

§ 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)),¹ 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 States of the administration of the programs authorized under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] and this chapter, except for section 1786 of this title, including, but not limited to, improved program integrity and the quality of meals served to children.

(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

(B) REALLOCATION OF FUNDS.—

(i) RETURN TO SECRETARY.—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

(ii) REALLOCATION BY SECRETARY.—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.

(6) USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under this chapter (except for the programs authorized under sections 1786 and 1790 of this title) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) without regard to the

¹ So in original. Probably should be preceded by an additional closing parenthesis.

basis on which the funds were earned and allocated.

(7) Where the Secretary is responsible for the administration of programs under this chapter or the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1761(k)(1)] shall be retained by the Secretary for the Secretary's use in the administration of such programs.

(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this chapter and under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this chapter and under the Richard B. Russell National School Lunch Act.

(9)(A) If the Secretary determines that the administration of any program by a State under this chapter (other than section 1786 of this title) or under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766)), or compliance with a regulation issued pursuant to either this chapter or such Act, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.

(b) Funds, usage: compensation, benefits, and travel expenses of personnel; support services; office equipment; staff development

Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(c) Fund adjustment; State administered programs

If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid

under this section to the State not later than the succeeding fiscal year.

(d) Unused funds; availability for obligation and expenditure, and reallocation to other States

Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.

(e) Plans for use of administrative expense funds

(1) In general

Each State shall submit to the Secretary for approval by October 1 of the initial fiscal year a plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel.

(2) Updates and information management systems

(A) In general

After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.

(B) Plan contents

Each State plan shall, at a minimum, include a description of how technology and information management systems will be used to improve program integrity by—

(i) monitoring the nutrient content of meals served;

(ii) training local educational agencies, school food authorities, and schools in how to use technology and information management systems (including verifying eligibility for free or reduced price meals using program participation or income data gathered by State or local agencies); and

(iii) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data.

(3) Training and technical assistance

Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) and section 22(b)(3) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1769c(b)(3)].

(f) State funding requirement

Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this chapter (except section 1786 of this title) and the Richard B. Russell National

School Lunch Act [42 U.S.C. 1751 et seq.] (except section 13 of that Act [42 U.S.C. 1761]), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.

(g) Professional standards for school food service

(1) Criteria for school food service and State agency directors

(A) School food service directors

(i) In general

The Secretary shall establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority.

(ii) Requirements

The program shall include—

(I) minimum educational requirements necessary to successfully manage the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title;

(II) minimum program training and certification criteria for school food service directors; and

(III) minimum periodic training criteria to maintain school food service director certification.

(B) School nutrition State agency directors

The Secretary shall establish criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title.

(C) Training program partnership

The Secretary may provide financial and other assistance to 1 or more professional food service management organizations—

(i) to establish and manage the program under this paragraph; and

(ii) to develop voluntary training and certification programs for other school food service workers.

(D) Required date of compliance

(i) School food service directors

The Secretary shall establish a date by which all school food service directors whose local educational agencies are participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title shall be required to comply with the education, training, and certification criteria established in accordance with subparagraph (A).

(ii) School nutrition State agency directors

The Secretary shall establish a date by which all State agencies shall be required to comply with criteria and standards es-

tablished in accordance with subparagraph (B) for the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 1773 of this title.

(2) Training and certification of food service personnel

(A) Training for individuals conducting or overseeing administrative procedures

(i) In general

At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to local educational agency and school food authority personnel and other appropriate personnel.

(ii) Federal role

The Secretary shall—

(I) provide training and technical assistance described in clause (i) to the State; or

(II) at the option of the Secretary, directly provide training and technical assistance described in clause (i).

(iii) Required participation

In accordance with procedures established by the Secretary, each local educational agency or school food authority shall ensure that an individual conducting or overseeing administrative procedures described in clause (i) receives training at least annually, unless determined otherwise by the Secretary.

(B) Training and certification of all local food service personnel

(i) In general

The Secretary shall provide training designed to improve—

(I) the accuracy of approvals for free and reduced price meals; and

(II) the identification of reimbursable meals at the point of service.

(ii) Certification of local personnel

In accordance with criteria established by the Secretary, local food service personnel shall complete annual training and receive annual certification—

(I) to ensure program compliance and integrity; and

(II) to demonstrate competence in the training provided under clause (i).

(iii) Training modules

In addition to the topics described in clause (i), a training program carried out under this subparagraph shall include training modules on—

(I) nutrition;

(II) health and food safety standards and methodologies; and

(III) any other appropriate topics, as determined by the Secretary.

