

Public Law 95-166

95th Congress

An Act

To amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to revise and extend the summer food program, to revise the special milk program, to revise the school breakfast program, to authorize the Secretary of Agriculture to carry out a program of nutrition information and education as part of food service programs for children conducted under such Acts, and for other purposes.

Nov. 10, 1977

[H.R. 1139]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National School Lunch Act and Child Nutrition Amendments of 1977".

National School Lunch Act and Child Nutrition Amendments of 1977.

42 USC 1751

note.

42 USC 1761.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 2. Section 13 of the National School Lunch Act is amended to read as follows:

"SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

"SEC. 13. (a) (1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, (A) 'program' means the summer food service program for children authorized by this section; (B) 'service institutions' means nonresidential public or private nonprofit institutions, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) 'areas in which poor economic conditions exist' means areas in which at least 33 $\frac{1}{3}$ percent of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) 'children' means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public school program established for the mentally or physically handicapped; and (E) 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

Assistance to States.
Definitions.

42 USC 1771
note.

"(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service

facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

Service
institutions,
eligibility.

"(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

"(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

"(B) have not been seriously deficient in operating under the program;

"(C) either conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualify as camps; and

"(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

Participation,
priorities.

"(4) The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

"(A) local schools or service institutions that have demonstrated successful program performance in a prior year;

"(B) service institutions that prepare meals at their own facilities or operate only one site;

"(C) service institutions that use local school food facilities for the preparation of meals;

"(D) other service institutions that have demonstrated ability for successful program operation; and

"(E) service institutions that plan to integrate the program with Federal, State, or local employment programs.

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

Reimbursement,
limitations.

"(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966.

42 USC 1771
note.

Payments to
institutions.

"(b) (1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.

Adjustments.

Meals per day,
limitation.

"(2) Any service institution shall be permitted to serve up to three

meals per day of operation if at least one of the three meals is a meal supplement, and any service institution that is a camp shall be permitted to serve up to four meals per day of operation, if the service institution has the administrative capability, and the food preparation and food holding capabilities (where applicable), to manage more than one meal service per day, and if the service period of different meals does not coincide or overlap. Such meals may include a breakfast, a lunch, a supper, and meal supplements.

“(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

Budget,
submittal.
State approval.

“(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

Operations,
study.

“(i) an evaluation of meal quality as related to costs; and

“(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

“(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

Administrative
costs, study.

“(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

Results, report to
Congress.

“(c) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar.

“(d) Not later than April 15, May 15, and July 1, of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

Advance program
payments to
States.
Letter of credit,
forwarding to
States.

“(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a

Certification.	continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution: <i>Provided</i> , That (A) the State shall not release the second month's advance program payment to any service institution that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities, and (B) no advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.
Payments, computation.	"(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: <i>Provided</i> , That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or \$40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.
Limitation.	
Valid claims, receipt.	
Withholding.	
Meals, contents.	"(f) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a) (5) of this section. To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State. Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) that bacteria levels conform to the standards which are
Quality assurance, specifications and standards.	
Meal preparation contracts, requirements.	
Inspection and testing.	

applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality. Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

“(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications, and handbooks by February 1 of each fiscal year: *Provided*, That for fiscal year 1978, those portions of the regulations relating to payment rates for both food service operations and administrative costs need not be published until December 1 and February 1, respectively. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b) (3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b) (3) of this section.

“(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1). Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

“(i) If any State (1) is unable for any reason to disburse the funds otherwise payable to it under this section, or (2) does not operate the program in accordance with the requirements of this section, the Secretary shall assume authority for administration of the program in such State, and shall disburse the funds directly to service institutions in the State for the same purposes and subject to the same conditions as are required of a State disbursing funds made available under this section. In cases described in clause (1) of the preceding sentence, the State shall notify the Secretary, not later than January 1 of each fiscal year in which the program is operated, of its intention not to administer the program.

