

## REFERENCES IN TEXT

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

## AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-336, §108(a)(1), substituted “supplements under a program organized primarily to provide care for” for “supplements to”.

Subsec. (a)(2)(C). Pub. L. 105-336, §108(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “are participating in the child care food program under section 1766 of this title on May 15, 1989.”

Subsec. (b). Pub. L. 105-336, §108(b), substituted “served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 1760(d)(1)(A) of this title.” for “served to children—

“(1) who are not more than 12 years of age; or

“(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.”

Subsec. (c). Pub. L. 105-336, §108(c), added par. (1), designated existing provisions as par. (2), inserted heading, and substituted “In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for the purposes” for “For the purposes”.

## 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.

## REGULATIONS

Pub. L. 101-147, title I, §106(b), Nov. 10, 1989, 103 Stat. 886, provided that: “Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the [Richard B. Russell] National School Lunch Act [this section] (as added by subsection (a) of this section).”

**§ 1766b. Repealed. Pub. L. 105-336, title I, § 107(j)(2)(C)(i), Oct. 31, 1998, 112 Stat. 3153**

Section, act June 4, 1946, ch. 281, §17B, as added Pub. L. 103-448, title I, §117(a)(1), Nov. 2, 1994, 108 Stat. 4715, related to homeless children nutrition program.

## EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1999, see section 107(j)(4) of Pub. L. 105-336, set out as an Effective Date of 1998 Amendment note under section 1761 of this title.

**§§ 1767, 1768. Repealed. Pub. L. 99-500, title III, § 371(a)(1), Oct. 18, 1986, 100 Stat. 1783-368, and Pub. L. 99-591, title III, § 371(a)(1), Oct. 30, 1986, 100 Stat. 3341-371; Pub. L. 99-661, div. D, title V, § 4501(a)(1), Nov. 14, 1986, 100 Stat. 4080**

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Section 1767, act June 4, 1946, ch. 281, §18, as added Oct. 7, 1975, Pub. L. 94-105, §19, 89 Stat. 526, authorized nutrition program staff study.

Section 1768, act June 4, 1946, ch. 281, §19, as added Oct. 7, 1975, Pub. L. 94-105, §20, 89 Stat. 527, authorized appropriations to assist Trust Territory of Pacific Islands.

## § 1769. Pilot projects

**(a) Repealed. Pub. L. 111-296, title IV, § 441(a)(9), Dec. 13, 2010, 124 Stat. 3264**

**(b) Extension of eligibility of certain school districts to receive cash or commodity letters of credit assistance for school lunch programs**

(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987. The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

**(c) Alternative counting and claiming procedures**

(1) The Secretary may conduct pilot projects to test alternative counting and claiming procedures.

(2) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

**(d) to (f) Repealed. Pub. L. 111-296, title IV, § 441(a)(11)-(13), Dec. 13, 2010, 124 Stat. 3264**

**(g) Access to local foods: farm to school program**

**(1) Definition of eligible school**

In this subsection, the term “eligible school” means a school or institution that participates in a program under this chapter or the school breakfast program established under section 1773 of this title.

**(2) Program**

The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural producers, and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools.

**(3) Grants**

**(A) In general**

The Secretary shall award competitive grants under this subsection to be used for—

- (i) training;
- (ii) supporting operations;
- (iii) planning;
- (iv) purchasing equipment;
- (v) developing school gardens;
- (vi) developing partnerships; and
- (vii) implementing farm to school programs.

**(B) Regional balance**

In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

- (i) geographical diversity; and
- (ii) equitable treatment of urban, rural, and tribal communities.

**(C) Maximum amount**

The total amount provided to a grant recipient under this subsection shall not exceed \$100,000.

**(4) Federal share**

**(A) In general**

The Federal share of costs for a project funded through a grant awarded under this subsection shall not exceed 75 percent of the total cost of the project.

