

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

the programs authorized under this chapter and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 percent of the funds available for apportionment to any State to carry out special developmental projects.

(Pub. L. 89-642, § 10, Oct. 11, 1966, 80 Stat. 889; Pub. L. 91-248, § 8, May 14, 1970, 84 Stat. 212; Pub. L. 92-433, § 7, Sept. 26, 1972, 86 Stat. 729; Pub. L. 95-166, § 17, Nov. 10, 1977, 91 Stat. 1345; Pub. L. 101-147, title III, § 323, Nov. 10, 1989, 103 Stat. 916; Pub. L. 103-448, title II, § 203, Nov. 2, 1994, 108 Stat. 4738; Pub. L. 104-193, title VII, § 725, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 106-78, title VII, § 752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 111-296, title II, § 208, Dec. 13, 2010, 124 Stat. 3221.)

#### REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

#### AMENDMENTS

2010—Pub. L. 111-296 inserted subsec. (a) heading, added subsec. (b), and struck out former subsec. (b) which related to sale of competitive foods approved by the Secretary.

1999—Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” wherever appearing.

1996—Subsec. (b). Pub. L. 104-193 redesignated par. (1) as subsec. (b) and struck out pars. (2) to (4) which read as follows:

“(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

“(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

“(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.”

1994—Pub. L. 103-448 designated existing provisions as subsecs. (a) to (c), realigned margins, and in subsec. (b) designated existing provisions as par. (1), substituted “The regulations” for “Such regulations”, and added pars. (2) to (4).

1989—Pub. L. 101-147 substituted “the Secretary” for “he” before “may deem” in first sentence.

1977—Pub. L. 95-166 inserted “approved by the Secretary” after “competitive foods”.

1972—Pub. L. 92-433 inserted provision that regulations issued under the section shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food if the proceeds from the sales of such foods inures to the benefit of the schools or organizations of students approved by the school.

1970—Pub. L. 91-248 provided that regulations under this chapter and under the National School Lunch Act may include provisions relating to the service of food in participating schools and service institutions in competition with programs under this chapter and the National School Lunch Act, provided for transfer of funds by any State between programs authorized under

this chapter and under the National School Lunch Act, and provided for a reserve of up to one percent of the funds available for apportionment to any State to carry out special development projects.

#### 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 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.

### § 1780. Prohibitions

#### (a) Interference with school personnel, curriculum, or instruction

In carrying out the provisions of sections 1772 and 1773 of this title, the Secretary shall not impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

#### (b) Inclusion of assistance in determining income or resources

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

#### (c) Federal law not applicable

Section 1693r of title 15 shall not apply to electronic benefit transfer systems established under this chapter or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(Pub. L. 89-642, § 11, Oct. 11, 1966, 80 Stat. 889; Pub. L. 97-35, title VIII, § 819(f), Aug. 13, 1981, 95 Stat. 533; Pub. L. 104-193, title VII, § 726, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 111-203, title X, § 1075(d), July 21, 2010, 124 Stat. 2074.)

#### REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

#### AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203 added subsec. (c).

1996—Subsec. (a). Pub. L. 104-193 substituted “the Secretary shall not” for “neither the Secretary nor the State shall”.

1981—Subsec. (a). Pub. L. 97-35 struck out reference to section 1774 of this title.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

#### 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.