“(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

“(k) (1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first \$50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next \$50,000 in funds distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next \$100,000 in funds distributed to that State for the program in the preceding fiscal year; and (D) 2 percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

“(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program

Regulations,
guidelines, and
applications,
publication.

Startup costs.

Donated foods.

Administration,
inability by State.

Notification.

Administrative
costs, payment.

Adjustment.

Standards and
effective dates,
establishment.

Funds, withholding.	by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.
Inspection funds.	"(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.
Food service management companies, subcontracts.	"(1) (1) Service institutions may contract on a competitive basis only with food service management companies registered with the State in which they operate for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company shall, in its bid, provide the service institution information as to its meal capacity. The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.
Additional conditions.	
Bids.	
Review.	
Registration.	"(2) Each State shall provide for the registration of food service management companies. For the purposes of this section, registration shall include, at a minimum—
	"(A) certification that the company meets applicable State and local health, safety, and sanitation standards;
	"(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;
	"(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal years; and
	"(D) the addresses of the company's food preparation and distribution sites.
	No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.
Record, availability to States.	"(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies and their program record for the purpose of making such information available to the States.
Small and minority-owned businesses.	"(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.
Contract, standard form.	"(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe require-
Bid and contract procedures, requirements.	

ments governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of \$100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

“(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

“(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State’s administrative budget for the fiscal year, and the State’s plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State’s plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State’s methods for assessing need, and its plans and schedule for informing service institutions of the availability of the program; (3) the State’s best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4) the State’s plans and schedule for providing technical assistance and training eligible service institutions; (5) the State’s schedule for application by service institutions; (6) the actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities; (7) the State’s plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (8) the State’s plan and schedule for registering food service management companies; (9) the State’s plan for timely and effective action against program violators; (10) the State’s plan for determining the amounts of program payments to service institutions and for disbursing such payments; (11) the State’s plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and (12) the State’s procedure for granting a hearing and prompt determination to any service institution wishing to appeal a State ruling denying the service institution’s application for program participation or for program reimbursement.

“(o) (1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person

Accounts and records, retention.

Inspection and audit, availability.

Management and administration plan, notification and submittal to Secretary.

Penalties.

to defraud the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

"(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over \$200, then the penalty shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both).

"(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons do any act to effect the object of the conspiracy or collusion, each shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

Appropriation
authorization.

"(p) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section."

CONFORMING AMENDMENT

42 USC 1754,
1756, 1757,
1760, 1766,
1774.

42 USC 1754.

42 USC 1774.

SEC. 3. The National School Lunch Act and the Child Nutrition Act of 1966 are each amended by striking out "nonfood assistance" each time such phrase appears in such Acts and by inserting in lieu thereof "food service equipment assistance". The heading of section 5 of the National School Lunch Act is amended to read "FOOD SERVICE EQUIPMENT ASSISTANCE", and the heading of section 5 of the Child Nutrition Act of 1966 is amended to read "FOOD SERVICE EQUIPMENT ASSISTANCE".

FOOD SERVICE EQUIPMENT ASSISTANCE

Conditions.

42 USC 1774.

SEC. 4. Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this section to assist schools that are especially needy, as determined by criteria to be established by each State and approved by the Secretary. States shall apportion their share of funds under this subsection by giving priority to schools without a food service program and schools without the facilities to prepare and cook hot meals at the schools (including schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals) or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority that is responsible for the administration of one or more nonprofit private schools. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service program and with the facilities to prepare and cook hot meals at the schools or at a kitchen that serves the schools and that is operated by the local school district or by a nonprofit private school or the authority

State
apportionment.

that is responsible for the administration of one or more nonprofit private schools, for the purpose of purchasing needed replacement equipment.”;

(2) amending subsection (e) to read as follows:

“(e) For the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, 33 $\frac{1}{3}$ percent of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare and cook hot meals or receive hot meals. In those States in which the Secretary administers the food service equipment assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare and cook hot meals or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by the State, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If any State cannot use all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionment to the remaining States for use only in assisting schools without a food service program and schools without the facilities to prepare and cook hot meals or receive hot meals. If after such further apportionment, any funds received under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section. Payment to any State of funds under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools that are especially needy, as determined by criteria established by each State and approved by the Secretary.”;