**(B) Federal matching**

As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

**(5) Criteria for selection**

To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give the highest priority to funding projects that, as determined by the Secretary—

- (A) make local food products available on the menu of the eligible school;
- (B) serve a high proportion of children who are eligible for free or reduced price lunches;
- (C) incorporate experiential nutrition education activities in curriculum planning that encourage the participation of school children in farm and garden-based agricultural education activities;
- (D) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;
- (E) include adequate and participatory evaluation plans;
- (F) demonstrate the potential for long-term program sustainability; and
- (G) meet any other criteria that the Secretary determines appropriate.

**(6) Evaluation**

As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation by the Secretary of the program carried out using grant funds.

**(7) Technical assistance**

The Secretary shall provide technical assistance and information to assist eligible schools, State and local agencies, Indian tribal organizations, and nonprofit entities—

- (A) to facilitate the coordination and sharing of information and resources in the Department that may be applicable to the farm to school program;
- (B) to collect and share information on best practices; and
- (C) to disseminate research and data on existing farm to school programs and the potential for programs in underserved areas.

**(8) Funding**

**(A) In general**

On October 1, 2012, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$5,000,000, to remain available until expended.

**(B) Receipt and acceptance**

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

**(9) Authorization of appropriations**

In addition to the amounts made available under paragraph (8), there are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.

**(h) Pilot program for high-poverty schools**

**(1) In general**

**(A) Definitions**

In this paragraph:

**(i) Eligible program**

The term “eligible program” means—

- (I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or
- (II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

**(ii) Eligible school**

The term “eligible school” means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this chapter.

**(B) Establishment**

The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

- (i) be planted, cared for, and harvested by students at the eligible schools; and
- (ii) teach the students participating in the community gardens about agriculture production practices and diet.

**(C) Priority States**

Of the States in which grantees under this paragraph are located—

- (i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;
- (ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and
- (iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

**(D) Use of produce**

Produce from a community garden provided a grant under this paragraph may be—

- (i) used to supplement food provided at the eligible school;
- (ii) distributed to students to bring home to the families of the students; or
- (iii) donated to a local food bank or senior center nutrition program.

**(E) No cost-sharing requirement**

A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

**(F) Evaluation**

A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation carried out by the Secretary.

**(2) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2004 through 2015.

**(i) Year-round services for eligible entities****(1) In general**

A service institution that is described in section 1761(a)(6) of this title (excluding a public school), or a private nonprofit organization described in section 1761(a)(7) of this title, and that is located in the State of California may be reimbursed—

(A) for up to 2 meals during each day of operation served—

- (i) during the months of May through September;
- (ii) in the case of a service institution that operates a food service program for children on school vacation, at anytime under a continuous school calendar; and
- (iii) in the case of a service institution that provides meal service at a nonschool site to children who are not in school for a period during the school year due to a natural disaster, building repair, court order, or similar case, at anytime during such a period; and

(B) for a snack served during each day of operation after school hours, weekends, and school holidays during the regular school calendar.

**(2) Payments**

The service institution shall be reimbursed consistent with section 1761(b)(1) of this title.

**(3) Administration**

To receive reimbursement under this subsection, a service institution shall comply with section 1761 of this title, other than subsections (b)(2) and (c)(1) of that section.

**(4) Evaluation**

Not later than September 30, 2007, the State agency shall submit to the Secretary a report on the effect of this subsection on participation in the summer food service program for

children established under section 1761 of this title.

**(5) Funding**

The Secretary shall provide to the State of California such sums as are necessary to carry out this subsection for each of fiscal years 2011 through 2015.

**(j) Free lunch and breakfast eligibility****(1) In general**

Subject to the availability of funds under paragraph (4), the Secretary shall expand the service of free lunches and breakfasts provided at schools participating in the school lunch program under this chapter or the school breakfast program under section 1773 of this title in all or part of 5 States selected by the Secretary (of which at least 1 shall be a largely rural State with a significant Native American population).

**(2) Income eligibility**

The income guidelines for determining eligibility for free lunches or breakfasts under this subsection shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title.

