds by the State educational agency to service institutions on a nondiscriminatory basis for the cost of obtaining agricultural commodities and other foods, purchase and rental of equipment and authorizing financial assistance not to exceed 3 per centum of the operating costs in cases of severe need.

Subsec. (d). Pub. L. 94–105 substituted provisions relating to the advance payment to States for meals served in that month and deductions in the next month for advances for which valid claims have not been established within 180 days for provisions for the disbursement of funds directly to service institutions in states where the State educational agency is forbidden by law to disburse funds to such institutions.

Subsec. (e). Pub. L. 94–105 substituted provisions for free meals consisting of a combination of foods and meeting minimum nutritional standards for provisions making available for the first three months of the next fiscal year any funds unobligated at the end of the prior fiscal year.

Subsec. (f). Pub. L. 94–105 substituted provisions directing the Secretary to publish proposed and final regulations, guidelines, and handbooks and authorizing startup costs for meals served during the preceding summer for provisions for free or reduced cost meals with minimum nutritional standards and prohibiting segregation, discrimination or overt identification practices with regard to any child because of his inability to pay.

Subsec. (g). Pub. L. 94–105 substituted provisions directing the utilization of foods donated or designated as in abundance by the Secretary and directing the donation of food available under section 1431, 612c and 1446a–1 of title 7 irrespective of the amount of funds appropriated under this section for provisions directing further apportionment among the States if any State cannot utilize all funds apportioned to it or additional funds are made available.

Subsec. (h). Pub. L. 94–105 substituted provisions authorizing the Secretary to disburse funds directly to service institutions in States where the educational agency is not permitted by law or is otherwise unable to disburse the funds for provisions requiring certification by the Secretary to the Secretary of the Treasury of amounts to be paid, directing the utilization of donated foods or foods designated as abundant, permitting donation of food available under sections 1431, 612c or 1446a–1 of title 7 irrespective of funds appropriated, mandating that value of assistance to children under this section not be considered income, that expenditures of State and local funds not be diminished as a result of federal funding, authorizing appropriations for administrative expenses and requiring States and State educational agencies and service institutions to keep and make available for inspection such accounts and records as may be necessary.

Subsec. (i). Pub. L. 94–105 substituted provision that the amount of State and local funds spent for food programs not be diminished as a result of funds received under this program for provisions authorizing the Secretary of Agriculture to utilize during May 15 to Sept. 15, 1972 not to exceed $25,000 of funds available under section 612c of Title 7 to carry out the purposes of this chapter, such funds to be reimbursed out of any supplemental appropriation.

Subsec. (j). Pub. L. 94–105 substituted provision authorizing to be appropriated such sums as may be necessary for the Secretary's administrative expenses, for provisions adjusting the reimbursement rate for meals served during May through Sept. 1975 to the nearest quarter cent to reflect changes since the period of May through Sept. 1974 in the cost of operating special summer food programs.

Pub. L. 94–20, §1(b), added subsec. (j).

Subsec. (k). Pub. L. 94–105 substituted provisions directing the Secretary to pay each State for administrative costs an amount equal to 2 per centum of funds distributed under subsec. (b), with no State to receive less than $10,000 unless funds distributed to such State total less than $50,000 for provisions directing the Secretary to issue regulations no later than ten days following May 2, 1975 pertaining to operations of the program during the months of May through Sept. 1975, with proviso that such regulations shall in no way differ from current regulations except for changes necessary to implement this chapter.

Pub. L. 94–20, §1(b), added subsec. (k).

Subsecs. (*l*), (m). Pub. L. 94–105 added subsecs. (*l*) and (m).

1972—Subsec. (a)(1). Pub. L. 92–433, §2(a), substituted authorization of appropriation of such sums as are necessary for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for provisions authorizing appropriation of $32,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973.

Subsec. (a)(2). Pub. L. 92–433, §2(b), inserted provisions authorizing special summer programs to utilize existing food service facilities of public and nonprofit private schools to the maximum extent feasible.

Subsec. (i). Pub. L. 92–433, §1, added subsec. (i).

1971—Subsec. (a)(1). Pub. L. 92–32, §7(a), authorized appropriations of $32,000,000 for fiscal years ending June 30, 1972, and 1973, as were authorized for fiscal years ending June 30, 1969, 1970, and 1971, and substituted in first sentence ‘‘program’’ for ‘‘pilot program’’.

Subsec. (c)(2). Pub. L. 92–32, § 7(b), provided that non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to equipment and services.

1970—Subsec. (f). Pub. L. 91–248 provided for determination of ability to pay the full cost of lunch based on a publicly announced policy the minimum criteria of which includes family income and the number of school children in the family unit as well as the size of the family unit in general and provided that there be no overt identification of those children who receive free and reduced price meals.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 706(m) of Pub. L. 104–193 provided that: ''The amendments made by subsection (b) [amending this section] shall become effective on January 1, 1997.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 102(b)(2)(A) of Pub. L. 101–147 provided that: ''Subparagraphs (A), (B), (C), and (D)(i) of section 13(c)(2) of the National School Lunch Act [subpars. (A), (B), (C), (D)(i) of subsec. (c)(2) of this section] (as added by subsection (a)(2)(B) of this section) shall be effective as of October 1, 1989.''

Section 102(b)(3) of Pub. L. 101–147 provided that: ''The amendments made by subsection (a)(6) [amending this section] shall be effective as of October 1, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 5(d) of Pub. L. 95–627 effective July 1, 1979, and amendment by sections 7(b) and 10(d)(2) of Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 13 of Pub. L. 94–105 provided that the amendment made by that section is effective Oct. 1, 1975.

REGULATIONS

Section 102(b)(1) of Pub. L. 101–147 provided that: ''Not later than February 1, 1990, the Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (3), (4), and (5) of subsection (a) [amending this section]. Notwithstanding the provisions of section 553 of title 5, United States Code, the Secretary of Agriculture may issue such regulations without providing notice or an opportunity for public comment.''

Section 102(b)(2)(B) of Pub. L. 101–147 provided that: ''Not later than February 1, 1990, the Secretary of Agriculture shall—

''(i) issue final regulations to implement subparagraph (D)(ii) of section 13(c)(2) of the National School Lunch Act [subpar. (D)(ii) of subsec. (c)(2) of this section] (as added by subsection (a)(2)(B) of this section); and

''(ii) issue final regulations under subparagraph (E) of such section.''

ALL-DAY EDUCATIONAL AND RECREATIONAL ACTIVITIES; SOURCES OF FUNDS

Section 114(h) of Pub. L. 103–448 provided that: ''The Secretary of Agriculture shall—

''(1) not later than 180 days after the date of enactment of this Act [Nov. 2, 1994], in consultation with the heads of other Federal agencies, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

''(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1755, 1760, 1769f, 1776, 1776b, 1788 of this title.

§ 1762. Repealed. Pub. L. 101–147, title III, § 308, Nov. 10, 1989, 103 Stat. 915

Section, act June 4, 1946, ch. 281, § 13A, as added Mar. 12, 1970, Pub. L. 91–207, 84 Stat. 51, related to emergency assistance to provide nutritious meals to needy children in schools.

§ 1762a. Commodity distribution program

(a) Applicable period; use of funds for purchase of agricultural commodities and products for donation

Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1998, shall—

(1) use funds available to carry out the provisions of section 612c of title 7 which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this chapter, the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.]; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 1431 of title 7, for such donation.

(b) Nutrition quality and content information

(1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

(2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

(c) Authorization of appropriations for purchase of products or for cash payments in lieu of donations

The Secretary may use funds appropriated from the general fund of the Treasury to pur-

chase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4) of the Older Americans Act of 1965 [42 U.S.C. 3030a(a)(4)] or for cash payments in lieu of such donations under section 311(b)(1) of such Act [42 U.S.C. 3030a(b)(1)]. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) Assistance procedures; cost and benefits, review; technical assistance; report to Congress; food quality standards contracting procedures

In providing assistance under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

Within eighteen months after November 10, 1977, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this chapter and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

(e) Consultation with school representatives

Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(f) Commodity only schools

Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 1755(e) of this title and the national average payment established under section 1753 of this title. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title, and shall represent the four basic food groups, including a serving of fluid milk.

(g) Extension of alternative means of assistance

(1) As used in this subsection, the term ''eligible school district'' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

(June 4, 1946, ch. 281, § 14, as added June 30, 1974, Pub. L. 93–326, § 2, 88 Stat. 286; amended Oct. 7, 1975, Pub. L. 94–105, § 10, 89 Stat. 515; Nov. 10, 1977, Pub. L. 95–166, § 6, 91 Stat. 1334; Nov. 10, 1978, Pub. L. 95–627, § 12(b), 92 Stat. 3625; Dec. 5, 1980, Pub. L. 96–499, title II, § 202(c), 94 Stat. 2600; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§ 813(a), 819(j), 95 Stat. 530, 533; Oct. 9, 1984, Pub. L. 98–459, title VIII, § 801(a), 98 Stat. 1792; Oct. 18, 1986, Pub. L. 99–500, title III, §§ 312, 363, 100 Stat. 1783–360, 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, §§ 312, 363, 100 Stat. 3341–363, 3341–371; Nov. 14, 1986, Pub. L. 99–661, div. D, title I, § 4102, title IV, § 4403, 100 Stat. 4071, 4079; June 28, 1988, Pub. L. 100–356, § 2, 102 Stat. 669; Nov. 10, 1989, Pub. L. 101–147, title I, § 103(a)–(b)(2)(A), (c), 103 Stat. 882; Nov. 2, 1994, Pub. L. 103–448, title I, § 115, 108 Stat. 4713; Aug. 22, 1996, Pub. L. 104–193, title VII, § 707, 110 Stat. 2293.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1) and (d), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (a)(1), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Title III of the Older Americans Act of 1965 is classified generally to subchapter III (§ 3021 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

Section 1581 of the Food Security Act, referred to in subsec. (g), is section 1581 of Pub. L. 99–198, title XV, Dec. 23, 1985, 99 Stat. 1594, which is not classified to the Code.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–193, § 707(a), redesignated pars. (2) and (3) as (1) and (2), respectively, and

struck out former par. (1) which read as follows: ''Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.''

