under paragraph (1)(B), in a manner determined by the Secretary, to the extent necessary to ensure that the total amount of funds allocated under paragraph (1) is not greater than the amount appropriated under subsection (g).

(d) Use of payments

(1) Use by State agencies

A State agency may reserve, to support dissemination and use of nutrition messages and material developed by the Secretary, up to—

(A) 5 percent of the payment received by the State for a fiscal year under subsection (c); or

(B) in the case of a small State (as determined by the Secretary), a higher percentage (as determined by the Secretary) of the payment.

(2) Disbursement to schools and institutions

Subject to paragraph (3), the State agency shall disburse any remaining amount of the payment to school food authorities and institutions participating in food service programs described in subsection (a) to disseminate and use nutrition messages and material developed by the Secretary.

(3) Summer food service program for children

In addition to any amounts reserved under paragraph (1), in the case of the summer food service program for children established under section 1761 of this title, the State agency may—

(A) retain a portion of the funds made available under subsection (c) (as determined by the Secretary); and

(B) use the funds, in connection with the program, to disseminate and use nutrition messages and material developed by the Secretary.

(e) Documentation

A State agency, school food authority, and institution receiving funds under this section shall maintain documentation of nutrition promotion activities conducted under this section.

(f) Reallocation

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

(g) Authorization of appropriations

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


Editorial Notes

References in Text


Prior Provisions


Statutory Notes and Related Subsidiaries

Effective Date


"(a) In General.—Except as otherwise provided in this Act [see Short Title of 2004 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act take effect upon the date of enactment of this Act [June 30, 2004]."

"(b) Special Effective Dates.—

(1) July 1, 2004.—The amendments made by sections 196, 197, 129(c), and 201 [amending sections 1758, 1773, and 1776 of this title] take effect on July 1, 2004.

(2) October 1, 2004.—The amendments made by sections 118(c), 119(g), 203(a), 203(b), 203(c)(1), 203(c)(5), 203(e)(8), 203(e)(10), 203(e)(16), and 203(h)(2) [amending sections 1766, 1767, and 1768 of this title] take effect on October 1, 2004.

(3) January 1, 2005.—The amendments made by sections 116(h)(1) and 116(f)(3) [amending section 1769 of this title] take effect on January 1, 2005.

(4) July 1, 2005.—The amendments made by sections 102, 104 (other than section 104(a)(1)), 105, 111, and 126(b) [amending sections 1396a, 1758, 1759a, and 1769c of this title and section 2020 of Title 7, Agriculture] take effect on July 1, 2005.

(5) October 1, 2005.—The amendments made by sections 116(d) and 203(e)(9) [amending sections 1761 and 1786 of this title] take effect on October 1, 2005."

§ 1755. Direct expenditures for agricultural commodities and other foods

(a) Administrative expenses; nutritional education; pilot projects; cash-in-lieu of commodities study; refusal of commodities and receipt of other commodities available to the State in lieu of the refused commodities

The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this chapter, and for carrying out the provisions of the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 thereof [42 U.S.C. 1772] less

(1) not to exceed 3% per centum thereof which per centum is hereby made available to the Secretary for the Secretary’s administrative expenses under this chapter and under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.];

(2) the amount apportioned by the Secretary pursuant to section 1753 of this title and the amount appropriated pursuant to sections 1759a and 1761 of this title and sections 4 and 7 of the Child Nutrition Act of 1966 [42 U.S.C. 1773 and 1776]; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this chapter and the programs under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], other than section 3 [42 U.S.C. 1772], which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and par-
Section 713c of title 15, facilitating operations with the school year under the second sentence. The foods tendered to the school food authority in any school year shall not be used to determine the 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. Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence. The provisions of law contained in the proviso in section 713c of title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612 of title 7, shall, to the extent not inconsistent with the provision of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this chapter and the Child Nutrition Act of 1966.

(b) Delivery of commodities

The Secretary shall deliver, to each State participating in the school lunch program under this chapter, commodities valued at the total level of assistance authorized under subsection (c)\(^1\) for each school year for the school lunch program in the State, not later than September 30 of the following school year.

\(^1\) See References in Text note below.

(c) Level of commodity assistance; computation of index; calculation of total assistance to each State; emphasis on high protein foods; per meal value of donated foods

(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics.

(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest \(\frac{1}{4}\) cent.