(3) adding at the end thereof a new subsection (f) to read as follows:

“(f) (1) Funds authorized for the purposes of this section shall be used only for facilities that enable schools, or local public or private nonprofit institutions under the conditions prescribed in paragraph (2) of this subsection, to prepare and cook hot meals or receive hot meals at the school or institution unless the school can demonstrate to the satisfaction of the State (or, in the case of nonprofit private schools in States where the Secretary administers the food service equipment program in such schools, to the satisfaction of the Secretary) that an alternative method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast program in such school or to improve the consumption of food or the participation of eligible children in the program.

“(2) If a school authorized to receive funds under this section

State
apportionment.

Funds for States
administered by
Secretary,
withholding.

Condition.

cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the school enters into an agreement with a public or private nonprofit institution to provide the school lunch or breakfast program for children attending the school, the funds provided under this section may be used for food service facilities to be located at such institution, if (A) the school retains legal title to such facilities and, (B) in the case of funds made available under subsection (e) of this section, the institution would otherwise be without such facilities.”; and

(4) striking out the comma after “as amended” in subsection (a), inserting a period in lieu thereof, and striking out the remainder of the sentence.

COMMODITY DISTRIBUTION PROGRAM

Estimated
valuation.
42 USC 1755.

SEC. 5. Section 6(b) of the National School Lunch Act is amended to read as follows:

Payment.

“(b) Not later than May 15 of each school year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that school year to States for the school lunch program. If such estimated value is less than the total level of assistance authorized under subsection (e) of this section, the Secretary shall pay to each State educational agency, not later than June 15 of that school year, an amount of funds that is equal to the difference between the value of such deliveries as then programmed for such State and the total level of assistance authorized under subsection (e) of this section. In any State in which the Secretary directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds to be paid to such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the school lunch program is directly administered by the Secretary during that school year bears to the total of such lunches served under the school lunch program in all the schools in such State in such school year. Each State educational agency, and the Secretary in the case of private schools in which the Secretary directly administers the school lunch program, shall promptly and equitably disburse such funds to schools participating in the school lunch program, and such disbursements shall be used by such schools to purchase United States agricultural commodities and other foods for their food service program. Such foods shall be limited to the requirements for lunches and breakfasts for children as provided for in regulations issued by the Secretary.”.

Funds for States
administered by
Secretary,
withholding.

PURCHASE OF FOODS FOR THE COMMODITY DISTRIBUTION PROGRAM

42 USC 1762a.

SEC. 6. Section 14 of the National School Lunch Act is amended by—

(1) striking out “September 30, 1977” in subsection (a) and inserting in lieu thereof “September 30, 1982”; and

(2) adding at the end thereof new subsections (c), (d), and (e) as follows:

“(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) or for cash payments in lieu of such donations under section 707(d)(1) of such Act (42 U.S.C. 3045f(d)(1)). There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

Appropriation
authorization.

"(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

Assistance,
procedures.
42 USC 1771
note.

"(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

"(2) solicit the views of States with respect to the acceptability of commodities;

"(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

"(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

Cost and benefits,
review.

"(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966. Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

Technical
assistance.
Report to
Congress.

Procedures.

"(e) Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program."

State advisory
councils,
establishment
and membership.

REFUSAL OF COMMODITIES

SEC. 7. Section 6(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following: "Any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year."

42 USC 1755.

ACCEPTANCE OF OFFERED FOODS

SEC. 8. The third sentence of section 9(a) of the National School Lunch Act is amended to read as follows: "Students in senior high schools that participate in the school lunch program under this Act

Senior high
school students.
42 USC 1758.

(and, when approved by the local school district or nonprofit private schools, students in any other grade level in any junior high school or middle school) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.”.

SPECIAL ASSISTANCE

Appropriation
authorization.
42 USC 1759a.