Subsec. (e). Pub. L. 104–193, § 707(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.''

Subsec. (g)(3). Pub. L. 104–193, § 707(c), struck out par. (3) relating to cash compensation for losses due to changed methodology of study during 1982–1983 school year.

1994—Subsec. (a). Pub. L. 103–448, § 115(1), substituted ''1998'' for ''1994'' in introductory provisions.

Subsec. (b). Pub. L. 103–448, § 115(2), designated existing provisions as par. (1) and added pars. (2) and (3).

1989—Subsec. (a). Pub. L. 101–147, § 103(a), substituted ''1994'' for ''1989''.

Subsec. (g). Pub. L. 101–147, § 103(b)(1), (2)(A), amended subsec. (g), as amended identically by Pub. L. 99–500 and 99–591, § 363, and Pub. L. 99–661, § 4403, and as further amended by Pub. L. 100–356, § 2, to read as if only the amendment by Pub. L. 99–661 was enacted, and further amended subsec. (g) identically to the amendments that were made by section 2(a) and (b) of Pub. L. 100–356, resulting in changing text by striking out only the language that was inserted by section 2(c) of Pub. L. 100–356 at the end of par. (3)(A), ''The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988.'', see 1986 and 1988 Amendment notes below.

Subsec. (g)(3)(A). Pub. L. 101–147, § 103(c), substituted last four sentences for former last two sentences which read as follows: ''The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

''(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

''(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.''

1988—Subsec. (g)(3)(A). Pub. L. 100–356, § 2(c), inserted at end ''The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988.''

Pub. L. 100–356, § 2(a), inserted at end ''The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

''(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

''(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.''

Subsec. (g)(3)(B). Pub. L. 100–356, § 2(b), substituted ''such sums as may be necessary'' for ''$50,000''.

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591, § 312, and Pub. L. 99–661, § 4102, amended subsec. (a) identically, substituting ''1989'' for ''1984''.

Subsec. (g). Pub. L. 99–500 and Pub. L. 99–591, § 363, and Pub. L. 99–661, § 4403, amended section identically, adding subsec. (g).

1984—Subsec. (c). Pub. L. 98–459 substituted ''(b)(1)'' for ''(c)(1)''.

1981—Subsec. (a)(1). Pub. L. 97–35, § 819(j)(1), substituted ''III'' for ''VII''.

Subsec. (c). Pub. L. 97–35, § 819(j)(2), substituted references to section 311(a)(4) and (c)(1) of the Older Americans Act of 1965, for references to section 3045f(a)(4) and (d)(4) of this title.

Subsec. (f). Pub. L. 97–35, § 813(a), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–499 substituted ''September 30, 1984'' for ''September 30, 1982''.

1978—Subsec. (a)(1). Pub. L. 95–627 inserted ''(which may include domestic seafood commodities and their products)'' after ''under such section''.

1977—Subsec. (a). Pub. L. 95–166, § 6(1), extended termination date for termination of commodity distribution program to Sept. 30, 1982, from Sept. 30, 1977.

Subsecs. (c) to (e). Pub. L. 95–166, § 6(2), added subsecs. (c) to (e).

1975—Pub. L. 94–105 designated existing provisions as subsec. (a), substituted ''September 30, 1977'' for ''June 30, 1975'', and added subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 103(b)(2)(B) of Pub. L. 101–147 provided that: ''The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98–459, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 813(a) of Pub. L. 97–35 effective 90 days after Aug. 13, 1981, and amendment by section 819(j) of Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(4), (5) of Pub. L. 97–35, set out as a note under section 1753 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

STUDY OF EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY

Section 304 of Pub. L. 103–448 directed Comptroller General of the United States to conduct study on incidence and effect of States restricting or prohibiting legally contracted commercial entity from physically combining federally donated and inspected meat or poultry from another State and to submit report to Congress not later than Sept. 1, 1996.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1760 of this title.

§ 1763. Repealed. Pub. L. 101–147, title I, § 104, Nov. 10, 1989, 103 Stat. 883

Section, act June 4, 1946, ch. 281, § 15, formerly § 14, as added May 14, 1970, Pub. L. 91–248, § 9, 84 Stat. 213; amended Nov. 7, 1973, Pub. L. 93–150, § 8, 87 Stat. 564; renumbered § 15, June 30, 1974, Pub. L. 93–326, § 2, 88 Stat. 286; Nov. 10, 1977, Pub. L. 95–166, § 16, 91 Stat. 1344; Aug. 13, 1981, Pub. L. 97–35, title VIII, § 819(i), 95 Stat. 533, established National Advisory Council on Child Nutrition.

§ 1764. Repealed. Pub. L. 94–105, § 22, Oct. 7, 1975, 89 Stat. 528

Section, act June 4, 1946, ch. 281, § 15, as added June 30, 1971, Pub. L. 92–32, § 1, 85 Stat. 85, authorized use,

during fiscal 1971, of not to exceed $35,000,000 from section 612c of Title 7, and not to exceed $100,000,000 during fiscal 1972 to carry out provisions of this chapter, with unexpended funds to remain available in accordance with last sentence of section 1752 of this title.

§ 1765. Election to receive cash payments

(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(e) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

(June 4, 1946, ch. 281, § 16, as added Oct. 7, 1975, Pub. L. 94–105, § 12, 89 Stat. 515; amended Nov. 10, 1989, Pub. L. 101–147, title III, § 309, 103 Stat. 915.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101–147 inserted ''Election to receive cash payments'' as section catchline.

§ 1766. Child and adult care food program

(a) Grants-in-aid; "institution" defined; guidelines for institutions providing care to children outside of school hours; eligibility

The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term ''institution'' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with handicaps; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term ''institution'' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with handicaps). The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; and

(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this chapter or the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], for a period of time specified by the Secretary;

(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and

(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited.

(b) Limitations on cash assistance

For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966 [42 U.S.C. 1779].

(c) Formula for computation of payments; national average payment rate

(1) For purposes of this section, except as provided in subsection (f)(3) of this section, the na-

tional average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 1753 and 1759a of this title as appropriate (as adjusted pursuant to section 1759a(a) of this title).

(2) For purposes of this section, except as provided in subsection (f)(3) of this section, the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 [42 U.S.C. 1773(b)] (as adjusted pursuant to section 1759a(a) of this title).

(3) For purposes of this section, except as provided in subsection (f)(3) of this section, the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 1759a(a) of this title).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 1758 of this title.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).[1]

(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.

(d) Requirements for approval; notification; reapplication

(1) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (A) has tax exempt status under title 26 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (B) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application.

(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals.

(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1) of this section.

(e) Hearing

(1) Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

(f) State disbursement to institutions

(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the

[1] See References in Text note below.

products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c) of this section.

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term ''tier I family or group day care home'' means—

(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title;

(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 1758 of this title and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members

of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 1758 of this title, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 1758 of this title to be a child who is a member of a household whose income meets the income eligibility guidelines under section 1758 of this title.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 1758 of this title, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available.

(C)(i) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to assist unlicensed family or group day care homes in becoming licensed.

(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

(i) IN GENERAL.—

(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1997.

(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 708(e)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

(I) $30,000 in base funding to each State; and

(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1995 as a percentage of the number of all family day care homes participating in the program during fiscal year 1995.

(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1997 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).

(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under this chapter or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

(4) By the first day of each month of operation, the State may provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g) Meals served by participating institutions; compliance assistance

(1)(A) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

(B) The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A).

(2) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by

special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(3) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

(h) Donation of agricultural commodities by Secretary; measurement of value; annual readjustment of assistance; cash in lieu of commodities; Department of Defense child care feeding program

(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 1755(e) of this title for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act [7 U.S.C. 1431], to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) Availability of money for audits

The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(j) Standard form agreement regulations

The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

(k) Training and technical assistance

A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

(*l*) Non-diminishment of State and local funds

Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m) Accounts and records

States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Authorization of appropriations

There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(*o*) Participation of older persons and chronically impaired disabled persons

(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the

National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term ''adult day care center'' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term ''proprietary title XIX or title XX center'' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act [42 U.S.C. 1396 et seq., 1397 et seq.] and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consulation[2] with the Assistant Secretary for Aging, shall establish, within 6 months of October 1, 1988, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 [42 U.S.C. 3030e et seq.], for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act [42 U.S.C. 1381 et seq., 1396 et seq.].

[2] So in original. Probably should be ''consultation''.