(3) Funding**(A) In general**

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, to remain available until expended—

- (i) on October 1, 2010, \$5,000,000; and
- (ii) on each October 1 thereafter, \$1,000,000.

(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.

(h) Funding for training and administrative reviews**(1) Funding****(A) In general**

On October 1, 2004, and on each October 1 thereafter, 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 subsection \$4,000,000, 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.

(2) Use of funds**(A) In general**

Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected local educational agencies carried out under section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c).

(B) Exception

The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

(3) Allocation

The Secretary shall allocate funds provided under this subsection to States based on the number of local educational agencies that have demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary, taking into account the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004 and the amendments made by that Act.

(4) Reallocation

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

(i) Technology infrastructure improvement**(1) In general**

Each State shall submit to the Secretary, for approval by the Secretary, an amendment to the plan required by subsection (e) that describes the manner in which funds provided under this section will be used for technology and information management systems.

(2) Requirements

The amendment shall, at a minimum, describe the manner in which the State will improve program integrity by—

- (A) monitoring the nutrient content of meals served;
- (B) providing training to local educational agencies, school food authorities, and schools on the use of technology and information management systems for activities including—
 - (i) menu planning;
 - (ii) collection of point-of-sale data; and
 - (iii) the processing of applications for free and reduced price meals; and
- (C) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.

(3) Technology infrastructure grants**(A) In general**

Subject to the availability of funds made available under paragraph (4) to carry out this paragraph, the Secretary shall, on a competitive basis, provide funds to States to be used to provide grants to local educational agencies, school food authorities, and schools to defray the cost of purchasing or upgrading technology and information management systems for use in programs authorized by this chapter (other than section 1786 of this title) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) Infrastructure development plan

To be eligible to receive a grant under this paragraph, a school or school food authority shall submit to the State a plan to purchase or upgrade technology and information management systems that addresses potential cost savings and methods to improve program integrity, including—

- (i) processing and verification of applications for free and reduced price meals;
- (ii) integration of menu planning, production, and serving data to monitor compliance with section 9(f)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1)); and
- (iii) compatibility with statewide reporting systems.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2010 through 2015, to remain available until expended.

(j) Authorization of appropriations

For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before

October 1, 2015, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

(Pub. L. 89-642, § 7, Oct. 11, 1966, 80 Stat. 888; Pub. L. 90-302, § 4, May 8, 1968, 82 Stat. 119; Pub. L. 91-248, § 5, May 14, 1970, 84 Stat. 210; Pub. L. 95-166, § 14, Nov. 10, 1977, 91 Stat. 1338; Pub. L. 95-627, § 7(a), Nov. 10, 1978, 92 Stat. 3621; Pub. L. 96-499, title II, § 201(b), Dec. 5, 1980, 94 Stat. 2600; Pub. L. 97-35, title VIII, §§ 814, 819(e), Aug. 13, 1981, 95 Stat. 531, 533; Pub. L. 99-500, title III, §§ 313, 332, Oct. 18, 1986, 100 Stat. 1783-360, 1783-363, and Pub. L. 99-591, title III, §§ 313, 332, Oct. 30, 1986, 100 Stat. 3341-363, 3341-367; Pub. L. 99-661, div. D, title I, § 4103, title II, § 4212, Nov. 14, 1986, 100 Stat. 4071, 4075; Pub. L. 101-147, title I, § 122(a), Nov. 10, 1989, 103 Stat. 893; Pub. L. 102-512, title I, § 103, Oct. 24, 1992, 106 Stat. 3363; Pub. L. 103-448, title I, § 117(a)(2)(B), title II, § 202, Nov. 2, 1994, 108 Stat. 4717, 4737; Pub. L. 104-193, title VII, § 724, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 105-336, title II, § 202, Oct. 31, 1998, 112 Stat. 3158; Pub. L. 106-78, title VII, § 752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 106-224, title II, § 243(j), June 20, 2000, 114 Stat. 420; Pub. L. 108-265, title I, § 126(c), title II, § 202, June 30, 2004, 118 Stat. 765, 769; Pub. L. 111-296, title III, § 306, title IV, §§ 421, 422, 441(b)(1), Dec. 13, 2010, 124 Stat. 3243, 3260, 3264.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsecs. (a), (f), (g)(1), and (i)(3)(A), 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.

The Child Nutrition and WIC Reauthorization Act of 2004, referred to in subsec. (h)(3), is Pub. L. 108-265, June 30, 2004, 118 Stat. 729. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1751 of this title and Tables.

CODIFICATION

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

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-296, § 441(b)(1), substituted “Each fiscal year” for “Except as provided in subparagraph (B), each fiscal year” in subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004.”

