

subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on July 1, 1989.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-435 to be effective and implemented on July 1, 1989, see section 701(b)(4) of Pub. L. 100-435, set out as a note under section 2012 of Title 7, Agriculture.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99-661, div. D, title II, §4210(a), Nov. 14, 1986, 100 Stat. 4074, provided that the amendment made by that section is effective Oct. 1, 1986.

Pub. L. 99-500, title III, §330(a), Oct. 18, 1986, 100 Stat. 1783-363, and Pub. L. 99-591, title III, §330(a), Oct. 30, 1986, 100 Stat. 3341-366, provided that the amendment made by each such section is effective July 1, 1987.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 801(c) of Pub. L. 97-35 effective Sept. 1, 1981, and amendment by sections 817 and 819 of Pub. L. 97-35 effective Oct. 1, 1981, see section 820(1)(A), (4) of Pub. L. 97-35, set out as a note under section 1753 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENTS

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.

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, and no provision therein to be construed as impairing or preventing the taking effect of any other Act providing for the transfer of functions described therein to an executive department having responsibility for education, see section 1415 of Pub. L. 95-561, set out as an Effective Date note under section 921 of Title 20, Education.

#### REVIEW OF BEST PRACTICES IN THE BREAKFAST PROGRAM

Pub. L. 108-265, title II, §206, June 30, 2004, 118 Stat. 787, directed the Secretary of Agriculture to enter into an agreement with a research organization to collect and disseminate a review of best practices to assist school food authorities in addressing existing impediments at the State and local level that hinder the growth of the school breakfast program and, not later than 1 year after June 30, 2004, to make the review available to school food authorities via the Internet and to transmit it to congressional committees.

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

For provisions directing Secretary of Agriculture to consolidate school breakfast program under this section and school lunch program under chapter 13 (§1751 et seq.) of this title into comprehensive meal program, see section 301 of Pub. L. 103-448, set out as a note under section 1751 of this title.

#### ADJUSTMENTS IN MAXIMUM BREAKFAST PAYMENTS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1981

Pub. L. 96-499, title II, §210, Dec. 5, 1980, 94 Stat. 2602, provided that: “Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 [subsec. (b)(2)(B)(ii) of this section], in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

“(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

“(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for

All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.”

#### ALTERNATE FOODS

Pub. L. 95-627, §6(d), Nov. 10, 1998, 93 Stat. 3621, provided that: “The Secretary shall not limit or prohibit, during the school year 1978-79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office [now Government Accountability Office]. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978-79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification.”

#### REPORT TO CONGRESS OF NEEDS FOR ADDITIONAL FUNDS FOR SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS, FISCAL YEAR ENDING JUNE 30, 1972

Pub. L. 92-153, §3, Nov. 5, 1971, 85 Stat. 420, provided that the Secretary of Agriculture determine immediately upon enactment of this resolution (Nov. 5, 1971) and report to Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs during the fiscal year ending June 30, 1972, at levels permitting expansion of the school breakfast and school lunch programs to all schools desiring such programs as rapidly as practicable.

#### TRANSFER OF FUNDS TO SCHOOLS IN NEED OF ADDITIONAL ASSISTANCE IN SCHOOL BREAKFAST PROGRAM

Pub. L. 92-153, §7, Nov. 5, 1971, 85 Stat. 420, provided that: “In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935 [section 612c of Title 7, Agriculture], for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program.”

#### DIRECT DISTRIBUTION PROGRAMS FOR DIET OF NEEDY CHILDREN SUFFERING FROM GENERAL AND CONTINUED HUNGER; ADDITIONAL FUNDS

Additional funds for direct distribution programs for diet of needy children suffering from general and continued hunger and payment of administrative costs of State or local welfare agency carrying out such programs, see section 6 of Pub. L. 92-32, set out as a note under section 612c of Title 7, Agriculture.

#### § 1774. Disbursement directly to schools or institutions

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

the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

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

(Pub. L. 89-642, § 5, as added Pub. L. 97-35, title VIII, § 817(e), Aug. 13, 1981, 95 Stat. 532.)

#### PRIOR PROVISIONS

A prior section 1774, Pub. L. 89-642, § 5, Oct. 11, 1966, 80 Stat. 887; Pub. L. 91-248, § 2, May 14, 1970, 84 Stat. 208; Pub. L. 92-433, § 6(a)-(d), Sept. 26, 1972, 86 Stat. 727; Pub. L. 93-326, § 5, June 30, 1974, 88 Stat. 287; Pub. L. 94-105, § 18, Oct. 7, 1975, 89 Stat. 525; Pub. L. 95-166, §§ 4, 20(3), (4), Nov. 10, 1977, 91 Stat. 1332, 1346; Pub. L. 95-627, § 6(b), Nov. 10, 1978, 92 Stat. 3620; Pub. L. 96-499, title II, § 211, Dec. 5, 1980, 94 Stat. 2603, made provision for food service equipment assistance program, prior to repeal by Pub. L. 97-35, § 805(b).

#### EFFECTIVE DATE

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

#### REPORT TO CONGRESS OF NEEDS FOR EQUIPMENT TO BE SUBMITTED BY JUNE 30, 1973

Pub. L. 92-433, § 6(e), Sept. 26, 1972, 86 Stat. 729, directed Secretary, to assist Congress in determining amounts needed annually, to conduct a survey among States and school districts on unmet needs for equipment in schools eligible for assistance under former section 1774 of this title, results of such survey to be reported to Congress by June 30, 1973.

### § 1775. Certification to Secretary of the Treasury of amounts to be paid to States

The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 1772 through 1776 of this title and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

(Pub. L. 89-642, § 6, Oct. 11, 1966, 80 Stat. 888.)

### § 1776. State administrative expenses

#### (a) Amount and allocation of funds

##### (1) Amount available

##### (A) In general

Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1753, 1759a, 1766] and 1772 and 1773 of this title during the second preceding fiscal year.

##### (B) Allocation

The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection.

## (2) Expense grants

### (A) In general

Subject to subparagraph (B), the Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] or under this chapter, except for the programs authorized under section 13 or 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1761, 1766] or under section 1786 of this title, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1753, 1759a] and sections 1772 and 1773 of this title during the second preceding fiscal year.

### (B) Minimum amount

#### (i) In general

In no case shall the grant available to any State under this paragraph be less than the amount such State was allocated in the fiscal year ending September 30, 1981, or \$200,000 (as adjusted under clause (ii)),<sup>1</sup> whichever is larger.

#### (ii) Adjustment

On October 1, 2008, and each October 1 thereafter, the minimum dollar amount for a fiscal year specified in clause (i) shall be adjusted to reflect the percentage change between—

(I) the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(II) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the Richard B. Russell National School Lunch Act [42 U.S.C. 1766] in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first \$50,000, (B) 10 percent of the next \$100,000, (C) 5 percent of the next \$250,000, and (D) 2½ percent of any remaining funds. 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). The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the

<sup>1</sup> So in original. Probably should be preceded by an additional closing parenthesis.