**(3) Evaluation****(A) In general**

Not later than 3 years after the implementation of this subsection, the Secretary shall conduct an evaluation to assess the impact of the changed income eligibility guidelines by comparing the school food authorities operating under this subsection to school food authorities not operating under this subsection.

**(B) Impact assessment****(i) Children**

The evaluation shall assess the impact of this subsection separately on—

(I) children in households with incomes less than 130 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title; and

(II) children in households with incomes greater than 130 percent and not greater than 185 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 1758(b)(1)(B) of this title.

**(ii) Factors**

The evaluation shall assess the impact of this subsection on—

(I) certification and participation rates in the school lunch and breakfast programs;

(II) rates of lunch- and breakfast-skipping;

- (III) academic achievement;
- (IV) the allocation of funds authorized in title I of the Elementary and Secondary Education Act [20 U.S.C. 6301 et seq.] to local educational agencies and public schools; and
- (V) other factors determined by the Secretary.

**(C) Cost assessment**

The evaluation shall assess the increased costs associated with providing additional free, reduced price, or paid meals in the school food authorities operating under this subsection.

**(D) Report**

On completion of the evaluation, 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 paragraph.

**(4) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

**(k) Organic food pilot program**

**(1) Establishment**

The Secretary shall establish an organic food pilot program (referred to in this subsection as the “pilot program”) under which the Secretary shall provide grants on a competitive basis to school food authorities selected under paragraph (3).

**(2) Use of funds**

**(A) In general**

The Secretary shall use funds provided under this section—

- (i) to enter into competitively awarded contracts or cooperative agreements with school food authorities selected under paragraph (3); or
- (ii) to make grants to school food authority applicants selected under paragraph (3).

**(B) School food authority uses of funds**

A school food authority that receives a grant under this section shall use the grant funds to establish a pilot program that increases the quantity of organic foods provided to schoolchildren under the school lunch program established under this chapter.

**(3) Application**

**(A) In general**

A school food authority seeking a contract, grant, or cooperative agreement under this subsection shall submit to the Secretary an application in such form, containing such information, and at such time as the Secretary shall prescribe.

**(B) Criteria**

In selecting contract, grant, or cooperative agreement recipients, the Secretary shall consider—

(i) the poverty line (as defined in section 9902(2) of this title, including any revision required by that section))<sup>1</sup> applicable to a family of the size involved of the households in the district served by the school food authority, giving preference to school food authority applicants in which not less than 50 percent of the households in the district are at or below the Federal poverty line;

(ii) the commitment of each school food authority applicant—

- (I) to improve the nutritional value of school meals;
- (II) to carry out innovative programs that improve the health and wellness of schoolchildren; and
- (III) to evaluate the outcome of the pilot program; and

(iii) any other criteria the Secretary determines to be appropriate.

**(4) Authorization of appropriations**

There are authorized to be appropriated to carry out this subsection \$10,000,000 for fiscal years 2011 through 2015.