(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2) To the maximum extent feasible, each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

(d) Termination of commodity assistance based upon school breakfast program

Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 [42 U.S.C. 1773].
(e) Minimum percentage of commodity assistance

(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 1753 of this title shall be in the form of—
(A) commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section; or
(B) during the period beginning October 1, 2003, and ending September 30, 2018, commodities provided by the Secretary under any provision of law.

(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 1762a(a) of this title to meet the requirement for the school year.

(f) Pilot project for procurement of unprocessed fruits and vegetables

(1) In general

The Secretary shall conduct a pilot project under which the Secretary shall facilitate the procurement of unprocessed fruits and vegetables in not more than 8 States receiving funds under this chapter.

(2) Purpose

The purpose of the pilot project required by this subsection is to provide selected States flexibility for the procurement of unprocessed fruits and vegetables by permitting each State—
(A) to utilize multiple suppliers and products established and qualified by the Secretary; and
(B) to allow geographic preference, if desired, in the procurement of the products under the pilot project.

(3) Selection and participation

(A) In general

The Secretary shall select States for participation in the pilot project in accordance with criteria established by the Secretary and terms and conditions established for participation.

(B) Requirement

The Secretary shall ensure that at least 1 project is located in a State in each of—
(i) the Pacific Northwest Region;
(ii) the Northeast Region;
(iii) the Western Region;
(iv) the Midwest Region; and
(v) the Southern Region.

(4) Priority

In selecting States for participation in the pilot project, the Secretary shall prioritize applications based on—
(A) the quantity and variety of growers of local fruits and vegetables in the States on a per capita basis;
(B) the demonstrated commitment of the States to farm-to-school efforts, as evidenced by prior efforts to increase and promote farm-to-school programs in the States; and
(C) whether the States contain a sufficient quantity of local educational agencies, various population sizes, and geographical locations.

(5) Recordkeeping and reporting requirements

(A) Recordkeeping requirement

States selected to participate in the pilot project, and participating school food authorities within those States, shall keep records of the fruits and vegetables received under the pilot project in such manner and form as requested by the Secretary.

(B) Reporting requirement

Each participating State shall submit to the Secretary a report on the success of the pilot project in the State, including information on—
(i) the quantity and cost of each type of fruit and vegetable received by the State under the pilot project; and
(ii) the benefit provided by those procurements in conducting school food service in the State, including meeting school meal requirements.

Subsection (c), referred to in subsec. (b), was repealed and subsec. (e) was redesignated (c) by Pub. L. 105–336, title I, §101(a), Oct. 31, 1998, 112 Stat. 3144.

CODIFICATION

AMENDMENTS

1998—Subsec. (c) to (g). Pub. L. 105–336 redesignated subsecs. (e) to (g) as (c) to (e), respectively, and struck out former subsec. (c) and (d) which read as follows:

"(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 612c of title 7 to make any payments to States authorized under such subsection. Any section 612c of title 7 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 612c of title 7 to be available for the purpose of said section 612c of title 7.

"(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 1766 of this title.

1994—Subsec. (a). Pub. L. 103–148, §101, substituted in second sentence "Except as provided in the next 2 sentences, any school" for "Any school" and inserted after second sentence "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the preceding sentence.

Subsec. (b). Pub. L. 103–148, §102, amended subsec. (b) generally. Prior to amendment, subsec. (b) related to cash donations in lieu of commodity donations during school year for school food service programs and withholding of funds for States administered by Secretary for disbursement to participating schools to be used to purchase commodities and other food for their food service programs.


1989—Subsec. (a). Pub. L. 101–147, §302, substituted "the Secretary’s” for "his” in par. (1), substituted "the Secretary” for "him” in par. (2), and, in concluding provisions, substituted "expenditure by the Secretary” for "expenditure by him” and made technical amendments to the references to section 1719 of title 15 and section 612c of title 7 involving underlying provisions of original act and requiring no change in text.

Subsec. (e)(1). Pub. L. 101–147, §131(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: ""The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or (1) generally. Prior to amendment, par. (1) read as follows: "“The national average value of donated foods, or
Subsec. (b). Pub. L. 94–105, § 4, substituted references to all schools of States for references to only nonprofit private schools of States in provisions covering Secretary’s direct administration of school food service programs.

Subsec. (e). Pub. L. 94–105, § 11(b), inserted provision mandating that not less than 75 per centum of assistance under this subsection shall be in form of donated foods for the school lunch program.