SEC. 9. Section 11(a) of the National School Lunch Act is amended by inserting immediately after the first sentence the following new sentences: “In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the ‘first school year’) are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.”.

PILOT PROJECTS

42 USC 1755.

SEC. 10. The National School Lunch Act is amended by—

(1) inserting in section 6(a)(3) immediately after “participants in these programs” the following: “, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 20 of this Act,”; and

(2) adding at the end thereof a new section 20 as follows:

“PILOT PROJECTS

42 USC 1769.

“SEC. 20. (a) The Secretary shall conduct pilot projects with respect to local school districts or other appropriate units, or groups of program participants, for the purpose of determining whether there may be more efficient, healthful, economical, and reliable methods of operating school lunch, school breakfast, and summer feeding pro-

grams under this Act and the Child Nutrition Act of 1966, and methods for operating such programs that will result in improved delivery of benefits thereunder in accordance with the purposes of such Acts. Such projects shall, notwithstanding any other provision of law, include (1) not more than ten projects providing participating schools or other institutions the option of receiving all or part cash assistance in lieu of commodities under such Acts for such nutrition programs operated in such schools or institutions, (2) projects designed to streamline or reduce reporting requirements by local school districts, and (3) projects using the United States Department of Agriculture Extension Service to aid in nutrition training and education in schools and other institutions.

“(b) The Secretary shall conduct a study to analyze the impact and effect of cash payments in lieu of commodities. The study shall be limited to a comparison between a State that phased out its commodity distribution facilities prior to June 30, 1974, and elected to receive cash payments in lieu of donated foods, and a State not eligible for cash payments in lieu of donated foods. Such study shall include an assessment of the administrative feasibility and nutritional impact of cash payments in lieu of donated foods, the cost savings, if any, that may be effected thereby at the Federal, State, and local levels, any additional costs that may be placed on programs and participating students, the impact on Federal programs designed to provide adequate income to farmers, the impact on the quality of food served, and the impact on plate waste in school lunch and breakfast programs.

“(c) The Secretary shall report to Congress, not later than eighteen months after the date of the enactment of this section, on the results of the pilot projects and study conducted under this section. In connection with such pilot projects, such report shall include an assessment of the methods employed in such projects for operating school lunch, school breakfast, and summer feeding programs, in terms of the following factors—

- “(1) the administrative feasibility and nutritional impact;
- “(2) the cost savings that may be effected at Federal, State, and local levels;
- “(3) the impact on Federal programs designed to provide adequate income to farmers;
- “(4) the impact on the quality of food served; and
- “(5) the impact on plate waste.”.

SPECIAL MILK PROGRAM

SEC. 11. The fifth sentence of section 3 of the Child Nutrition Act of 1966 is amended to read as follows: “Children who qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk, when milk is made available at times other than the periods of meal service in outlets that operate a food service program under sections 4 and 17 of the National School Lunch Act and section 4 of this Act.”.

SCHOOL BREAKFAST PROGRAM

SEC. 12. Section 4 of the Child Nutrition Act of 1966 is amended by—

- (1) inserting “(1)” after the subsection designation for subsection (b);
- (2) striking out the last sentence in subsection (b); and
- (3) adding at the end of subsection (b) a new paragraph (2) as follows:

42 USC 1771
note.

Project contents.

Study.

Report to
Congress.
Contents.

42 USC 1772.

42 USC 1753.
42 USC 1766.
Infra.

42 USC 1773.

Additional
payments, severe
need.

Maximum
payment, free
breakfast.

"(2) (A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced-price meal at schools that are in severe need.

"(B) The maximum payment for each such free breakfast shall be the higher of—

"(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

"(ii) 45 cents, which shall be adjusted on a semiannual basis each July 1 and January 1 to the nearest one-fourth cent in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent six-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

Maximum
payment, reduced
price breakfast.

"(C) The maximum payment for each such reduced-price breakfast shall be five cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph."; and

(4) amending subsection (d) to read as follows:

Severe need
assistance,
eligibility.