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(p) Demonstration projects for qualification under this section of private for-profit organizations providing nonresidential day care services

(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

(A) at least 25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less, meet the income eligibility criteria established under section 1758(b) of this title for free or reduced price meals; and

(B) as a result of the participation of the organization in the project—

(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

(2) Under each such project, the Secretary shall examine—

(A) the budgetary impact of the change in eligibility being tested;

(B) the extent to which, as a result of such change, additional low-income children can be reached; and

(C) which outreach methods are most effective.

(3) The Secretary shall choose to conduct demonstration projects under this subsection—

(A) 1 State that—

(i) has a history of participation of for-profit organizations in the child care food program;

(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] in a manner that allows low-income parents to choose the type of child care their children will receive;

(iii) has other funding mechanisms that support parental choice for child care;

(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program; and

(B) 1 State in which—

(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

(iii) at least ⅓ of the licensed child care centers and preschools operate as for-profit facilities;

(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act [42 U.S.C. 1397 et seq.].

(4) Such project shall—

(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

(B) terminate on September 30, 1998.

(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1998, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.

(June 4, 1946, ch. 281, §17, as added Oct. 7, 1975, Pub. L. 94–105, §16, 89 Stat. 522; amended Nov. 10, 1977, Pub. L. 95–166, §§3, 19(d), 91 Stat. 1332, 1345; Nov. 10, 1978, Pub. L. 95–627, §2, 92 Stat. 3603; Dec. 5, 1980, Pub. L. 96–499, title II, §§207(a), 208(b), (c), 94 Stat. 2602; Aug. 13, 1981, Pub. L. 97–35, title VIII, §§810, 817(c), 819(k), 95 Stat. 528, 532, 534; Oct. 18, 1986, Pub. L. 99–500, title III, §§361, 372(a), 100 Stat. 1783–367, 1783–369, and Oct. 30, 1986, Pub. L. 99–591, title III, §§361, 372(a), 100 Stat. 3341–370, 3341–372; Nov. 14, 1986, Pub. L. 99–661, div. D, title IV, §4401, title V, §4502(a), 100 Stat. 4079, 4080; Nov. 29, 1987, Pub. L. 100–175, title IV, §401, 101 Stat. 972; Sept. 19, 1988, Pub. L. 100–435, title II, §§211, 214, 102 Stat. 1657, 1659; Oct. 1, 1988, Pub. L. 100–460, title VI, §641, 102 Stat. 2265; Nov. 10, 1989, Pub. L. 101–147, title I, §§105(a), (b), 131(b), title II, §204(a), title III, §§310, 312(2), 103 Stat. 883, 907, 909, 915, 916; Aug. 14, 1992, Pub. L. 102–342, title II, §§202, 203, 106 Stat. 913; Sept. 30, 1992, Pub. L. 102–375, title VIII, §811(a), 106 Stat. 1295; Dec. 2, 1993, Pub. L. 103–171, §3(b)(4), 107 Stat. 1991; Nov. 2, 1994, Pub. L. 103–448, title I, §§105(c), 109(b), 116, 108 Stat. 4702, 4705, 4714; Aug. 22, 1996, Pub. L. 104–193, title VII, §708(a)–(j), 110 Stat. 2293–2299.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a), (*o*)(2)(B), (5)(B), and (p)(3)(A)(ii), (B)(v), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVI, XIX, and XX of the Social Security Act are classified generally to subchapters XVI (§1381 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Child Nutrition Act of 1966, referred to in subsecs. (a)(2)(B) and (f)(3)(A)(ii)(I)(bb), (E)(ii)(I), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(5), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

Part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(6)(A), means part B of chapter 1 of title I of Pub. L. 89–10 which was classified generally to part B (§2741 et seq.) of division 1 of subchapter I of chapter 47 of Title 20, Education, prior to being omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6361 et seq. of Title 20.

Section 708(e)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (f)(3)(D)(i)(II)(bb), is section 708(e)(1) of Pub. L. 104–193, title VII, Aug. 22, 1996, 110 Stat. 2294, which amended this section.

The Agricultural Act of 1949, referred to in subsec. (h)(2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Older Americans Act of 1965, referred to in subsec. (*o*)(3)(B), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Part C of title III of the Older Americans Act of 1965 is classified generally to part C (§3030e et seq.) of subchapter III of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Food Stamp Act of 1977, referred to in subsec. (*o*)(5)(A), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, as amended, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

October 1, 1988, referred to in subsec. (*o*)(3)(A) [formerly (p)(3)(A)], was in the original ''enactment'', which was translated as meaning the date of enactment of Pub. L. 100–460, which amended subsec. (p)(3)(A) generally, to reflect the probable intent of Congress.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–193, §708(a), substituted ''initiate and maintain nonprofit food service programs'' for ''initiate, maintain, and expand nonprofit food service programs'' in first sentence.

Subsec. (a)(2)(D). Pub. L. 104–193, §708(b), added subpar. (D).

Subsec. (c)(1) to (3). Pub. L. 104–193, §708(e)(4), inserted ''except as provided in subsection (f)(3) of this section,'' after ''For purposes of this section,''.

Subsec. (d)(1). Pub. L. 104–193, §708(c), struck out '', and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application'' before period at end.

Subsec. (f)(2)(B). Pub. L. 104–193, §708(d), substituted ''2 meals and 1 supplement'' for ''two meals and two supplements or three meals and one supplement''.

Subsec. (f)(3). Pub. L. 104–193, §708(e)(1), inserted heading.

Subsec. (f)(3)(A). Pub. L. 104–193, §708(e)(1), added heading and text of subpar. (A) and struck out former subpar. (A) which read as follows: ''Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced price meals under section 1758 of this title. The reimbursement factor in effect as of August 13, 1981, shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect

changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent.''

Subsec. (f)(3)(B). Pub. L. 104–193, § 708(f)(1)(A), struck out at end ''The maximum allowable levels for administrative expense payments, as in effect as of August 13, 1981, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.''

Subsec. (f)(3)(C)(ii). Pub. L. 104–193, § 708(f)(1)(B), substituted ''assist unlicensed family or group day care homes in becoming'' for ''conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become''.

Subsec. (f)(3)(D). Pub. L. 104–193, § 708(e)(2), added subpar. (D).

Subsec. (f)(3)(E). Pub. L. 104–193, § 708(e)(3), added subpar. (E).

Subsec. (f)(4). Pub. L. 104–193, § 708(f)(2), substituted ''State may provide'' for ''State shall provide'' in first sentence.

Subsec. (g)(1)(A). Pub. L. 104–193, § 708(g)(1), struck out at end ''Such meals shall be served free to needy children.''

Subsec. (g)(1)(B). Pub. L. 104–193, § 708(g)(2), struck out at end ''The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.''

Subsec. (k). Pub. L. 104–193, § 708(h), added heading and text of subsec. (k) and struck out former subsec. (k) consisting of pars. (1) to (3) which related to training and technical assistance, monitoring, research, and demonstration projects.

Subsec. (m). Pub. L. 104–193, § 708(i), substituted ''available at any reasonable time'' for ''available at all times''.

Subsec. (q). Pub. L. 104–193, § 708(j), struck out subsec. (q) which related to provision of information concerning special supplemental nutrition program for women, infants, and children.

1994—Subsec. (c)(5). Pub. L. 103–448, § 109(b), added par. (5).

Subsec. (c)(6). Pub. L. 103–448, § 116(a), added par. (6).

Subsec. (d)(2)(A). Pub. L. 103–448, § 116(b), substituted ''3-year intervals'' for ''2-year intervals''.

Subsec. (f)(3)(C). Pub. L. 103–448, § 116(c), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (g)(1). Pub. L. 103–448, § 105(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(4). Pub. L. 103–448, § 116(d), added par. (4).

Subsec. (p). Pub. L. 103–448, § 116(e), substituted ''25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,'' for ''25 percent of the children served by such organization'' in par. (1)(A), ''1998'' for ''1992'' in par. (4)(B), and ''1998'' for ''1994'' in par. (5).

Subsec. (q). Pub. L. 103–448, § 116(f), added subsec. (q).

1993—Subsec. (*o*)(3)(A). Pub. L. 103–171 substituted ''Assistant Secretary for Aging'' for ''Commissioner of Aging''.

1992—Subsec. (a). Pub. L. 102–342, § 202, substituted ''of its enrolled children or 25 percent of its licensed capacity, whichever is less'' for ''of the children for which the organization provides such nonresidential day care services''.

Subsec. (*o*)(2)(A)(i). Pub. L. 102–375 inserted '', or a group living arrangement,'' after ''homes''.

Subsec. (p)(5). Pub. L. 102–342, § 203, added par. (5).

1989—Pub. L. 101–147, § 105(a), substituted ''Child and adult care food program'' for ''Child care food program'' in section catchline.

Subsec. (a). Pub. L. 101–147, § 310(a)(1), substituted ''children with handicaps'' for ''handicapped children'' wherever appearing.

Subsec. (c). Pub. L. 101–147, § 312(2), substituted ''reduced price'' for ''reduced-price'' wherever appearing.

Subsec. (d). Pub. L. 101–147, § 204(a), designated existing provisions as par. (1), redesignated cls. (1) and (2) as (A) and (B), respectively, and added par. (2).

