

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 program for children**

**(a) In general**

**(1) Definitions**

In this section:

**(A) Area in which poor economic conditions exist**

**(i) In general**

Subject to clause (ii), the term “area in which poor economic conditions exist”, as the term relates to an area in which a program food service site is located, means—

(I) the attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(II) a geographic area, as defined by the Secretary based on the most recent census data available, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(III) an area—

(aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and

(bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(IV) a geographic area, as defined by the Secretary based on information provided from a department of welfare or zoning commission, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(V) an area for which the program food service site demonstrates through other means approved by the Secretary that at least 50 percent of the children enrolled at the program food service site are eligible for free or reduced price school meals under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

**(ii) Duration of determination**

A determination that an area is an “area in which poor economic conditions exist” under clause (i) shall be in effect for—

(I) in the case of an area described in clause (i)(I), 5 years;

(II) in the case of an area described in clause (i)(II), until more recent census data are available;

(III) in the case of an area described in clause (i)(III), 1 year; and

(IV) in the case of an area described in subclause (IV) or (V) of clause (i), a period of time to be determined by the Secretary, but not less than 1 year.

**(B) Children**

The term “children” means—

(i) individuals who are 18 years of age and under; and

(ii) individuals who are older than 18 years of age who are—

(I) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations promulgated by the Secretary, to have a disability, and

(II) participating in a public or nonprofit private school program established for individuals who have a disability.

**(C) Program**

The term “program” means the summer food service program for children authorized by this section.

**(D) Service institution**

The term “service institution” means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp, that develops special summer or school vacation programs providing food service simi-

lar to food service 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.).

**(E) State**

The term "State" means—

- (i) each of the several States of the United States;
- (ii) the District of Columbia;
- (iii) the Commonwealth of Puerto Rico;
- (iv) Guam;
- (v) American Samoa;
- (vi) the Commonwealth of the Northern Mariana Islands; and
- (vii) the United States Virgin Islands.

**(2) Program authorization**

**(A) In general**

The Secretary may carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit summer food service programs for children in service institutions.

**(B) Preparation of food**

**(i) In general**

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.

**(ii) Information and technical assistance**

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**

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; or

(ii) 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) Priority**

**(A) In general**

The following order of priority shall be used by the State in determining participa-

tion where more than one eligible service institution proposes to serve the same area:

(i) Local schools.

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

(iii) New public institutions.

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

**(B) Rural areas**

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**

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) Government institutions**

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) Private nonprofit organizations**

**(A) Definition of private nonprofit organization**

In this paragraph, the term "private nonprofit organization" means an organization that—

(i) exercises full control and authority over the operation of the program at all sites under the sponsorship of the organization;

(ii) provides ongoing year-round activities for children or families;

(iii) demonstrates that the organization has adequate management and the fiscal capacity to operate a program under this section;

(iv) is an organization described in section 501(c) of title 26 and exempt from taxation under 501(a)<sup>1</sup> of that title; and

(v) meets applicable State and local health, safety, and sanitation standards.

**(B) Eligibility**

Private nonprofit organizations (other than organizations eligible under paragraph (1)) shall be eligible for the program under the same terms and conditions as other service institutions.

**(8) Seamless summer option**

Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food serv-

<sup>1</sup> So in original. Probably should be preceded by "section".

ice in accordance with applicable provisions of law governing the school lunch program established under this chapter or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

**(9) Exemption**

**(A) In general**

For each of calendar years 2005 and 2006 in rural areas of the State of Pennsylvania (as determined by the Secretary), the threshold for determining “areas in which poor economic conditions exist” under paragraph (1)(C) shall be 40 percent.

**(B) Evaluation**

**(i) In general**

The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in subparagraph (A) as compared to the eligibility criteria described in paragraph (1)(C).

**(ii) Impact**

The evaluation shall assess the impact of the threshold in subparagraph (A) on—

- (I) the number of sponsors offering meals through the summer food service program;
- (II) the number of sites offering meals through the summer food service program;
- (III) the geographic location of the sites;
- (IV) services provided to eligible children; and
- (V) other factors determined by the Secretary.

**(iii) Report**

Not later than January 1, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this subparagraph.

**(iv) Funding**

**(I) In general**

On January 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subparagraph \$400,000, to remain available until expended.

**(II) Receipt and acceptance**

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subparagraph the funds transferred under subclause (I), without further appropriation.

