

in the fiscal year 1992 and not less than \$4,000,000 in each of the fiscal years 1993 and 1994; and”.

Subsec. (a)(5)(B)(i)(II). Pub. L. 102-512, §103(3), substituted “After making the allocations under subclause (I), the Secretary shall allocate,” for “then allocate,”.

1989—Subsec. (a)(3). Pub. L. 101-147, §122(a)(1)(A), inserted after first sentence “If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5).”

Subsec. (a)(5) to (8). Pub. L. 101-147, §122(a)(1)(B)–(D), added pars. (5) and (8) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (g). Pub. L. 101-147, §122(a)(2), inserted before period at end “, and that agree to participate fully in any studies authorized by the Secretary”.

Subsec. (h). Pub. L. 101-147, §122(a)(3), 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, 1977, and ending September 30, 1989.”

1986—Subsecs. (b) to (g). Pub. L. 99-500 and Pub. L. 99-591, §332, and Pub. L. 99-661, §4212, amended section identically, redesignating subsecs. (c) to (h) as (b) to (g), respectively, and striking out former subsec. (b) which read as follows: “The Secretary, in cooperation with the several States, shall develop State staffing standards for the administration by each State of sections 4, 11, and 17 of the National School Lunch Act [42 U.S.C. 1753, 1759a, 1766], and sections 1772 and 1773 of this title, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.”

Subsecs. (h), (i). Pub. L. 99-500 and Pub. L. 99-591, §§313, 332(2), and Pub. L. 99-661, §§4103, 4212(2), amended section identically, redesignating subsec. (i) as (h) and substituting “1989” for “1984”. Former subsec. (h) redesignated (g).

1981—Subsec. (a). Pub. L. 97-35, §§814(a), 819(e), in par. (1) struck out reference to section 1774 of this title, and in par. (2) substituted “1981” for “1978” and struck out reference to section 1774 of this title.

Subsec. (b). Pub. L. 97-35, §819(e), struck out reference to section 1774 of this title.

Subsec. (e). Pub. L. 97-35, §814(b), substituted provisions relating to general availability of unobligated funds during fiscal years following the fiscal years for which such funds were made available for provisions relating to availability of unobligated funds for fiscal year 1979 and for the five succeeding fiscal years.

1980—Subsec. (e). Pub. L. 96-499, §201(b)(1), substituted “and for the five succeeding fiscal years” for “and the succeeding fiscal year”.

Subsec. (i). Pub. L. 96-499, §201(b)(2), substituted “September 30, 1984” for “September 30, 1980”.

1978—Subsec. (a). Pub. L. 95-627 generally revised and restructured subsection and, among other changes, inserted formula for determining State allocations for administrative costs incurred under the program authorized by section 17 of the National School Lunch Act, authorized the State to transfer up to ten percent of any amounts allocated for administrative costs of the programs for which such funds were allocated, and authorized retention by the Secretary for the Secretary’s use in administering certain programs, allocations for such programs, under this section and section 13(k)(1) of the National School Lunch Act.

1977—Subsecs. (a) to (i). Pub. L. 95-166 added subsecs. (a) to (i) and struck out prior provisions authorizing the Secretary to utilize appropriated funds for advances to State educational agencies for use for administrative expenses, advancing the fund only in necessary amounts and for administration of certain activities, and authorizing appropriation of necessary sums, now incorporated in subsec. (i) of this section.

1970—Pub. L. 91-248 inserted provisions authorizing Secretary to utilize funds appropriated under this sec-

tion for advances for administrative expenses of any other designated State agency as well as for those of the State educational agency and in the case of either State agency, for its administrative expenses in supervising and giving technical assistance to service institutions as well as to local school districts.

1968—Pub. L. 90-302 inserted the programs under sections 1759a and 1761 of this title to the enumeration of programs in which appropriated funds could be used for administrative expenses of local school districts in supervising and giving technical assistance and added section 1761 to the enumeration of sections covering programs of additional activities under which funds could be advanced only in amounts and to the extent determined necessary by the Secretary.

#### 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 2004 AMENDMENT

Amendment by section 126(c) of Pub. L. 108-265 effective July 1, 2004, amendment by section 202(a) of Pub. L. 108-265 effective Oct. 1, 2004, and amendment by section 202(b), (c) of Pub. L. 108-265 effective June 30, 2004, see section 502(a), (b)(1), (2) 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

Amendment by 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 1994 AMENDMENT

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

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-512 effective Sept. 30, 1992, see section 104 of Pub. L. 102-512, set out as a note under section 1769 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-147, title I, §122(b), Nov. 10, 1989, 103 Stat. 894, provided that: “The amendment made by subsection (a)(1)(A) [amending this section] shall be effective as of October 1, 1989.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

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

#### EFFECTIVE DATE OF 1978 AMENDMENT

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

### §§ 1776a, 1776b. Omitted

#### CODIFICATION

Section 1776a, Pub. L. 103-111, title IV, Oct. 21, 1993, 107 Stat. 1071, conditioned the distribution of funds under section 1776 of this title upon agreement by a State to participate in studies and surveys of programs authorized under this chapter or the preceding chapter, when such studies or surveys were directed by Congress and requested by the Secretary of Agriculture, and was not repeated in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995. See section 1776(h) of this title.