Subsec. (d)(1). Pub. L. 101–147, § 310(a)(2), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (e). Pub. L. 101–147, § 310(b), amended subsec. (e), as identically amended by Pub. L. 99–500 and 99–591, § 361, and Pub. L. 99–661, § 4401, to read as if only the amendment by Pub. L. 99–661 was enacted, resulting in no change in text, see 1986 Amendment note below.

Subsec. (f)(1). Pub. L. 101–147, § 310(a)(3)(A), substituted ''day care'' for ''day-care''.

Subsec. (f)(2)(B). Pub. L. 101–147, § 310(a)(3)(B), struck out second period at end.

Subsec. (f)(3)(A). Pub. L. 101–147, § 312(2), substituted ''reduced price'' for ''reduced-price''.

Subsec. (f)(3)(C). Pub. L. 101–147, § 105(b)(1), inserted before period at end of first sentence ''and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas'', inserted ''and expansion funds'' after ''start-up funds'' in second, fourth, and fifth sentences and after ''Start-up funds'' in third sentence, and inserted after first sentence ''Institutions that have received start-up funds may also apply at a later date for expansion funds.''

Subsec. (h)(1). Pub. L. 101–147, § 131(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 1755(e) of this title. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.''

Subsec. (k). Pub. L. 101–147, § 310(a)(4), redesignated subsec. (*l*) as (k) and struck out former subsec. (k) which related to study and report on maximum administrative payments reflecting costs of institutions.

Subsec. (*l*). Pub. L. 101–147, § 310(a)(4), redesignated subsec. (m) as (*l*). Former subsec. (*l*) redesignated (k).

Pub. L. 101–147, § 105(b)(2), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsecs. (m), (n). Pub. L. 101–147, § 310(a)(4), redesignated subsecs. (n) and (*o*) as (m) and (n), respectively. Former subsec. (m) redesignated (*l*).

Subsec. (*o*). Pub. L. 101–147, § 312(2), substituted ''reduced price'' for ''reduced-price'' in par. (4).

Pub. L. 101–147, § 310(a)(4), redesignated subsec. (p) as (*o*). Former subsec. (*o*) redesignated (n).

Subsec. (p). Pub. L. 101–147, § 310(a)(4), redesignated subsec. (q) as (p). Former subsec. (p) redesignated (*o*).

Pub. L. 101–147, § 105(b)(3)(A), inserted at end of par. (1) ''Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council

of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.''

Pub. L. 101–147, § 105(b)(3)(B), added par. (6).

Subsec. (q). Pub. L. 101–147, § 310(a)(4), redesignated subsec. (q) as (p).

Pub. L. 101–147, § 105(b)(4), added subsec. (q).

1988—Subsec. (f)(2)(B). Pub. L. 100–435, § 211, inserted provisions relating to reimbursement to institutions maintaining a child care setting for eight or more hours per day.

Subsec. (h). Pub. L. 100–435, § 214, designated existing provisions as par. (1) and added par. (2).

Subsec. (p)(3)(A). Pub. L. 100–460, § 641(c), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.''

Subsec. (p)(4). Pub. L. 100–460, § 641(a), added par. (4).

Subsec. (p)(5). Pub. L. 100–460, § 641(b), added par. (5).

1987—Subsec. (p). Pub. L. 100–175 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99–500 and Pub. L. 99–591, § 372(a), and Pub. L. 99–661, § 4502(a), amended par. (1) identically, substituting ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (e). Pub. L. 99–500 and Pub. L. 99–591, § 361, and Pub. L. 99–661, § 4401, amended subsec. (e) identically, designating existing provisions as par. (1), substituting ''Except as provided in paragraph (2), the'' for ''The'', and adding pars. (2) and (3).

1981—Subsec. (a). Pub. L. 97–35, § 810(a), inserted provisions respecting 25 percent requirement for children receiving nonresidential day care services, and reimbursement for meals and supplements.

Subsec. (b). Pub. L. 97–35, § 810(b), substituted provisions respecting applicability of subsec. (f), for provisions respecting applicability of subsec. (c).

Subsec. (c). Pub. L. 97–35, § 810(c), substituted provisions respecting applicability, determinations, etc., for national average payment rates for free lunches and suppers, etc., for provisions respecting formula for computation of payments, and applicability of national average payment rates.

Subsec. (f)(1). Pub. L. 97–35, § 819(k), struck out authorization respecting financing the cost of meals.

Subsec. (f)(2) to (5). Pub. L. 97–35, § 810(d), in par. (2) substituted provisions setting forth formula for disbursements for meals for provisions setting forth maximum per meal rates of reimbursements, struck out par. (3) which related to election rights of institutions other than family or group day care home sponsoring organizations, redesignated par. (4) as (3) and, as so redesignated, substantially revised and restructured provisions, and redesignated par. (5) as (4).

Subsec. (g). Pub. L. 97–35, § 810(e), struck out par. (2) which related to prohibitions respecting meals served by institutions, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (i). Pub. L. 97–35, §§ 810(f), 817(c)(2), struck out subsec. (i) which related to information required from State plans. Former subsec. (j) redesignated (i).

Subsecs. (j) to (*l*). Pub. L. 97–35, §§ 810(g), 817(c)(2), redesignated subsecs. (k), (*l*), and (*o*) as (j), (k), and (*l*), respectively, and in subsec. (*l*), as so redesignated, struck out provision respecting availability of funds from food service equipment program. Former subsecs. (j) to (*l*) redesignated (i) to (k), respectively.

Subsec. (m). Pub. L. 97–35, § 817(c), struck out subsec. (m) which related to withholding of funds. Subsec. (p) redesignated (m).

Subsec. (n). Pub. L. 97–35, §§ 810(f), 817(c)(2), struck out subsec. (n) which related to appropriations, etc., for equipment assistance. Subsec. (q) redesignated (n).

Subsecs. (*o*) to (r). Pub. L. 97–35, § 817(c)(2), redesignated subsecs. (*o*) to (r) as (*l*) to (*o*), respectively.

1980—Subsec. (a). Pub. L. 96–499, § 207(a), included in definition of ''institution'' any private organization providing nonresidential day care services for which compensation was received from amounts granted to the States under title XX of the Social Security Act.

Subsec. (c). Pub. L. 96–499, § 208(b), inserted provision in pars. (1), (2), and (3) that the average payment rates for supplements served in such institutions was to be three cents lower than the adjusted rates prescribed by the Secretary in accordance with the adjustment formulas contained in such pars. (1), (2), and (3).

Subsec. (n)(1). Pub. L. 96–499, § 208(c), substituted ''$4,000,000'' for ''$6,000,000''.

1978—Subsec. (a). Pub. L. 95–627 excepted family or group day care homes from licensing requirements, set out guidelines for institutions providing care for children outside of school hours, and set out criteria for determining eligibility under this section.

Subsec. (b). Pub. L. 95–627 substituted provisions limiting the aggregate amount of cash assistance to a State under this section for provisions setting out a formula for computation of payments under this section and adjustments to such payments. See subsec. (c) of this section.

Subsec. (c). Pub. L. 95–627 substituted provisions relating to the formula for the computation of payments under this section and the prescription of a national average payment rate for provisions relating to the maintenance of national nutritional standards and the prohibition of discrimination and identification of children unable to pay under the program.

Subsec. (d). Pub. L. 95–627 substituted provisions stating requirements for approval for participation in the program and requiring written notification of such approval or disapproval for provisions relating to State disbursements to participating institutions.

Subsec. (e). Pub. L. 95–627 substituted provisions relating to fair hearings for provisions relating to donations of agricultural commodities and cash in lieu of commodities. See subsec. (h) of this section.

Subsec. (f). Pub. L. 95–627 substituted provisions relating to disbursements to participating institutions by the State for provisions calling for direct disbursements to participating institutions by the Secretary and prescribing conditions therefor.

Subsec. (g). Pub. L. 95–627 substituted provisions relating to meals served at participating institutions and the necessary nutritional content thereof for provisions prohibiting the diminution of expenditures by State and local sources by reason of the availability of Federal funds.

Subsec. (h). Pub. L. 95–627 substituted provisions relating to donations of agricultural land commodities and cash in lieu of commodities for provisions authorizing appropriations to meet the administrative expenditures of the Secretary.

Subsec. (i). Pub. L. 95–627 substituted provisions relating to information required from State plans for provisions requiring adequate accounts and general record-keeping by States, State educational agencies, and participating institutions.

Subsec. (j). Pub. L. 95–627 substituted provisions relating to the availability of Federal funds to the States for audits of participating institutions for provisions relating to food service equipment assistance and the apportionment of unused funds.

Subsec. (k). Pub. L. 95–627 substituted provisions relating to the use of a standard form of agreement and the issuance of regulations pertaining to such use for provisions relating to the issuance of rules and regulations to carry out this section by the Secretary.

Subsecs. (*l*) to (r). Pub. L. 95–627 added subsecs. (*l*) to (r).

1977—Subsec. (e). Pub. L. 95–166, § 19(d), substituted in last sentence ''school year'' for ''fiscal year'' in three instances.

Subsec. (j)(1). Pub. L. 95–166, § 3, substituted ''food service equipment assistance'' for ''nonfood assistance''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 708(k)(1), (2) of Pub. L. 104–193 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall become effective on the date of enactment of this Act [Aug. 22, 1996].