**(10) Summer food service rural transportation**

**(A) In general**

The Secretary shall provide grants, through not more than 5 eligible State agencies selected by the Secretary, to not more than 60 eligible service institutions selected by the Secretary to increase participation at

congregate feeding sites in the summer food service program for children authorized by this section through innovative approaches to limited transportation in rural areas.

**(B) Eligibility**

To be eligible to receive a grant under this paragraph—

- (i) a State agency shall submit an application to the Secretary, in such manner as the Secretary shall establish, and meet criteria established by the Secretary; and
- (ii) a service institution shall agree to the terms and conditions of the grant, as established by the Secretary.

**(C) Duration**

A service institution that receives a grant under this paragraph may use the grant funds during the 3-fiscal year period beginning in fiscal year 2006.

**(D) Reports**

The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

- (i) not later than January 1, 2008, an interim report that describes—
  - (I) the use of funds made available under this paragraph; and
  - (II) any progress made by using funds from each grant provided under this paragraph; and
- (ii) not later than January 1, 2009, a final report that describes—
  - (I) the use of funds made available under this paragraph;
  - (II) any progress made by using funds from each grant provided under this paragraph;
  - (III) the impact of this paragraph on participation in the summer food service program for children authorized by this section; and
  - (IV) any recommendations by the Secretary concerning the activities of the service institutions receiving grants under this paragraph.

**(E) Funding**

**(i) In general**

Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph—

- (I) on October 1, 2005, \$2,000,000; and
- (II) on October 1, 2006, and October 1, 2007, \$1,000,000.

**(ii) Receipt and acceptance**

The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

**(iii) Availability of funds**

Funds transferred under clause (i) shall remain available until expended.

**(iv) Reallocation**

The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.

**(11) Outreach to eligible families****(A) In general**

The Secretary shall require each State agency that administers the national school lunch program under this chapter to ensure that, to the maximum extent practicable, school food authorities participating in the school lunch program under this chapter cooperate with participating service institutions to distribute materials to inform families of—

(i) the availability and location of summer food service program meals; and

(ii) the availability of reimbursable breakfasts served under the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

**(B) Inclusions**

Informational activities carried out under subparagraph (A) may include—

(i) the development or dissemination of printed materials, to be distributed to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals;

(ii) the development or dissemination of materials, to be distributed using electronic means to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals; and

(iii) such other activities as are approved by the applicable State agency to promote the availability and location of summer food service program meals to school children and the families of school children.

**(C) Multiple State agencies**

If the State agency administering the program under this section is not the same State agency that administers the school lunch program under this chapter, the 2 State agencies shall work cooperatively to implement this paragraph.

**(12) Summer food service support grants****(A) In general**

The Secretary shall use funds made available to carry out this paragraph to award grants on a competitive basis to State agencies to provide to eligible service institutions—

- (i) technical assistance;
- (ii) assistance with site improvement costs; or
- (iii) other innovative activities that improve and encourage sponsor retention.

**(B) Eligibility**

To be eligible to receive a grant under this paragraph, a State agency shall submit an

application to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

**(C) Priority**

In making grants under this paragraph, the Secretary shall give priority to—

(i) applications from States with significant low-income child populations; and

(ii) State plans that demonstrate innovative approaches to retain and support summer food service programs after the expiration of the start-up funding grants.

**(D) Use of funds**

A State and eligible service institution may use funds made available under this paragraph to pay for such costs as the Secretary determines are necessary to establish and maintain summer food service programs.

**(E) Reallocation**

The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.

**(F) Authorization of appropriations**

There is authorized to be appropriated to carry out this paragraph \$20,000,000 for fiscal years 2011 through 2015.

**(b) Service institutions****(1) PAYMENTS.—**

(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be—

- (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.

(B) ADJUSTMENTS.—Amounts specified in subparagraph (A) 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.

(C) SEAMLESS SUMMER REIMBURSEMENTS.—A service institution described in subsection (a)(8) of this section shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this chapter (other than subparagraphs (A) and (B) of this paragraph and paragraph (4)) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.

(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) PERMANENT OPERATING AGREEMENTS AND BUDGET FOR ADMINISTRATIVE COSTS.—

(A) PERMANENT OPERATING AGREEMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the program, a service institution that meets the conditions of eligibility described in this section and in regulations promulgated by the Secretary, shall be required to enter into a permanent agreement with the applicable State agency.