Subsec. (b). Pub. L. 93–150, in revising text to make provisions applicable each fiscal year rather than only for fiscal year ending June 30, 1973, substituted in first sentence, “As of February 15 of each fiscal year” and “during that fiscal year” for “As of March 15, 1973” and “during the fiscal year ending June 30, 1973”; second sentence, “for that fiscal year”, “March 15 of that fiscal year”, and “as of February 15 of such fiscal year” for “for the fiscal year ending June 30, 1973”, “April 15, 1973”, and “as of March 15, 1973”; third sentence, “during the preceding fiscal year” for “during the fiscal year ending June 30, 1972”; and proviso of third sentence, “during that fiscal year” for “during the fiscal year ending June 30, 1972.”


1970—Pub. L. 91–248 increased amount authorized for administrative expenses by 3½ percent of the amount appropriated to carry out this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, made such amount available for the Secretary’s administrative expenses, authorized use of up to 1 percent of the funds appropriated for this chapter and the Child Nutrition Act of 1966, other than section 1772 of this title, for nutritional training and education and studies of food service requirements in connection with those programs, reduced, to the extent funds were used for administrative expenses other than for this chapter or nutritional training or education or studies, the share of this chapter’s appropriations which may be used for direct expenditure by the Secretary for agricultural commodities and other foods, and authorized distribution of such foods to schools and service institutions participating in food service programs under this chapter and the Child Nutrition Act of 1966.

1968—Pub. L. 90–902 inserted “except section 1761 of this title” after “The funds appropriated for any fiscal year for carrying out the provisions of this chapter.”

1962—Pub. L. 87–823 substituted “less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, and less the amount appropriated pursuant to section 1759a of this title” for “and less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title”.

Statutory Notes and Related Subsidiaries

Effective Date of 2010 Amendment

Effective Date of 2002 Amendment

Effective Date of 1998 Amendment

Effective Date of 1994 Amendment
Pub. L. 103–448, title IV, § 401, Nov. 2, 1994, 108 Stat. 4751, provided that: “Except as otherwise provided in this Act [see Short Title of 1994 Amendment note set out under section 1751 of this title], this Act and the amendments made by this Act shall become effective on October 1, 1994.”

Effective Date of 1989 Amendment
Pub. L. 101–147, title I, § 131(c), Nov. 10, 1989, 103 Stat. 907, provided that: “The amendments made by this section [amending this section and section 1766 of this title] shall become effective on July 1, 1989.”

Effective Date of 1981 Amendment

Effective Date of 1978 Amendment
Pub. L. 95–627, § 14, Nov. 10, 1978, 92 Stat. 3625, provided that: “The provisions of this Act [enacting section 1769c of this title, amending this section and sections 1757, 1760, 1761, 1762a, 1762b, 1765, 1766, 1767, 1770, 1771, 1773, 1774, 1776, and 1786 of this title and enacting provisions set out as notes under this section, sections 1751, 1773, and 1786 of this title], except sections 4, 5, and 8, shall become effective October 1, 1978.

The provisions of section 4 of this Act [enacting section 1759a of this title] shall becomes effective January 1, 1979. The provisions of sections 5 [amending this section and sections 1759a, 1761, and 1772 of this title] and 8 [amending section 1758 of this title] of this Act shall become effective July 1, 1979, except that the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 [section 1786 of this title] not earlier than October 1, 1978, and not later than July 1, 1979.”

Effective Date of 1977 Amendment
Pub. L. 95–166, § 19, Nov. 10, 1977, 91 Stat. 1345, provided that the amendment made by that section is effective July 1, 1977.

Reduction in Commodity Assistance for Fiscal Year Ending September 30, 1981

 Congressional Findings and Declaration of Purpose
Pub. L. 93–13, § 1, Mar. 30, 1973, 87 Stat. 9, provided that: “The Congress finds that the volume and variety of Federal food donations to the school lunch and child nutrition programs are significantly below the amounts programed and budgeted for the fiscal year ending June 30, 1973, and that schools participating in these programs are confronted with serious financial problems in obtaining sufficient supplies of the foods required to meet the nutritional standards established by law for these programs. It is, therefore, the purpose of this Act [amending this section] to provide an effective and immediate solution to this nutritional crisis.”

§ 1755a. Whole grain products
(a) Purpose
The purpose of this section is to encourage greater awareness and interest in the number