(June 4, 1946, ch. 281, § 18, formerly § 20, as added Pub. L. 95-166, § 10(2), Nov. 10, 1977, 91 Stat. 1336; amended Pub. L. 95-627, § 11, Nov. 10, 1978, 92 Stat. 3624; renumbered § 18 and amended Pub. L. 99-500, title III, §§ 327, 371(c)(1), Oct. 18, 1986, 100 Stat. 1783-362, 1783-368, and Pub. L. 99-591, title III, §§ 327, 371(c)(1), Oct. 30, 1986, 100 Stat. 3341-365, 3341-372; renumbered § 18 and amended Pub. L. 99-661, div. D, title II, § 4207, title V, § 4501(c)(1), Nov. 14, 1986, 100 Stat. 4073, 4080; Pub. L. 100-237, § 5, Jan. 8, 1988, 101 Stat. 1739; Pub. L. 101-147, title I, § 107, title II, § 205(a), title III, § 311, Nov. 10, 1989, 103 Stat. 886, 910, 916; Pub. L. 102-342, title I, § 101(a), title III, § 301, Aug. 14, 1992, 106 Stat. 911, 913; Pub. L. 102-512, title I, § 102, Oct. 24, 1992, 106 Stat. 3363; Pub. L. 103-448, title I, §§ 117(a)(2)(A), (b), 118, Nov. 2, 1994, 108 Stat. 4717, 4719; Pub. L. 104-193, title VII, § 709, Aug. 22, 1996, 110 Stat. 2301; Pub. L. 105-336, title I, § 109(a)-(c)(1), Oct. 31, 1998, 112 Stat. 3154-3156; Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 102(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-215; Pub. L. 107-171, title IV, § 4305(a), May 13, 2002, 116 Stat. 332; Pub. L. 108-30, § 1, May 29, 2003, 117 Stat. 774; Pub. L. 108-134, § 5(2), Nov. 22, 2003, 117 Stat. 1390; Pub. L. 108-211, § 5(b), Mar. 31, 2004, 118 Stat. 567; Pub. L. 108-265, title I, §§ 116(f), 120-124, June 30, 2004, 118 Stat. 750, 756-760; Pub. L. 109-97, title VII, § 777(a), Nov. 10, 2005, 119 Stat. 2161; Pub. L. 110-161, div. A, title VII, § 738(b), Dec. 26, 2007, 121 Stat. 1880; Pub. L. 110-234, title IV, §§ 4303, 4304(b), May 22, 2008, 122 Stat. 1126, 1131; Pub. L. 110-246, § 4(a), title IV, §§ 4303, 4304(b), June 18, 2008, 122 Stat. 1664, 1887, 1892; Pub. L. 111-80, title VII, § 749(d), Oct. 21, 2009, 123 Stat. 2132; Pub. L. 111-296, title II, §§ 210, 243, title IV, §§ 405, 441(a)(9)-(13), Dec. 13, 2010, 124 Stat. 3223, 3236, 3259, 3264.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (j)(3)(B)(i)(IV), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is clas-

<sup>1</sup> So in original.

sified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

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

#### PRIOR PROVISIONS

A prior section 18 of act June 4, 1946, which was classified to section 1767 of this title, was repealed.

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-296, §441(a)(9), struck out subsec. (a) which related to pilot projects for administration of child nutrition programs by contract or direct disbursement.

Subsec. (c). Pub. L. 111-296, §441(a)(10), redesignated pars. (3) and (4) as (1) and (2), respectively, in par. (1), substituted “The Secretary may conduct” for “In addition to the pilot projects described in this subsection, the Secretary may conduct other”, and struck out former pars. (1) and (2) which related to certain pilot programs.

Subsecs. (d) to (f). Pub. L. 111-296, §441(a)(11)–(13), struck out subsecs. (d) to (f) which related to fortified fluid milk, breakfast pilot projects, and summer food service residential camp eligibility, respectively.

Subsecs. (g), (h). Pub. L. 111-296, §243(2), (3), added subsec. (g), redesignated pars. (3) and (4) of former subsec. (g) as pars. (1) and (2), respectively, of subsec. (h), inserted subsec. heading, substituted “In general” for “Pilot program for high-poverty schools” in heading of subsec. (h)(1), “carried out by the Secretary” for “in accordance with paragraph (1)(H)” in subsec. (h)(1)(F), and “2015” for “2009” in subsec. (h)(2), and struck out heading “Access to local foods and school gardens” of former subsec. (g), and pars. (1) and (2) of former subsec. (g) which related to grants and technical assistance by the Secretary to schools and non-profit entities for various projects and administration of such grants and technical assistance. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 111-296, §243(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(5). Pub. L. 111-296, §405, substituted “2011 through 2015” for “2005 through 2010”.

Subsec. (j). Pub. L. 111-296, §243(1), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Pub. L. 111-296, §210, added subsec. (j).

Subsec. (k). Pub. L. 111-296, §243(1), redesignated subsec. (j) as (k).

2009—Subsec. (h)(5). Pub. L. 111-80 substituted “2010” for “2009”.