(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the service institution is in compliance with all requirements established in this section or by the Secretary.

(iii) TERMINATION.—A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the service institution and State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with subsection (q) and with regulations promulgated by the Secretary; or

(bb) on termination of participation of the service institution in the program.

(B) BUDGET FOR ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—When applying for participation in the program, and not less frequently than annually thereafter, each service institution shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State.

(ii) AMOUNT.—Payment to service institutions for administrative costs shall equal the levels determined by the Secretary pursuant to the study required in paragraph (4).

(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 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 sec-

tion 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 may contract on a competitive basis with food service management companies 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.

(2) Each State may provide for the registration of food service management companies.

(3) 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.

(4) 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 program 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) Termination and disqualification of participating organizations**

**(1) In general**

Each State agency shall follow the procedures established by the Secretary for the termination of participation of institutions under the program.

**(2) Fair hearing**

The procedures described in paragraph (1) shall include provision for a fair hearing and prompt determination for any service institution aggrieved by any action of the State agency that affects—

(A) the participation of the service institution in the program; or

(B) the claim of the service institution for reimbursement under this section.

**(3) List of disqualified institutions and individuals**

**(A) In general**

The Secretary shall maintain a list of service institutions and individuals that have been terminated or otherwise disqualified from participation in the program under the procedures established pursuant to paragraph (1).

**(B) Availability**

The Secretary shall make the list available to States for use in approving or renewing applications by service institutions for participation in the program.

**(r) Authorization of appropriations**

For the period beginning October 1, 1977, and ending September 30, 2015, 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 Pub. L. 90-302, § 3, May 8, 1968, 82 Stat. 117; amended Pub. L. 91-248, § 6(c), (d), May 14, 1970, 84 Stat. 210; Pub. L. 92-32, § 7, June 30, 1971, 85 Stat. 86; Pub. L. 92-433, §§ 1, 2, Sept. 26, 1972, 86 Stat. 724; Pub. L. 94-20, May 2, 1975, 89 Stat. 82; Pub. L. 94-105, § 13, Oct. 7, 1975, 89 Stat. 515; Pub. L. 95-166, § 2, Nov. 10, 1977, 91 Stat. 1325; Pub. L. 95-627, §§ 5(d), 7(b), 10(d)(2), Nov. 10, 1978, 92 Stat. 3620, 3622, 3624; Pub. L. 96-499, title II, § 206, Dec. 5, 1980, 94 Stat. 2601; Pub. L. 97-35, title VIII, §§ 809, 817(b), Aug. 13, 1981, 95 Stat. 527, 532; Pub. L. 99-500, title III, § 311, Oct. 18, 1986, 100 Stat. 1783-360, and Pub. L. 99-591, title III, § 311, Oct. 30, 1986, 100 Stat. 3341-363; Pub. L. 99-661, div. D, title I, § 4101, Nov. 14, 1986, 100 Stat. 4071; Pub. L. 100-435, title II, § 213, Sept. 19, 1988, 102 Stat. 1658; Pub. L. 101-147, title I, § 102(a), title III, § 307, Nov. 10, 1989, 103 Stat. 879, 915; Pub. L. 103-448, title I, §§ 105(b), 114(a)-(g), Nov. 2, 1994, 108 Stat. 4702, 4712, 4713; Pub. L. 104-193, title VII, § 706(a)-(l), Aug. 22, 1996, 110 Stat. 2291-2293; Pub. L. 105-336, title I, §§ 105(a)-(e)(1), 107(j)(2)(A), (3)(B), Oct. 31, 1998, 112 Stat. 3148, 3149, 3152, 3153; Pub. L. 108-134, § 5(1), Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108-211, § 5(a), Mar. 31, 2004, 118 Stat. 566; Pub. L. 108-265, title I, § 116(a)-(e), June 30, 2004, 118 Stat. 748-750; Pub. L. 108-447, div. A, title VII, § 788(b), Dec. 8, 2004, 118 Stat. 2851; Pub. L. 110-161, div. A, title VII, § 738(a), Dec. 26, 2007, 121 Stat. 1880; Pub. L. 111-296, title I, §§ 111-113, title III, §§ 321, 322, title IV, §§ 404, 441(a)(5), Dec. 13, 2010, 124 Stat. 3203, 3204, 3247, 3259, 3261.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1), (5), (8) and (b)(1)(D), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, 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

2010—Pub. L. 111-296, § 441(a)(5)(A), amended section catchline generally.