''(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) [amending this section] shall become effective on July 1, 1997.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 105(c) and 116 of Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

Amendment by section 109(b) of Pub. L. 103–448 effective Sept. 25, 1995, see section 109(c) of Pub. L. 103–448, set out as a note under section 1758 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 811(b) of Pub. L. 102–375 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987 [Pub. L. 100–375].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 131(b) of Pub. L. 101–147 effective July 1, 1989, see section 131(c) of Pub. L. 101–147, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 211 of Pub. L. 100–435 to be effective and implemented on July 1, 1989, and amendment by section 214 of Pub. L. 100–435 to be effective and implemented on Oct. 1, 1988, see section 701(a), (b)(4) of Pub. L. 100–435, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–175 effective Oct. 1, 1987, see section 701(a) of Pub. L. 100–175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 810(a), (f), (g), 817(c), and 819(k) of Pub. L. 97–35 effective Oct. 1, 1981, see section 820(a)(3), (4) of Pub. L. 97–35, set out as a note under section 1753 of this title. For effective dates of amendments by section 810(b)–(e) of Pub. L. 97–35, see section 820(a)(1)(B)–(D), (3), (4), (6) of Pub. L. 97–35.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 207(b) of Pub. L. 96–499 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall apply with respect to all fiscal years beginning on or after October 1, 1980.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 19 of Pub. L. 95–166 provided that the amendment made by that section is effective July 1, 1977.

IMPLEMENTATION OF 1989 AMENDMENTS

Section 105(d) of Pub. L. 101–147 provided that:

''(1) EXPANSION; DEMONSTRATION PROJECT.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) [amending this section] not later than July 1, 1990.

''(2) DIETARY REQUIREMENTS FOR ADULT DAY CARE FOOD PROGRAM.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3) [amending this section].''

REGULATIONS

Section 708(k)(3) of Pub. L. 104–193 provided that:

''(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary of Agriculture shall issue interim regulations to implement—

''(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e) [amending this section]; and

''(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

''(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary of Agriculture shall issue final regulations to implement the provisions of law referred to in subparagraph (A).''

Section 204(b) of Pub. L. 101–147 provided that: ''Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a) [amending this section].''

STUDY OF IMPACT OF AMENDMENTS BY PUB. L. 104–193 ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING

Section 708(*l*) of Pub. L. 104–193 provided that:

''(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section [amending this section] on—

''(A) the number of family day care homes participating in the child and adult care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

''(B) the number of day care home sponsoring organizations participating in the program;

''(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

''(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

''(E) the nutritional adequacy and quality of meals served in family day care homes that—

''(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

''(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

''(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

''(2) REQUIRED DATA.—Each State agency participating in the child and adult care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary of Agriculture data on—

''(A) the number of family day care homes participating in the program on June 30, 1997, and June 30, 1998;

''(B) the number of family day care homes licensed, certified, registered, or approved for service on June 30, 1997, and June 30, 1998; and

''(C) such other data as the Secretary may require to carry out this subsection.

''(3) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this section [Aug. 22, 1996], the Secretary of Agriculture shall submit the study required under this subsection to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.''

FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT

Section 503 of Pub. L. 100–435, as amended by Pub. L. 101–147, title I, § 105(c)(1), Nov. 10, 1989, 103 Stat. 885, directed Secretary of Agriculture to conduct a demonstration project to begin 30 days after Sept. 19, 1988, but in no event earlier than Oct. 1, 1988, in one State

(selected by the Secretary) regarding the Child Care Food Program authorized under 42 U.S.C. 1766 in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under 42 U.S.C. 1766(d) and (f)) for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day, directed Secretary to submit a preliminary report to Congress not later than Aug. 1, 1989, and a final report after the conclusion of such project, with project to terminate Sept. 30, 1990.

REVIEW AND REVISION OF NUTRITION REQUIREMENTS FOR MEALS SERVED UNDER BREAKFAST PROGRAM; PROMULGATION OF REGULATIONS

Section 330(b) of title III of Pub. L. 99–500 and Pub. L. 99–591 and section 4210(b) of Pub. L. 99–661 provided that:

''(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

''(2) Not later than 180 days after the date of enactment of this title [Oct. 18, 1986], the Secretary of Agriculture shall promulgate regulations to implement the revisions.''

ADJUSTMENTS IN NATIONAL AVERAGE PAYMENT RATE FOR SUPPLEMENTS DURING FISCAL YEAR ENDING SEPTEMBER 30, 1981

Section 208(a) of Pub. L. 96–499 related to adjustments required under the former pars. (1) through (3) of subsec. (c) of this section applicable in determining the national average payment rate for supplements during the fiscal year ending Sept. 30, 1981.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1752, 1759a, 1760, 1766a, 1766b, 1769, 1769f, 1773, 1776, 1788 of this title.

§ 1766a. Meal supplements for children in afterschool care

(a) General authority

(1) Grants to States

The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

(2) Eligible schools

For the purposes of this section, the term ''eligible elementary and secondary schools'' means schools that—

(A) operate school lunch programs under this chapter;

(B) sponsor afterschool care programs; and

(C) are participating in the child care food program under section 1766 of this title on May 15, 1989.

(b) Eligible children

Reimbursement may be provided under this section only for supplements served to children—

(1) who are not more than 12 years of age; or

(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

(c) Reimbursement

For the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 1766(c)(3) of this title (as adjusted pursuant to section 1759a(a)(3) of this title).

(d) Contents of supplements

The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this chapter shall apply to the content of meal supplements served under programs operated with assistance under this section.

(June 4, 1946, ch. 281, § 17A, as added Nov. 10, 1989, Pub. L. 101–147, title I, § 106(a), 103 Stat. 885.)

REGULATIONS

Section 106(b) of Pub. L. 101–147 provided that: ''Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the National School Lunch Act [this section] (as added by subsection (a) of this section).''

§ 1766b. Homeless children nutrition program

(a) In general

The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

(b) Agreements to participate in projects

(1) In general

The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

(2) Eligibility requirements

The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section. The requirements shall include the following:

(A) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

(B) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

(c) Project requirements

(1) In general

A project conducted under this section shall—

(A) use the same meal patterns and receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 1766 of this title for free meals and supplements; and

(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project.

(2) Modification

The Secretary may modify the meal pattern requirements to take into account the needs of infants.

(3) Homeless children eligible for free meals without application

Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

(d) Funding priorities

From the amount described in subsection (g) of this section, the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the ''current fiscal year'') in the following order of priority, to the maximum extent practicable:

(1) The Secretary shall first provide the funding to entities and organizations, each of which—

(A) received funding under this section or section 1769(c) of this title (as in effect on the day before November 2, 1994) to carry out a project for the preceding fiscal year; and

(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

(e) Notice

The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

(f) Plan to allow participation in child and adult care food program

Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child and adult care food program authorized under section 1766 of this title by September 30, 1998; and

(2) the advantages and disadvantages of the action described in paragraph (1).

(g) Funding

(1) In general

In addition to any amounts made available under section 1776(a)(5)(B)(i)(I) of this title and any amounts that are otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this section $1,800,000 for fiscal year 1995, $2,600,000 for fiscal year 1996, $3,100,000 for fiscal year 1997, $3,400,000 for fiscal year 1998, and $3,700,000 for fiscal year 1999 and each succeeding fiscal year. The Secretary shall be entitled to receive the funds and shall accept the funds.

(2) Insufficient number of applicants

The Secretary may expend less than the amount described in paragraph (1) for a fiscal year if there is an insufficient number of suitable applicants to carry out projects under this section for the fiscal year. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

(h) "Emergency shelter" defined

As used in this section, the term ''emergency shelter'' has the meaning provided the term in section 11351(2) of this title.

(June 4, 1946, ch. 281, § 17B, as added Nov. 2, 1994, Pub. L. 103–448, title I, § 117(a)(1), 108 Stat. 4715.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1769, 1769f, 1776 of this title.

§§ 1767, 1768. Repealed. Pub. L. 99–500, title III, § 371(a)(1), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, § 371(a)(1), Oct. 30, 1986, 100 Stat. 3341–371; Pub. L. 99–661, div. D, title V, § 4501(a)(1), Nov. 14, 1986, 100 Stat. 4080

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section 1767, act June 4, 1946, ch. 281, § 18, as added Oct. 7, 1975, Pub. L. 94–105, § 19, 89 Stat. 526, authorized nutrition program staff study.

Section 1768, act June 4, 1946, ch. 281, § 19, as added Oct. 7, 1975, Pub. L. 94–105, § 20, 89 Stat. 527, authorized appropriations to assist Trust Territory of Pacific Islands.

§ 1769. Pilot projects

(a) Pilot projects for administration of child nutrition programs by contract or direct disbursement

The Secretary may conduct pilot projects in not more than three States in which the Sec-

retary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for schools, institutions, or service institutions referred to in section 1759 of this title and section 5 of the Child Nutrition Act of 1966 [42 U.S.C. 1774].