2008—Subsecs. (f), (g). Pub. L. 110-246, §4304(b), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f) which related to fresh fruit and vegetable program.

Subsec. (h). Pub. L. 110-246, §4304(b), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 110-246, §4303, in par. (1)(C) inserted “promotes healthy food education in the school curriculum and” before “incorporates”, added pars. (2) and (3), and redesignated former par. (2) as (4).

Subsecs. (i), (j). Pub. L. 110-246, §4304(b), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

2007—Subsecs. (f) to (k). Pub. L. 110-161 redesignated subsecs. (g) to (k) as (f) to (j), respectively, and struck out former subsec. (f) which related to simplified summer food programs.

2005—Subsec. (f)(1)(B). Pub. L. 109-97, §777(a)(1), substituted “June 2005” for “April 2004” in introductory provisions.

Subsec. (f)(1)(B)(ii). Pub. L. 109-97, §777(a)(2), substituted “75” for “66.67” in introductory provisions.

2004—Subsec. (f). Pub. L. 108-265, §116(f)(5)(A), substituted “Simplified summer food programs” for “Summer food pilot projects” in heading.

Subsec. (f)(1). Pub. L. 108-265, §116(f)(1), added par. (1) and struck out heading and text of former par. (1), which defined “eligible State” using formula based on data available in July 2000.

Subsec. (f)(2). Pub. L. 108-265, §116(f)(5)(B), substituted “Programs” for “Pilot projects” in heading and “food program” for “food pilot project” in text.

Pub. L. 108-265, §116(f)(2), substituted “The” for “During the period beginning October 1, 2000, and ending June 30, 2004, the”.

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

Subsec. (f)(3)(A), (B). Pub. L. 108-265, §116(f)(5)(C), substituted “program” for “pilot project”.

Pub. L. 108-265, §116(f)(3), struck out “(other than a service institution described in section 1761(a)(7) of this title)” after “service institution”.

Subsec. (f)(5). Pub. L. 108-265, §116(f)(5)(D), substituted “programs” for “pilot projects” in heading and “the program” for “the pilot project” in text wherever appearing.

Subsec. (f)(6). Pub. L. 108-265, §116(f)(4), added par. (6) and struck out heading and text of former par. (6), which related to interim and final reports on pilot projects carried out under this subsec.

Subsec. (g). Pub. L. 108-265, §120, added subsec. (g) and struck out heading and text of former subsec. (g), which related to fruit and vegetable pilot program.

Subsecs. (h) to (k). Pub. L. 108-265, §§121-124, added subsecs. (h) to (k).

2003—Subsec. (f)(2). Pub. L. 108-134 substituted “beginning October 1, 2000, and ending March 31, 2004” for “of fiscal years 2001 through 2003”.

Subsec. (g)(4). Pub. L. 108-30 inserted before period at end “, to remain available until the close of the school year beginning July 2003”.

2002—Subsec. (g). Pub. L. 107-171 added subsec. (g).

2000—Subsec. (f). Pub. L. 106-554 added subsec. (f).

1998—Subsec. (c). Pub. L. 105-336, §109(a), (c)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to demonstration program for prevention of boarder babies.

Subsec. (d). Pub. L. 105-336, §109(c)(1), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 105-336, §109(a), (c)(1), redesignated subsec. (i) as (e) and struck out former subsec. (e) which related to demonstration program to provide meals and supplements outside of school hours.

Subsec. (f). Pub. L. 105-336, §109(c)(1), redesignated subsec. (f) as (d).

Subsec. (g). Pub. L. 105-336, §109(a), struck out subsec. (g) which related to increased choices of fruits, vegetables, legumes, cereals, and grain-based products.

Subsec. (h). Pub. L. 105-336, §109(a), struck out subsec. (h) which related to increased choices of lowfat dairy products and lean meat and poultry products.

Subsec. (i). Pub. L. 105-336, §109(b), (c)(1), amended subsec. (i) generally and redesignated it as subsec. (e). Prior to amendment, subsec. (i) related to reduced paperwork and application requirements and increased participation pilots.