Subsec. (g). Pub. L. 111-296, § 306, added subsec. (g) and struck out former subsec. (g) which required each State to provide, at least annually, training in administrative practices, with emphasis on the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004, and set out the Federal role and procedures for required participation.

Subsec. (i)(4). Pub. L. 111-296, § 421, substituted “2010 through 2015” for “2005 through 2009”.

Subsec. (j). Pub. L. 111-296, § 422, substituted “October 1, 2015” for “October 1, 2009”.

2004—Subsec. (a). Pub. L. 108-265, § 202(a)(1), inserted heading.

Subsec. (a)(1). Pub. L. 108-265, § 202(a)(1), (2)(A), inserted par. heading, designated first and second sentences as subpars. (A) and (C), respectively, inserted

subpar. (A) and (C) headings, in subpar. (A) substituted “Except as provided in subparagraph (B), each” for “Each”, added subpar. (B), and struck out at end “There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”

Subsec. (a)(2). Pub. L. 108-265, § 202(a)(2)(B), inserted par. heading, designated existing provisions as subpars. (A) and (B)(i), inserted headings, in subpar. (A) substituted “Subject to subparagraph (B), the” for “The”, in subpar. (B)(i) substituted “this paragraph” for “this subsection” and “\$200,000 (as adjusted under clause (i))” for “\$100,000”, and added subpar. (B)(ii).

Subsec. (e). Pub. L. 108-265, § 126(c)(1), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, struck out last sentence requiring a State, after submitting the initial plan, to submit to the Secretary for approval only a substantive change in the plan, and added pars. (2) and (3).

Subsecs. (g), (h). Pub. L. 108-265, § 126(c)(3), added subsecs. (g) and (h). Former subsec. (g) redesignated (j).

Subsec. (i). Pub. L. 108-265, § 202(b), added subsec. (i). Subsec. (j). Pub. L. 108-265, § 202(c), substituted “2009” for “2003”.

Pub. L. 108-265, § 126(c)(2), redesignated subsec. (g) as (j).

2000—Subsec. (a)(9)(A). Pub. L. 106-224 inserted “(including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766))” after “(42 U.S.C. 1751 et seq.)”.

1999—Subsecs. (a), (f). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” wherever appearing.

1998—Subsec. (a)(5)(B). Pub. L. 105-336, § 202(a), amended subpar. (B) generally, substituting present provisions for provisions which related to return of unexpended funds to Secretary and reallocation of such funds to provide annual grants to public entities and private nonprofit organizations participating in projects under former section 1766b of this title.

Subsec. (a)(6). Pub. L. 105-336, § 202(b), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.”

Subsec. (g). Pub. L. 105-336, § 202(c), substituted “2003” for “1998”.

1996—Subsec. (e). Pub. L. 104-193, § 724(b), substituted “the initial fiscal year a plan” for “each year an annual plan” and inserted at end “After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.”

Pub. L. 104-193, § 724(a), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: “The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.”

Subsecs. (f), (g). Pub. L. 104-193, § 724(a)(2), redesignated subsecs. (g) and (i) as (f) and (g), respectively. Former subsec. (f) redesignated (e).

Subsec. (h). Pub. L. 104-193, § 724(a)(1), struck out subsec. (h) which read as follows: “The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this chapter or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary.”

Subsec. (i). Pub. L. 104-193, § 724(a)(2), redesignated subsec. (i) as (g).

1994—Subsec. (a)(5)(B)(i)(I). Pub. L. 103-448, § 117(a)(2)(B), substituted “projects under section 17B of the National School Lunch Act” for “projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c))” and substituted “fiscal year 1995 and

each subsequent fiscal year” for “each of fiscal years 1993 and 1994” in two places.

Subsec. (a)(9). Pub. L. 103-448, §202(a), added par. (9).
Subsec. (h). Pub. L. 103-448, §202(c)(2), added subsec. (h). Former subsec. (h) redesignated (i).

Pub. L. 103-448, §202(b), substituted “1998” for “1994”.
Subsec. (i). Pub. L. 103-448, §202(c)(1), redesignated subsec. (h) as (i).

1992—Subsec. (a)(5)(B)(i). Pub. L. 102-512, §103(1), substituted a colon for “, the Secretary shall—” in introductory provisions.

Subsec. (a)(5)(B)(i)(I). Pub. L. 102-512, §103(2), added subcl. (I) and struck out former subcl. (I) which read as follows: “first allocate, for the purpose of providing grants on an annual basis to private nonprofit organizations participating in projects under section 18(f) of the National School Lunch Act, not less than \$3,000,000 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 section 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 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 Secretary 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.