"(d) Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need where the rate per meal established by the Secretary is insufficient to carry out an effective breakfast program in such a school. Such eligibility standards shall be submitted to the Secretary for approval and included in the State plan of child nutrition operations required by section 11(e) (1) of the National School Lunch Act. Pursuant to those State eligibility standards, a school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less."

42 USC 1759a.

42 USC 1773.

REDUCTION OF PAPERWORK

SEC. 13. The National School Lunch Act is amended by adding at the end thereof a new section 21 as follows:

"REDUCTION OF PAPERWORK

42 USC 1769a.
42 USC 1771
note.

Report to
Congress.

"SEC. 21. In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall reduce, to the maximum extent possible, the paperwork required of State and local educational agencies, schools, and other agencies participating in child nutrition programs under such Acts. The Secretary shall report to Congress not later than one year after the date of enactment of this section on the extent to which a reduction in such paperwork has occurred."

STATE ADMINISTRATIVE EXPENSES

42 USC 1776.

SEC. 14. Section 7 of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a) (1) The Secretary shall pay to each State for its administrative costs incurred pursuant to the administration of this Act and the National School Lunch Act for the fiscal year ending

42 USC 1751
note.

September 30, 1978, an amount equal to 1 percent, and for each of the fiscal years ending September 30, 1979, and September 30, 1980, an amount not less than 1 percent and not greater than 1½ percent of the funds used by each State under sections 4, 11, and 17 of the National School Lunch Act and under sections 3, 4, and 5 of this Act during the second fiscal year preceding the fiscal year for which the amounts are to be paid: *Provided*, That in no case shall the payment to any State under this section be less than \$75,000 per year nor shall any State receive less than the amount allocated to it for fiscal year 1977. The percentages specified in the foregoing sentence shall apply only to the first \$100,000,000 in funds used under the prescribed sections of law. For those funds used that exceed \$100,000,000, the Secretary shall pay an amount equal to 1 percent of such funds.

“(2) The Secretary shall make available to States administering the child care food program, for the purpose of conducting audits of participating child care institutions, an amount up to 2 percent of the funds used by each State under section 17 of the National School Lunch Act during the second fiscal year preceding the fiscal year for which the amount is to be paid.

“(b) 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, and sections 3, 4, and 5 of this Act, that will ensure sufficient staff for the planning and administration of programs covered by State administrative expenses.

“(c) 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.

“(d) 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.

“(e) Notwithstanding any other provision of law, funds available to each State under this section for fiscal year 1978 that are not obligated or expended in that fiscal year shall remain available for obligation and expenditure by that State in fiscal year 1979. For fiscal year 1979, and the succeeding 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 deems appropriate.

“(f) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.

“(g) Each State shall submit to the Secretary for approval by October 1 of each year an annual 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.

“(h) 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 Act (except section 17 of this Act) and the National School Lunch

42 USC 1753,
1759a, 1766.
42 USC
1772-1775.
Minimum
payment.

Audit expenses.

42 USC 1766.

Staffing
standards.
42 USC 1753,
1759a, 1766.
42 USC
1772-1775.

Funds, usage.

Fund adjustment,
State
administered
programs.

Unused funds.

State plan, use of
funds.

State funding
requirement.

42 USC 1786.

42 USC 1761.

Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977.

Appropriation
authorization.

“(i) For the fiscal years beginning October 1, 1977, and ending September 30, 1980, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.”.

NUTRITION EDUCATION AND TRAINING

SEC. 15. The Child Nutrition Act of 1966 is amended by adding at the end thereof a new section 19 as follows:

“NUTRITION EDUCATION AND TRAINING

42 USC 1788.

“SEC. 19. (a) Congress finds that—

“(1) the proper nutrition of the Nation's children is a matter of highest priority;

“(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

“(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

“(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

“(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.