1996—Subsec. (d)(3) to (5). Pub. L. 104-193, §709(a), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which related to pilot program for schools with universal free lunch programs to use certain methods to determine number of free, reduced price, and paid meals to be provided.

Subsec. (e)(1). Pub. L. 104-193, §709(b)(1), designated subpar. (A) as par. (1), substituted “Secretary may establish” for “Secretary shall establish”, and struck out subpar. (B) which read as follows: “The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 1766 of this title.”

Subsec. (e)(5). Pub. L. 104-193, §709(b)(2), added heading and text of par. (5) and struck out former par. (5) which read as follows:

“(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 1766 of this title, \$325,000 for fiscal year 1995, \$475,000 for each of fiscal years 1996 and 1997, and \$525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

“(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.”

1994—Subsec. (b)(1). Pub. L. 103-448, §118(a), struck out “, and ending September 30, 1994” after “beginning July 1, 1987”.

Subsec. (c). Pub. L. 103-448, §117(a)(2)(A), (b), added subsec. (c) and struck out former subsec. (c), which related to provision of food service to homeless children under age 6 in emergency shelters.

Subsecs. (e) to (i). Pub. L. 103-448, §118(b)–(f), added subsecs. (e) to (i).

1992—Subsec. (b)(1). Pub. L. 102-342, §301, substituted “September 30, 1994” for “September 30, 1992”.

Subsec. (c)(2). Pub. L. 102-342, §101(a)(1), inserted “State, city, local, or county governments, other public entities, or” before “private nonprofit”.

Subsec. (c)(2)(B)(i). Pub. L. 102-512 substituted “Each private nonprofit organization” for “Each such organization”.

Subsec. (c)(3)(A). Pub. L. 102-342, §101(a)(2), inserted at end “The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.”

Subsec. (c)(5)(A). Pub. L. 102-342, §101(a)(1), (3), substituted “not less than \$350,000 in each of fiscal years 1991 and 1992, not less than \$650,000 in fiscal year 1993, and not less than \$800,000 in fiscal year 1994,” for “and not less than \$350,000 in each of the fiscal years 1991, 1992, 1993, and 1994,” and inserted “State, city, local, or county governments, other public entities, or” before “private nonprofit”.

Subsec. (c)(7). Pub. L. 102-342, §101(a)(4), added par. (7).

1989—Subsec. (a). Pub. L. 101-147, §311(2), struck out “(42 U.S.C. 1771 et seq.)” after “Child Nutrition Act of 1966” and “(42 U.S.C. 1774)” after “section 5 of the Child Nutrition Act of 1966”.

Pub. L. 101-147, §311(1), redesignated subsec. (d) as (a) and struck out former subsec. (a) which set forth statement of purpose of section and requirements for types of projects.

Subsec. (b). Pub. L. 101-147, §311(1), redesignated subsec. (e) as (b) and struck out former subsec. (b) which provided for a study on effect of cash payments in lieu of commodities.

Subsec. (c). Pub. L. 101-147, §311(1), redesignated subsec. (f) as (c) and struck out former subsec. (c) which related to report due not later than 18 months after Nov. 10, 1977.

Subsec. (d). Pub. L. 101-147, §311(1), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 101-147, §311(1), redesignated subsec. (e) as (b).

Subsec. (e)(1). Pub. L. 101-147, §107(1)(A), substituted “beginning July 1, 1987, and ending September 30, 1992” for “for the duration beginning July 1, 1987, and ending December 31, 1990” and inserted at end “The Secretary, directly or through contract, shall administer the project under this subsection.”

Subsec. (f). Pub. L. 101-147, §311(1), redesignated subsec. (f) as (c).

Pub. L. 101-147, §107(2), added subsec. (f).

Subsec. (g). Pub. L. 101-147, §311(1), redesignated subsec. (g) as (d).

Pub. L. 101-147, §205(a), added subsec. (g).