(b) Extension of eligibility of certain school districts to receive cash or commodity letters of credit assistance for school lunch programs

(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987. The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

(c) Demonstration program for prevention of boarder babies

(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

(A) homeless pregnant women; and

(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

(2) To be eligible to obtain funds under this subsection, a homeless shelter, a transitional housing organization, or another entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(B) receive the approval of the Secretary for the proposal;

(C) be located in an urban area that has—

(i) a significant population of boarder babies;

(ii) a very high rate of mortality for children under 1 year of age; or

(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

(3) Food and nutrition services funded under this subsection—

(A) may include—

(i) meals, supplements, and other food;

(ii) nutrition education;

(iii) nutrition assessments;

(iv) referrals to—

(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(III) the food stamp program established under section 2013 of title 7; and

(IV) other public or private programs and services;

(v) activities related to the services described in any of clauses (i) through (iv); and

(vi) administrative activities related to the services described in any of clauses (i) through (v); and

(B) may not include the construction, purchase, or rental of real property.

(4)(A) A participating entity shall—

(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 1766 of this title for free meals and supplements;

(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 802 of title 21).

(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

(6) The Secretary shall notify the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on projects carried out under this subsection.

(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 1766b of this title.

(8) As used in this subsection:

(A) The term ''boarder baby'' means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100–505; 42 U.S.C. 670 note).

(B) The term ''nutrition education'' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).

(d) Alternative counting and claiming procedures

(1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

(i) daily counting by category of meals provided by school lunch programs under this chapter; and

(ii) annual applications for eligibility to receive free meals or reduced price meals.

(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this chapter relating to counting of meals provided by school lunch programs and applications for eligibility.

(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 1759a(a)(1) of this title that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

(ii) shall be updated not later than September 30 of each year.

(3) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

(4) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

(e) Demonstration program to provide meals and supplements outside of school hours

(1) The Secretary may establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours.

(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

(B) use the same meal patterns as meal patterns required under the child and adult care food program under section 1766 of this title.

(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 1758 of this title.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.

(6) As used in this subsection:

(A) The term ''adolescent'' means a child who has attained the age of 13 but has not attained the age of 19.

(B) The term ''eligible institution or school'' means—

(i) an institution, as the term is defined in section 1766 of this title; or

(ii) an elementary or secondary school participating in the school lunch program under this chapter.

(C) The term ''outside of school hours'' means after-school hours, weekends, or holidays during the regular school year.

(f) Fortified fluid milk

(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this chapter.

(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

(A) all whole milk in final package form for beverage use shall contain not less than—

(i) 3.25 percent milk fat; and
(ii) 8.7 percent milk solids not fat;

(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

(5) Not later than 2 years after the establishment of the first pilot project under this subsection, the Secretary shall report to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

(B) the impact of offering the milk on milk consumption;

(C) the views of the school food service authorities on the pilot projects; and

(D) any increases or reductions in costs attributed to the pilot projects.

(6) The Secretary shall—

(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

(B) on request, make available to State agencies and the public—

(i) the information obtained under subparagraph (A); and

(ii) information about where to obtain milk described in paragraph (3).

(7)(A) Each pilot project established under this subsection shall terminate on the last day of the third year after the establishment of the pilot project.

(B) The Secretary shall advise representatives of each district participating in a pilot project that the district may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.

(g) Increased choices of fruits, vegetables, legumes, cereals, and grain-based products

(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this chapter, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as ''qualified products'').

(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

(3) The Secretary may provide a priority for receiving funds under this subsection to—

(A) schools that are located in low-income areas (as defined by the Secretary); and

(B) schools that rarely offer 3 or more choices of qualified products per meal.

(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

(A) the extent to which participating children increased consumption of qualified products;

(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

(C) the desirability of requiring that—

(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

(D) the views of school food service authorities on the pilot project; and

(E) any increase or reduction in costs to the schools in offering the additional qualified products.

(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(h) Increased choices of lowfat dairy products and lean meat and poultry products

(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this chapter, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collec-

tively referred to in this subsection as ''qualified products'').

(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

(3) The Secretary may provide a priority for receiving funds under this subsection to—

(A) schools that are located in low-income areas (as defined by the Secretary); and

(B) schools that rarely offer 3 or more choices of qualified products per meal.

(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

(A) the extent to which participating children increased consumption of qualified products;

(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

(C) the desirability of requiring that—

(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

(D) the views of the school food service authorities on the pilot project; and

(E) any increase or reduction in costs to the schools in offering the additional qualified products.

(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(i) Reduced paperwork and application requirements and increased participation pilots

(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

(A) reduce paperwork;

(B) reduce application and meal counting requirements; and

(C) make changes that will increase participation in the school lunch and school breakfast programs.

(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this chapter, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

(C) No child otherwise eligible for free or reduced price meals under section 1758 of this title or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 1758 of this title or under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773], respectively.

(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 1759a(a)(1) of this title;

(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

(iv) describing the funding, if any that the school will receive from non-Federal sources to carry out the pilot project;

(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

(vi) describing the policy of the school on a la carte and competitive foods;

(B) not have a history of violations of this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(C) meet any other requirement that the Secretary may reasonably require.

(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

(A) Urban and rural schools.

(B) Elementary, middle, and high schools.

(C) Schools of varying income levels.

(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this chapter and under the school breakfast program under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773], adjusted for inflation and fluctuations in enrollment.

(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

(i) a description of the pilot projects approved by the Secretary under this subsection;

(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and

(iii) an evaluation of the program by the Secretary.

(8) There are authorized to be appropriated to carry out this subsection $9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.

(June 4, 1946, ch. 281, §18, formerly §20, as added Nov. 10, 1977, Pub. L. 95–166, §10(2), 91 Stat. 1336; amended Nov. 10, 1978, Pub. L. 95–627, §11, 92 Stat. 3624; renumbered §18 and amended Oct. 18, 1986, Pub. L. 99–500, title III, §§327, 371(c)(1), 100 Stat. 1783–362, 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, §§327, 371(c)(1), 100 Stat. 3341–365, 3341–372; renumbered §18 and amended Nov. 14, 1986, Pub. L. 99–661, div. D, title II, §4207, title V, §4501(c)(1), 100 Stat. 4073, 4080; Jan. 8, 1988, Pub. L. 100–237, §5, 101 Stat. 1739; Nov. 10, 1989, Pub. L. 101–147, title I, §107, title II, §205(a), title III, §311, 103 Stat. 886, 910, 916; Aug. 14, 1992, Pub. L. 102–342, title I, §101(a), title III, §301, 106 Stat. 911, 913; Oct. 24, 1992, Pub. L. 102–512, title I, §102, 106 Stat. 3363; Nov. 2, 1994, Pub. L. 103–448, title I, §§117(a)(2)(A), (b), 118, 108 Stat. 4717, 4719; Aug. 22, 1996, Pub. L. 104–193, title VII, §709, 110 Stat. 2301.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a) and (i)(2)(A), (B), (3)(B), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(iv)(II), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Organic Foods Production Act of 1990, referred to in subsecs. (g)(6) and (h)(6), is title XXI of Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3935, as amended, which is classified generally to chapter 94 (§6501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 6501 of Title 7 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 18 of act June 4, 1946, which was classified to section 1767 of this title, was repealed.

AMENDMENTS

1996—Subsec. (d)(3) to (5). Pub. L. 104–193, §709(a), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which related to pilot program for schools with universal free lunch programs to use certain methods to determine number of free, reduced price, and paid meals to be provided.

Subsec. (e)(1). Pub. L. 104–193, §709(b)(1), designated subpar. (A) as par. (1), substituted ''Secretary may establish'' for ''Secretary shall establish'', and struck out subpar. (B) which read as follows: ''The amount of a

grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 1766 of this title.''

Subsec. (e)(5). Pub. L. 104–193, § 709(b)(2), added heading and text of par. (5) and struck out former par. (5) which read as follows:

''(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 1766 of this title, $325,000 for fiscal year 1995, $475,000 for each of fiscal years 1996 and 1997, and $525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

''(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.''

1994—Subsec. (b)(1). Pub. L. 103–448, § 118(a), struck out '', and ending September 30, 1994'' after ''beginning July 1, 1987''.

Subsec. (c). Pub. L. 103–448, § 117(a)(2)(A), (b), added subsec. (c) and struck out former subsec. (c), which related to provision of food service to homeless children under age 6 in emergency shelters.

Subsecs. (e) to (i). Pub. L. 103–448, § 118(b)–(f), added subsecs. (e) to (i).

1992—Subsec. (b)(1). Pub. L. 102–342, § 301, substituted ''September 30, 1994'' for ''September 30, 1992''.

Subsec. (c)(2). Pub. L. 102–342, § 101(a)(1), inserted ''State, city, local, or county governments, other public entities, or'' before ''private nonprofit''.

Subsec. (c)(2)(B)(i). Pub. L. 102–512 substituted ''Each private nonprofit organization'' for ''Each such organization''.

Subsec. (c)(3)(A). Pub. L. 102–342, § 101(a)(2), inserted at end ''The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.''

Subsec. (c)(5)(A). Pub. L. 102–342, § 101(a)(1), (3), substituted ''not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994,'' for ''and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994,'' and inserted ''State, city, local, or county governments, other public entities, or'' before ''private nonprofit''.

Subsec. (c)(7). Pub. L. 102–342, § 101(a)(4), added par. (7).

1989—Subsec. (a). Pub. L. 101–147, § 311(2), struck out ''(42 U.S.C. 1771 et seq.)'' after ''Child Nutrition Act of 1966'' and ''(42 U.S.C. 1774)'' after ''section 5 of the Child Nutrition Act of 1966''.