“PURPOSE

“(b) It is the purpose of this section to encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing a system of grants to State educational agencies for the development of comprehensive nutrition information and education programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

“DEFINITIONS

“(c) For purposes of this section, the term ‘nutrition information and education program’ means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training school food service personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; and (D) developing and using classroom materials and curricula.

"NUTRITION INFORMATION AND TRAINING"

"(d) (1) The Secretary is authorized to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) the food service management training of school food service personnel, and (C) the conduct of nutrition education activities in schools and child care institutions.

Grants.

"(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of the National Advisory Council on Child Nutrition; State educational agencies; the Department of Health, Education, and Welfare; and other interested groups and individuals concerned with improvement of child nutrition.

Coordination with other nutrition activities.

"(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health, Education, and Welfare, the Secretary may make funds authorized in this section available to the Department of Health, Education, and Welfare to fund the nutrition education component of the State program without requiring an additional grant application.

Coordination with HEW.
Transfer of funds.

"(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

Nutrition training.
Grants.
State contracts.

"(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, as amended; 7 U.S.C. 301-305, 307, and 308), or the act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

Pilot projects.
State contracts.

"(6) Notwithstanding any other provision of this section, if, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private

Private schools, program administration.

schools and institutions, the Secretary may administer the program with respect to such schools and institutions.

"AGREEMENTS WITH STATE AGENCIES

"(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

"USE OF FUNDS

"(f) (1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs; (B) undertaking an assessment of the nutrition education needs of the State; (C) developing a State plan of operation and management for nutrition education; (D) applying for and carrying out planning and assessment grants; (E) pilot projects and related purposes; (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel; (G) coordinating and promoting nutrition information and education activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs); (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section; and (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials.

Planning and
assessment
grants.

"(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.

Administrative
expenses.

"(3) An amount not to exceed 15 percent of each State's grant may be used for up to 50 percent of the expenditures for overall administrative and supervisory purposes in connection with the program authorized under this section.

"(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults nutrition education materials, resources, activities, or programs authorized under this section.

"ACCOUNTS, RECORDS, AND REPORTS

"(g) (1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

"(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

"STATE COORDINATORS FOR NUTRITION; STATE PLAN

"(h) (1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State as provided in paragraph (2) of this subsection, prepare a State plan as provided in paragraph (3) of this subsection, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

State coordinators for nutrition.

"(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education needs of the State. Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.

"(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the National Advisory Council on Child Nutrition, the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food service management, and for instructing teachers in sound principles of nutrition education; and (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings.

State plan.

Contents.

Review.
Hearings.

"APPROPRIATIONS AUTHORIZED

"(j) (1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each

FY 1977 and 1978.

child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than \$75,000 per year.

FY 1979.

"(2) For the fiscal year beginning October 1, 1979, there is hereby authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs, an amount equal to the higher of (A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) \$75,000 for each State. Grants to each State from such appropriations shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within such State, except that no State shall receive an amount less than \$75,000 for that year. If funds appropriated for such year are insufficient to pay the amount to which each State is entitled under the preceding sentence, the amount of such grant shall be ratably reduced to the extent necessary so that the total of such amounts paid does not exceed the amount of appropriated funds. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

Enrollment data.

"(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare."

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

42 USC 1763.

SEC. 16. Section 15 of the National School Lunch Act is amended by—

(1) striking out in the first sentence "fifteen" and inserting in lieu thereof "nineteen";

(2) inserting immediately after "classroom teacher," in the second sentence the following: "two members shall be parents of children in schools that participate in the school lunch program under this Act, two members shall be senior high school students who participate in the school lunch program under this Act,";

(3) amending subsection (b) to read as follows:

Term.

"(b) The fifteen members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of two years, except that the appointments for 1978 shall be made as follows: Two replacements, one parent, and one senior high school student shall be appointed for terms of two years; and two replacements, one parent, and one senior high school student shall be appointed for terms of one year. Thereafter, all appointments shall be for a term of two years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Parents and senior high school students appointed to the Council shall be members of State or school district child nutrition councils or committees actively engaged in providing program advice and guidance to school officials administering the school lunch program. Such appointments shall be made in a manner to balance rural and urban representation between parents and students. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary."; and

Personal
expenses,
compensation.