1988—Subsec. (e). Pub. L. 100-237 added subsec. (e).

1986—Subsec. (c). Pub. L. 99-500 and Pub. L. 99-591, §327(b), and Pub. L. 99-661, §4207(b), which directed the identical amendment of subsec. (c) by striking out “except for the pilot projects conducted under subsection (d) of this section,” were executed by striking out “, except for the pilot projects conducted under subsection (d) of this section” after “under this section” in introductory provisions, as the probable intent of Congress.

Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591, §327(a), and Pub. L. 99-661, §4207(a), amended section identically, adding subsec. (d) and striking out former subsec. (d) which related to free lunches without regard to family income and to reimbursement of school food authorities.

1978—Subsec. (c). Pub. L. 95-627, §11(1), inserted provision excluding pilot projects conducted under subsec. (d) of this section.

Subsec. (d). Pub. L. 95-627, §11(2), added subsec. (d).

#### 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 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4303 and 4304(b) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-161 effective on Jan. 1 of the first full calendar year following Dec. 26, 2007, see section 738(c) of Pub. L. 110-161, set out as a note under section 1761 of this title.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-97, title VII, §777(b), Nov. 10, 2005, 119 Stat. 2161, provided that: “The amendments made by subsection (a) [amending this section] take effect on January 1, 2006.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 116(f)(1), (3) of Pub. L. 108-265 effective Jan. 1, 2005, and amendment by sections 116(f)(2), (4), (5) and 120 to 124 of Pub. L. 108-265 effective June 30, 2004, see section 502(a), (b)(3) of Pub. L. 108-265, as amended, set out as an Effective Date note under section 1754 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-171, title IV, §4305(b), May 13, 2002, 116 Stat. 332, provided that: “The amendment made by this section [amending this section] takes effect on the date of enactment of this Act [May 13, 2002].”

#### 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

Pub. L. 102-512, title I, §104, Oct. 24, 1992, 106 Stat. 3364, provided that: “This title [amending this section

and section 1776 of this title and enacting provisions set out as a note under section 1771 of this title] and the amendments made by this title shall become effective on September 30, 1992.”

EFFECTIVE DATE OF 1978 AMENDMENT

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

OTHER DEMONSTRATION PROJECTS FOR FEEDING  
HOMELESS CHILDREN

Pub. L. 102-342, title I, §101(b), Aug. 14, 1992, 106 Stat. 911, as amended by Pub. L. 105-336, title I, §109(c)(2), Oct. 31, 1998, 112 Stat. 3157, provided that: “The Secretary of Agriculture may conduct demonstration projects to identify effective means of providing food assistance to homeless children residing in temporary shelters.”

ALTERNATIVE COUNTING AND CLAIMING PROCEDURES;  
PROMULGATION OF REGULATIONS

Pub. L. 101-147, title II, §205(b), Nov. 10, 1989, 103 Stat. 911, provided that not later than July 1, 1990, Secretary of Agriculture was to issue final regulations to implement subsec. (g) of this section.

**§ 1769a. Fresh fruit and vegetable program**

**(a) In general**

For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the “program”).

**(b) Program**

A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

**(c) Funding to States**

**(1) Minimum grant**

Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

**(2) Additional funding**

Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 1753 of this title based on the proportion that—

- (A) the population of the State; bears to
- (B) the population of the United States.

**(d) Selection of schools**

**(1) In general**

Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

- (A) ensure that each school chosen to participate in the program is a school—
  - (i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this chapter; and

- (ii) that submits an application in accordance with subparagraph (D);

(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this chapter;

(C) ensure that each school selected is an elementary school (as defined in section 7801<sup>1</sup> of title 20);

(D) solicit applications from interested schools that include—

- (i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this chapter;
- (ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);
- (iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and
- (iv) such other information as may be requested by the Secretary; and

(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

**(2) Exception**

Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.

**(3) Outreach to low-income schools**

**(A) In general**

Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

**(B) Requirement**

In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

**(e) Notice of availability**

If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

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