Pub. L. 101–147, § 311(1), redesignated subsec. (d) as (a) and struck out former subsec. (a) which set forth statement of purpose of section and requirements for types of projects.

Subsec. (b). Pub. L. 101–147, § 311(1), redesignated subsec. (e) as (b) and struck out former subsec. (b) which provided for a study on effect of cash payments in lieu of commodities.

Subsec. (c). Pub. L. 101–147, § 311(1), redesignated subsec. (f) as (c) and struck out former subsec. (c) which related to report due not later than 18 months after Nov. 10, 1977.

Subsec. (d). Pub. L. 101–147, § 311(1), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 101–147, § 311(1), redesignated subsec. (e) as (b).

Subsec. (e)(1). Pub. L. 101–147, § 107(1)(A), substituted ''beginning July 1, 1987, and ending September 30, 1992'' for ''for the duration beginning July 1, 1987, and ending December 31, 1990'' and inserted at end ''The Secretary, directly or through contract, shall administer the project under this subsection.''

Subsec. (f). Pub. L. 101–147, § 311(1), redesignated subsec. (f) as (c).

Pub. L. 101–147, § 107(2), added subsec. (f).

Subsec. (g). Pub. L. 101–147, § 311(1), redesignated subsec. (g) as (d).

Pub. L. 101–147, § 205(a), added subsec. (g).

1988—Subsec. (e). Pub. L. 100–237 added subsec. (e).

1986—Subsec. (c). Pub. L. 99–500 and Pub. L. 99–591, § 327(b), and Pub. L. 99–661, § 4207(b), which directed the identical amendment of subsec. (c) by striking out ''except for the pilot projects conducted under subsection (d) of this section,'' were executed by striking out '', except for the pilot projects conducted under subsection (d) of this section'' after ''under this section'' in introductory provisions, as the probable intent of Congress.

Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, § 327(a), and Pub. L. 99–661, § 4207(a), amended section identically, adding subsec. (d) and striking out former subsec. (d) which related to free lunches without regard to family income and to reimbursement of school food authorities.

1978—Subsec. (c). Pub. L. 95–627, § 11(1), inserted provision excluding pilot projects conducted under subsec. (d) of this section.

Subsec. (d). Pub. L. 95–627, § 11(2), added subsec. (d).

Change of Name

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

Effective Date of 1994 Amendment

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

Effective Date of 1992 Amendment

Section 104 of title I of Pub. L. 102–512 provided that: ''This title [amending this section and section 1776 of this title and enacting provisions set out as a note under section 1771 of this title] and the amendments made by this title shall become effective on September 30, 1992.''

Effective Date of 1978 Amendment

Amendment by Pub. L. 95–627 effective Oct. 1, 1978, see section 14 of Pub. L. 95–627, set out as a note under section 1755 of this title.

Other Demonstration Projects for Feeding Homeless Children

Section 101(b) of Pub. L. 102–342 provided that:

''(1) The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

''(2) None of the funds provided under section 18(c)(5)(A) of the National School Lunch Act may be used by the Secretary of Agriculture to conduct a demonstration project under paragraph (1) of this subsection.''

Alternative Counting and Claiming Procedures; Promulgation of Regulations

Section 205(b) of Pub. L. 101–147 provided that: ''Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 18(g) of the National School Lunch Act [now subsec. (d) of

this section] (as added by subsection (a) of this section).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1755, 1766b of this title.

§ 1769a. Repealed. Pub. L. 104–193, title VII, § 710, Aug. 22, 1996, 110 Stat. 2301

Section, act June 4, 1946, ch. 281, § 19, formerly § 21, as added Nov. 10, 1977, Pub. L. 95–166, § 13, 91 Stat. 1338; renumbered § 19, Oct. 18, 1986, Pub. L. 99–500, title III, § 371(c)(1), 100 Stat. 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, § 371(c)(1), 100 Stat. 3341–372; renumbered § 19, Nov. 14, 1986, Pub. L. 99–661, div. D, title V, § 4501(c)(1), 100 Stat. 4080; Nov. 10, 1989, Pub. L. 101–147, title I, § 108, 103 Stat. 887; Nov. 2, 1994, Pub. L. 103–448, title I, § 119, 108 Stat. 4726, directed Secretary to reduce paperwork required in carrying out functions under this chapter and under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

§ 1769b. Department of Defense overseas dependents' schools

(a) Purpose of program; availability of payments and commodities

For the purpose of obtaining Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

(b) Administration of program; eligibility determinations and regulations

The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

(c) Nutritional standards for meals; noncompliance with standards

The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

(d) Authorization of appropriations

Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(e) Technical assistance for administration of program

The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section.

(June 4, 1946, ch. 281, § 20, formerly § 22, as added Nov. 1, 1978, Pub. L. 95–561, title XIV, § 1408(a), 92 Stat. 2368; renumbered § 20 and amended Oct. 18, 1986, Pub. L. 99–500, title III, §§ 328(a), 371(c)(1), 100 Stat. 1783–362, 1783–368, and Oct. 30, 1986, Pub. L. 99–591, title III, §§ 328(a), 371(c)(1), 100 Stat. 3341–365, 3341–372; renumbered § 20 and amended Nov. 14, 1986, Pub. L. 99–661, div. D, title II, § 4208(a), title V, § 4501(c)(1), 100 Stat. 4073, 4080; Nov. 10, 1989, Pub. L. 101–147, title III, § 312(2), 103 Stat. 916.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 20 of act June 4, 1946, was renumbered section 18 of act June 4, 1946, and is classified to section 1769 of this title.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–147 substituted ''reduced price'' for ''reduced-price''.

1986—Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, § 328(a), and Pub. L. 99–661, § 4208(a), amended subsec. (d) identically, striking out ''and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each lunch for each student eligible for a free lunch, and (2) the full cost of each lunch, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price lunch'' after ''this section''.

EFFECTIVE DATE

Section effective Oct. 1, 1978 and no provision herein to be construed as impairing or preventing the taking effect of any other Act providing for the transfer of functions described herein to an executive department having responsibility for education, see section 1415 of Pub. L. 95–561, set out as a note under section 921 of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer to Secretary of Education of functions of Secretary of Defense and Department of Defense relating to operation of overseas schools for dependents of Department of Defense and under Defense Dependents' Education Act of 1978, 20 U.S.C. 921 et seq., see section 3442(a) of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 2243.

§ 1769b–1. Training, technical assistance, and food service management institute

(a) General authority

The Secretary—

(1) subject to the availability of, and from, amounts appropriated pursuant to subsection (e)(1) of this section, shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

(A) food service programs carried out with assistance under this chapter;

(B) school breakfast programs carried out with assistance under section 1773 of this title; and

(C) as appropriate, other federally assisted feeding programs; and

(2) from amounts appropriated pursuant to subsection (e)(2) of this section, is authorized to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute.

(b) Minimum requirements

The activities conducted and assistance provided as required by subsection (a)(1) of this section shall at least include activities and assistance with respect to—

(1) menu planning;

(2) implementation of regulations and appropriate guidelines; and

(3) compliance with program requirements and accountability for program operations.

(c) Duties of food service management institute

(1) In general

Any food service management institute established as authorized by subsection (a)(2) of this section shall carry out activities to improve the general operation and quality of—

(A) food service programs assisted under this chapter;

(B) school breakfast programs assisted under section 1773 of this title; and

(C) as appropriate, other federally assisted feeding programs.

(2) Required activities

Activities carried out under paragraph (1) shall include—

(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

(B) providing training and technical assistance with respect to—

(i) efficient use of physical resources;

(ii) financial management;

(iii) efficient use of computers;

(iv) procurement;

(v) sanitation;

(vi) safety;

(vii) food handling;

(viii) meal planning and related nutrition activities;

(ix) culinary skills; and

(x) other appropriate activities;

(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

(D) developing training materials for use in the programs and workshops described in subparagraph (C);

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with assistance provided under section 1788 of this title;

(F) training food service personnel to comply with the nutrition guidance and objectives of section 1769e[1] of this title through a national network of instructors or other means;

(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 1769e[1] of this title.

(d) Coordination

(1) In general

The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) of this section with activities carried out by any food service management institute established as authorized by subsection (a)(2) of this section.

(2) Use of institute for dietary and nutrition activities

The Secretary shall use any food service management institute established under subsection (a)(2) of this section to assist in carrying out dietary and nutrition activities of the Secretary.

(e) Authorization of appropriations

(1) Training activities and technical assistance

There are authorized to be appropriated to carry out subsection (a)(1) of this section $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998.

(2) Food service management institute

(A) Funding

In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $147,000 for fiscal year 1995, and $2,000,000 for fiscal year 1996 and each subsequent fiscal year, to carry out subsection (a)(2) of this section. The Secretary shall be entitled to receive the funds and shall accept the funds.

(B) Additional funding

In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) of this section such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2) of this section, in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

(C) Funding for education, training, or applied research or studies

In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) of this section for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding

[1] See References in Text note below.

under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.

(June 4, 1946, ch. 281, § 21, as added Nov. 10, 1989, Pub. L. 101–147, title I, § 109, 103 Stat. 887; amended Aug. 7, 1992, Pub. L. 102–337, § 1, 106 Stat. 865; Nov. 2, 1994, Pub. L. 103–448, title I, § 120, 108 Stat. 4726.)