Section 1776b, Pub. L. 103-111, title IV, Oct. 21, 1993, 107 Stat. 1071, authorized the withholding, by the Sec-

retary of Agriculture, of funds allocated to a State under sections 1761(k)(1) and 1776 of this title if the Secretary determined that the State was seriously deficient in administering any program under this chapter or the preceding chapter, and the State failed to correct such deficiencies within a specified period of time, and was not repeated in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995. See section 1776(a)(9)(A) of this title.

Provisions similar to sections 1776a and 1776b were contained in the following prior appropriation acts:

- Pub. L. 102-341, title IV, Aug. 14, 1992, 106 Stat. 900.
- Pub. L. 102-142, title IV, Oct. 28, 1991, 105 Stat. 904.
- Pub. L. 101-506, title III, Nov. 5, 1990, 104 Stat. 1340.
- Pub. L. 101-161, title III, Nov. 21, 1989, 103 Stat. 976.
- Pub. L. 100-460, title III, Oct. 1, 1988, 102 Stat. 2254.
- Pub. L. 100-202, §101(k) [title III], Dec. 22, 1987, 101 Stat. 1329-322, 1329-348.
- Pub. L. 99-500, §101(a) [title III], Oct. 18, 1986, 100 Stat. 1783, 1783-22, and Pub. L. 99-591, §101(a) [title III], Oct. 30, 1986, 100 Stat. 3341, 3341-22.
- Pub. L. 99-190, §101(a) [H.R. 3037, title III], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-433.
- Pub. L. 98-473, title I, §101(a) [H.R. 5743, title III], Oct. 12, 1984, 98 Stat. 1837.
- Pub. L. 98-151, §101(d) [H.R. 3223, title III], Nov. 14, 1983, 97 Stat. 972.
- Pub. L. 97-370, title III, Dec. 18, 1982, 96 Stat. 1805.
- Pub. L. 97-103, title III, Dec. 23, 1981, 95 Stat. 1484.
- Pub. L. 96-528, title III, Dec. 15, 1980, 94 Stat. 3112.
- Pub. L. 96-108, title III, Nov. 9, 1979, 93 Stat. 837.
- Pub. L. 96-38, title I, July 25, 1979, 93 Stat. 98.

**§ 1777. Use in school breakfast program of food designated as being in abundance or food donated by the Secretary of Agriculture**

Each school participating under section 1773 of this title shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 1431 of title 7 or purchased under section 612c or 1446a-1 of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this chapter.

(Pub. L. 89-642, §8, Oct. 11, 1966, 80 Stat. 888.)

**§ 1778. Nonprofit programs**

The food and milk service programs in schools and nonprofit institutions receiving assistance under this chapter shall be conducted on a nonprofit basis.

(Pub. L. 89-642, §9, Oct. 11, 1966, 80 Stat. 888.)

**§ 1779. Regulations**

**(a) In general**

The Secretary shall prescribe such regulations as the Secretary may deem necessary to carry out this chapter and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the Richard B. Russell National School Lunch Act.

**(b) National school nutrition standards**

**(1) Proposed regulations**

**(A) In general**

The Secretary shall—

(i) establish science-based nutrition standards for foods sold in schools other than foods provided under this chapter and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(ii) not later than 1 year after December 13, 2010, promulgate proposed regulations to carry out clause (i).

**(B) Application**

The nutrition standards shall apply to all foods sold—

- (i) outside the school meal programs;
- (ii) on the school campus; and
- (iii) at any time during the school day.

**(C) Requirements**

In establishing nutrition standards under this paragraph, the Secretary shall—

(i) establish standards that are consistent with the most recent Dietary Guidelines for Americans published under section 5341 of title 7, including the food groups to encourage and nutrients of concern identified in the Dietary Guidelines; and

(ii) consider—

(I) authoritative scientific recommendations for nutrition standards;

(II) existing school nutrition standards, including voluntary standards for beverages and snack foods and State and local standards;

(III) the practical application of the nutrition standards; and

(IV) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

**(D) Updating standards**

As soon as practicable after the date of publication by the Department of Agriculture and the Department of Health and Human Services of a new edition of the Dietary Guidelines for Americans under section 5341 of title 7, the Secretary shall review and update as necessary the school nutrition standards and requirements established under this subsection.

**(2) Implementation**

**(A) Effective date**

The interim or final regulations under this subsection shall take effect at the beginning of the school year that is not earlier than 1 year and not later than 2 years following the date on which the regulations are finalized.

**(B) Reporting**

The Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representatives a quarterly report that describes progress made toward promulgating final regulations under this subsection.

**(c) Transfer of funds; reserve for special projects**

In such regulations the Secretary may provide for the transfer of funds by any State between