Subsec. (a). Pub. L. 111-296, § 441(a)(5)(A), inserted subsec. heading, added par. (1), and struck out former par. (1) which authorized the Secretary to carry out a program to initiate and maintain nonprofit food service programs for children in service institutions and provided definitions for this section.

Subsec. (a)(2). Pub. L. 111-296, § 441(a)(5)(B)(i), inserted par. heading, designated existing provisions as subpar. (B) and inserted subpar. heading, inserted cl. (i) designation and heading before first sentence and cl. (ii) designation and heading before second sentence, and added subpar. (A).

Subsec. (a)(3). Pub. L. 111-296, § 441(a)(5)(B)(ii), inserted par. heading and realigned margins of subpars. (A) to (D).



Subsec. (a)(4). Pub. L. 111-296, §441(a)(5)(B)(iii), inserted par. heading, designated introductory provisions of par. (4) as introductory provisions of subpar. (A) and inserted subpar. heading, redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A) and realigned margins, and designated concluding provisions as subpar. (B) and inserted heading.

Subsec. (a)(5). Pub. L. 111-296, §441(a)(5)(B)(iv), inserted heading.

Subsec. (a)(6). Pub. L. 111-296, §441(a)(5)(B)(v), inserted heading.

Subsec. (a)(7). Pub. L. 111-296, §111, added par. (7) and struck out former par. (7) which defined "private nonprofit organizations" and made them eligible for the program under the same terms and conditions as other service institutions.

Subsec. (a)(11). Pub. L. 111-296, §112, added par. (11).

Subsec. (a)(12). Pub. L. 111-296, §113, added par. (12).

Subsec. (b)(3). Pub. L. 111-296, §321, added par. (3) and struck out former par. (3) which read as follows: "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 levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection."

Subsec. (q). Pub. L. 111-296, §322(2), added subsec. (q). Former subsec. (q) redesignated (r).

Subsec. (r). Pub. L. 111-296, §404, substituted "September 30, 2015" for "September 30, 2009".

Pub. L. 111-296, §322(1), redesignated subsec. (q) as (r). 2007—Subsec. (b)(1). Pub. L. 110-161, §738(a)(1)(A), (B), redesignated subpars. (B) to (D) as (A) and (C), respectively, and struck out former subpar. (A) which read as follows:

"(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)."

Subsec. (b)(1)(A). Pub. L. 110-161, §738(a)(1)(C), which directed the amendment of subpar.(A), as redesignated by Pub. L. 110-161, §738(a)(1)(B), by striking "(B)" and all that followed through "shall not exceed" and inserting "(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be" was executed by substituting the language to be inserted for "(A) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed" to reflect the probable intent of Congress and the redesignation of subpar. (B) as (A). See note above.

Subsec. (b)(1)(B). Pub. L. 110-161, §738(a)(1)(D), substituted "subparagraph (A)" for "subparagraph (B)".

Subsec. (b)(1)(C). Pub. L. 110-161, §738(a)(1)(E), substituted "(A) and (B)" for "(A), (B), and (C)".

Subsec. (b)(3). Pub. L. 110-161, §738(a)(2), struck out "full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable" after "administrative costs shall equal the".

2004—Subsec. (a)(8), (9). Pub. L. 108-265, §116(a), (c), added pars. (8) and (9).

Subsec. (a)(10). Pub. L. 108-265, §116(d), added par. (10).

Subsec. (a)(10)(C). Pub. L. 108-447, §788(b)(1), substituted "2006" for "2005".

Subsec. (a)(10)(D)(i). Pub. L. 108-447, §788(b)(2)(A), substituted "2008" for "2007".

Subsec. (a)(10)(D)(ii). Pub. L. 108-447, §788(b)(2)(B), substituted "2009" for "2008".

Subsec. (b)(1)(D). Pub. L. 108-265, §116(b), added subpar. (D).

Subsec. (q). Pub. L. 108-265, §116(e), substituted "September 30, 2009" for "June 30, 2004".

Pub. L. 108-211 substituted "June 30, 2004" for "March 31, 2004".

2003—Subsec. (q). Pub. L. 108-134 substituted "the period beginning October 1, 1977, and ending March 31,

2004" for "the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 2003".