REFERENCES IN TEXT

Section 1769e of this title, referred to in subsec. (c)(2)(F), (H), was repealed by Pub. L. 104–193, title VII, § 712, Aug. 22, 1996, 110 Stat. 2301.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–448, § 120(c)(1), substituted ''subject to the availability of, and from, amounts'' for ''from amounts'' in introductory provisions.

Subsec. (c)(2)(B)(ix), (x). Pub. L. 103–448, § 120(a)(1), added cl. (ix) and redesignated former cl. (ix) as (x).

Subsec. (c)(2)(F) to (H). Pub. L. 103–448, § 120(a)(2)–(4), added subpars. (F) to (H).

Subsec. (d). Pub. L. 103–448, § 120(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (e). Pub. L. 103–448, § 120(c)(2), added subsec. (e) and struck out former subsec. (e) which read as follows: ''There are authorized to be appropriated—

''(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1) of this section; and

''(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2) of this section.''

1992—Subsec. (a)(2). Pub. L. 102–337 inserted ''to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi,'' after ''is authorized''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1769h, 1788 of this title.

§ 1769c. Compliance and accountability

(a) Unified accountability system

There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this chapter comply with the provisions of this chapter. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5.

(b) Functions of system

(1) In general

Under the system described in subsection (a) of this section, each State educational agency shall—

(A) require that local food service authorities comply with the provisions of this chapter; and

(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

(2) Minimization of additional duties

Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

(c) Role of Secretary

In carrying out this section, the Secretary shall—

(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this chapter.

(d) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) of this section $3,000,000 for each of the fiscal years 1994 through 1996.

(June 4, 1946, ch. 281, § 22, as added Nov. 10, 1989, Pub. L. 101–147, title I, § 110(a), 103 Stat. 889; amended Nov. 2, 1994, Pub. L. 103–448, title I, § 121, 108 Stat. 4727.)

PRIOR PROVISIONS

A prior section 1769c, act June 4, 1946, ch. 281, § 22, as added Nov. 10, 1978, Pub. L. 95–627, § 9, 92 Stat. 3623, directed a study of menu choice, prior to repeal by Pub. L. 99–500, title III, § 371(b), Oct. 18, 1986, 100 Stat. 1783–368, and Pub. L. 99–591, title III, § 371(b), Oct. 30, 1986, 100 Stat. 3341–372; Pub. L. 99–661, div. D, title V, § 4501(b), Nov. 14, 1986, 100 Stat. 4080.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–448 substituted ''fiscal years 1994 through 1996'' for ''fiscal years 1990, 1991, 1992, 1993, and 1994''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–448 effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as a note under section 1755 of this title.

REGULATIONS

Section 110(b) of Pub. L. 101–147 provided that: ''Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22 of the National School Lunch Act [this section] (as added by subsection (a) of this section).''

§§ 1769d, 1769e. Repealed. Pub. L. 104–193, title VII, §§ 711, 712, Aug. 22, 1996, 110 Stat. 2301

Section 1769d, act June 4, 1946, ch. 281, § 23, as added Nov. 10, 1989, Pub. L. 101–147, title I, § 111, 103 Stat. 890, directed Secretary to provide each appropriate State agency with information on income eligibility for free or reduced price meals under each program established under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

Section 1769e, act June 4, 1946, ch. 281, § 24, as added Nov. 10, 1989, Pub. L. 101–147, title I, § 112, 103 Stat. 890, related to nutrition guidance for child nutrition programs.

§ 1769f. Duties of Secretary relating to nonprocurement debarment

(a) Purposes

The purposes of this section are to promote the prevention and deterrence of instances of

fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

(2) providing training, technical advice, and guidance in identifying and preventing the activities.

(b) Definitions

As used in this section:

(1) Child nutrition program

The term ''child nutrition program'' means—

(A) the school lunch program established under this chapter;

(B) the summer food service program for children established under section 1761 of this title;

(C) the child and adult care food program established under section 1766 of this title;

(D) the homeless children nutrition program established under section 1766b of this title;

(E) the special milk program established under section 1772 of this title;

(F) the school breakfast program established under section 1773 of this title; and

(G) the special supplemental nutrition program for women, infants, and children authorized under section 1786 of this title.

(2) Contractor

The term ''contractor'' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

(3) Local agency

The term ''local agency'' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

(4) Nonprocurement debarment

The term ''nonprocurement debarment'' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

(5) Person

The term ''person'' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

(c) Assistance to identify and prevent fraud and anticompetitive activities

The Secretary shall—

(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

(d) Nonprocurement debarment

(1) In general

Except as provided in paragraph (3) and subsection (e) of this section, not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

(2) Causes for debarment

Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) any other obstruction of justice.

(3) Exception

If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

(4) Mandatory child nutrition program debarment periods

(A) In general

Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e) of this section, if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

(B) Previous debarment

If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities

that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

(C) Scope

At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

(D) Reversal, reduction, or exception

Nothing in this section shall restrict the ability of the Secretary to—

(i) reverse a debarment decision;

(ii) reduce the period or scope of a debarment;

(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e) of this section.

(5) Information

On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

(6) Relationship to other authorities

A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

(7) Regulations

The Secretary shall issue such regulations as are necessary to carry out this subsection.

(e) Mandatory debarment

Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2) of this section), unless the action—

(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

(f) Exhaustion of administrative remedies

Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

(1) exhaust all administrative procedures prescribed by the Secretary; and

(2) receive notice of the final determination of the Secretary.

(g) Information relating to prevention and control of anticompetitive activities

On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.

(June 4, 1946, ch. 281, § 25, as added Nov. 2, 1994, Pub. L. 103–448, title I, § 122(a), 108 Stat. 4727.)

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

Section 122(b) of Pub. L. 103–448 provided that: ''Section 25 of the National School Lunch Act [42 U.S.C. 1769f] (as added by subsection (a)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act [Oct. 1, 1994].''

NO REDUCTION IN AUTHORITY OF SECRETARY OF AGRICULTURE TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS

Section 122(c) of Pub. L. 103–448 provided that: ''The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act [Nov. 2, 1994] to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by subsection (a) [enacting this section] or the amendment made by subsection (a).''

§ 1769g. Information clearinghouse

(a) In general

The Secretary shall enter into a contract with a nongovernmental organization described in

subsection (b) of this section to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

(b) Nongovernmental organization

The nongovernmental organization referred to in subsection (a) of this section shall be selected on a competitive basis and shall—

(1) be experienced in the gathering of first-hand information in all the States through on-site visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a) of this section;

(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

(4) be sponsored by an organization, or be an organization, that—

(A) has helped combat hunger for at least 10 years;

(B) is committed to reinvesting in the United States; and

(C) is knowledgeable regarding Federal nutrition programs;

(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

(c) Audits

The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

(d) Funding

Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, and $100,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.

(June 4, 1946, ch. 281, § 26, as added Nov. 2, 1994, Pub. L. 103–448, title I, § 123, 108 Stat. 4731.)

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

§ 1769h. Guidance and grants for accommodating special dietary needs of children with disabilities

(a) Definitions

As used in this section:

(1) Children with disabilities

The term ''children with disabilities'' means individuals, each of whom is—

(A) a participant in a covered program; and

(B) an individual with a disability, as defined in section 706(8) of title 29 for purposes of section 794 of title 29.

(2) Covered program

The term ''covered program'' means—

(A) the school lunch program established under this chapter;

(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(C) any other program established under this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

(3) Eligible entity

The term ''eligible entity'' means a school food service authority, or an institution or organization, that participates in a covered program.

(b) Guidance

(1) Development

The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidance for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 794 of title 29.

(2) Timing

In the case of the school lunch program established under this chapter and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 150 days after November 2, 1994.

(3) Distribution

Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

(4) Revision of guidance

The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve

the guidances to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

(c) Grants

(1) In general

Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 794 of title 29.

(2) Additional assistance

Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

(3) Allocation by Secretary

(A) Preference

In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 1769b–1 of this title.

(B) Reallocation

The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

(C) Applications

The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

(4) Allocation by State educational agencies

In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

(5) Maintenance of effort

Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

(6) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 1998 to carry out this subsection.

(June 4, 1946, ch. 281, § 27, as added Nov. 2, 1994, Pub. L. 103–448, title I, § 124, 108 Stat. 4732.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a)(2)(C), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Social Security Act, referred to in subsec. (c)(3)(A)(iii)(I), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (c)(3)(A)(iii)(II), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1994, see section 401 of Pub. L. 103–448, set out as an Effective Date of 1994 Amendment note under section 1755 of this title.

CHAPTER 13A—CHILD NUTRITION

Sec.
1771. Congressional declaration of purpose.
1772. Special program to encourage the consumption of fluid milk by children; authorization of appropriations; eligibility for special milk program; minimum rate of reimbursement; ineligibility of commodity only schools.
1773. School breakfast program.
(a) Establishment; authorization of appropriations.
(b) Breakfast assistance payments to State educational agencies; calculation; national average payments for breakfasts, free breakfasts and reduced price breakfasts; maximum price for reduced cost breakfasts; minimum daily nutrition requirements criteria; additional payments for severe need schools; maximum severe need payments.