(4) striking out the period at the end of subsection (h) and inserting in lieu thereof the following: " : *Provided*, That members serving as parents, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings."

REGULATIONS ON SALE OF COMPETITIVE FOODS

SEC. 17. Section 10 of the Child Nutrition Act of 1966 is amended by inserting "approved by the Secretary" after "competitive foods" in the second sentence. 42 USC 1779.

NATIONAL ADVISORY COUNCIL ON THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 18. Section 17(h) (8) of the Child Nutrition Act of 1966 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: " : *Provided*, That parent recipient members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings." 42 USC 1786.

TECHNICAL AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 19. Effective July 1, 1977, the National School Lunch Act is amended by— Effective date.

(a) striking out "fiscal" the second and third time that word appears in section 6(e) of the Act and inserting in lieu thereof "school"; 42 USC 1755.

(b) amending section 7 of the Act as follows:

(1) by amending the first sentence to read as follows: "Funds appropriated to carry out section 4 or 5 during any fiscal year shall be available for payment to the States for disbursement by State educational agencies, in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies, for the purpose of assisting schools of the States in supplying (1) agricultural commodities and other foods for consumption by children and (2) food service equipment assistance in furtherance of the school lunch program authorized under this Act."; 42 USC 1756.
Payments to States.
42 USC 1753, 1754.

(2) by striking out "fiscal" the second time that word appears in the third sentence and inserting in lieu thereof "fiscal or school";

(3) by striking out "fiscal" in the fourth sentence and inserting in lieu thereof "fiscal or school"; 42 USC 1756.

(4) by amending the sixth sentence to read as follows: "For the school year beginning in 1976, State revenue (other than revenues derived from the program) appropriated or used specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) shall constitute at least 8 percent of the matching requirement for the preceding school year, or, at the discretion of the Secretary, fiscal year, and for each school year thereafter, at least 10 percent of the matching requirement for the preceding school year.";

(c) inserting at the end of section 12(d) of the Act a new paragraph (7) as follows:

"(7) 'School year' means the annual period determined in accordance with regulations issued by the Secretary."; and "School year." 42 USC 1760.

(d) striking out "fiscal year" each time that phrase appears in the last sentence of section 17(e) of the Act and inserting in lieu thereof "school year".

42 USC 1766.

TECHNICAL AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

- Effective date. SEC. 20. Effective July 1, 1977, the Child Nutrition Act of 1966 is amended by—
- 42 USC 1772. (1) striking out “fiscal” the second and third time that word appears in the sixth sentence of section 3 of the Act and inserting in lieu thereof “school”;
- (2) striking out “thereafter, beginning with the fiscal year ending June 30, 1976,” in the sixth sentence of section 3 of the Act;
- 42 USC 1774. (3) striking out “fiscal” the first and second time that word appears in section 5(b) of the Act and inserting in lieu thereof “school”;
- (4) striking out “fiscal” each place that word appears in section 5(d) of the Act and inserting in lieu thereof “school”;
- “School year.” (5) inserting at the end of section 15 of the Act the following
- 42 USC 1784. new paragraph (e):
- “(e) ‘School year’ means the annual period determined in accordance with regulations issued by the Secretary.”; and
- (6) striking out “by January 1 of each year (by December 1 in the case of fiscal year 1976)” in the second sentence of section 17(d) of the Act and inserting in lieu thereof “each year by not later than a date specified by the Secretary”.
- 42 USC 1786.

Approved November 10, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-281 (Comm. on Education and Labor) and No. 95-708 (Comm. of Conference).

SENATE REPORTS: No. 95-277 accompanying S. 1420 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-504 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 123 (1977):

May 18, considered and passed House.

June 30, considered and passed Senate, amended, in lieu of S. 1420.

Oct. 27, House agreed to conference report.

Oct. 28, Senate agreed to conference report.