1998—Subsec. (a)(1)(D)(i). Pub. L. 105-336, §107(j)(3)(B)(i), substituted "to have a disability" for "to be mentally or physically handicapped".

Subsec. (a)(1)(D)(ii). Pub. L. 105-336, §107(j)(3)(B)(ii), substituted "individuals who have a disability" for "the mentally or physically handicapped".

Subsec. (a)(3)(C). Pub. L. 105-336, §107(j)(2)(A), inserted "or" at end of cl. (i), redesignated cl. (iii) as (ii), and struck out former cl. (ii) which read as follows: "conduct a regularly scheduled food service primarily for homeless children; or".

Subsec. (a)(7)(B)(i). Pub. L. 105-336, §105(a), added cl. (i) and struck out former cl. (i) which read as follows:

"(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);".

Subsec. (a)(7)(B)(ii) to (vii). Pub. L. 105-336, §105(b)(1), redesignated cls. (iv) to (vii) as (ii) to (v), respectively, and struck out former cls. (ii) and (iii) which read as follows:

"(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;".

Subsec. (f)(7). Pub. L. 105-336, §105(c), in first sentence, struck out "attending a site on school premises operated directly by the authority" after "permit a child".

Subsec. (l)(1). Pub. L. 105-336, §105(b)(2)(A), in first sentence, struck out "(other than private nonprofit organizations eligible under subsection (a)(7) of this section)" after "Service institutions" and substituted "with food service management companies" for "only with food service management companies registered with the State in which they operate" and struck out at end "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."

Subsec. (l)(2). Pub. L. 105-336, §105(b)(2)(B), substituted "may" for "shall" after "Each State" and struck out at end "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."

Subsec. (l)(3) to (5). Pub. L. 105-336, §105(b)(2)(C), (D), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: "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."

Subsec. (n)(2). Pub. L. 105-336, §105(e)(1), amended Pub. L. 104-193, §706(j)(1). See 1996 Amendment note below.

Subsec. (q). Pub. L. 105-336, §105(d), substituted "2003" for "1998".

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), as amended by Pub. L. 105-336, §105(e)(1), struck out "including the State's methods for assessing need" after "needy children".

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 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”.

Subsec. (f). Pub. L. 103-448, §105(b), inserted after first sentence “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. 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 "33 $\frac{1}{3}$ ", 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 "2 $\frac{1}{2}$  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 percent 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 non-discriminatory 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 nec-

essary 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 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-161, div. A, title VII, §738(c), Dec. 26, 2007, 121 Stat. 1880, provided that: "The amendments made by this section [amending this section and section 1769 of this title] take effect on January 1 of the first full calendar year following the date of enactment of this Act [Dec. 26, 2007]."

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 116(a)-(c), (e) of Pub. L. 108-265 effective June 30, 2004, and amendment by section 116(d) of Pub. L. 108-265 effective Oct. 1, 2005, see section 502(a), (b)(5) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-336, title I, §105(e)(2), Oct. 31, 1998, 112 Stat. 3149, provided that: "The amendment made by paragraph (1) [amending this section] takes effect on January 1, 1997."

Pub. L. 105-336, title I, §107(j)(4), Oct. 31, 1998, 112 Stat. 3153, provided that: "The amendments made by

paragraphs (1) and (2) [amending this section and sections 1766 and 1769f of this title and repealing section 1766b of this title] take effect on July 1, 1999."

Amendment by sections 105(a)-(d) and 107(j)(3)(B) of Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

#### 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 [Richard B. Russell] 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 [Richard B. Russell] 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 directed Secretary of Agriculture, not later than 180 days after Nov. 2, 1994, in consultation with heads of other Federal agencies, to identify sources of Federal funds that might be avail-

able from other Federal agencies for service institutions under the summer food service program for children established under this section to carry out all-day educational and recreational activities for children at feeding sites under the program, and notify the service institutions of the sources.

**§ 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) Use of funds for purchase of agricultural commodities and products for donation**

Notwithstanding any other provision of law, the Secretary 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 purchase agricultural commodities and their products of the types customarily purchased for donation under section 311(a)(4)<sup>1</sup> of the Older Americans Act of 1965 or for cash payments in lieu of such donations under section 311(b)(1)<sup>1</sup> of such Act. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

<sup>1</sup> See References in Text note below.

**(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.].

**(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(c) 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