

102-237, set out as an Effective Date of 1991 Amendment note under section 1421 of this title.

§ 7517. The Gus Schumacher nutrition incentive program

(a) In general

In this section:

(1) Eligible entity

The term “eligible entity” means a governmental agency or nonprofit organization.

(2) Emergency feeding organization

The term “emergency feeding organization” has the meaning given the term in section 7501 of this title.

(3) Supplemental nutrition assistance program

The term “supplemental nutrition assistance program” means—

- (A) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); and
- (B) the programs for nutrition assistance under section 19 of such Act (7 U.S.C. 2028).

(4) Healthcare partner

The term “healthcare partner” means a healthcare provider, including—

- (A) a hospital;
- (B) a Federally-qualified health center (as defined in section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)));;
- (C) a hospital or clinic operated by the Secretary of Veterans Affairs; or
- (D) a healthcare provider group.

(5) Member

The term “member” means, as determined by the applicable eligible entity or healthcare partner carrying out a project under subsection (c) in accordance with procedures established by the Secretary—

- (A) an individual eligible for—
 - (i) benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or
 - (ii) medical assistance under a State plan or a waiver of such a plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and enrolled under such plan or waiver; and
- (B) a member of a low-income household that suffers from, or is at risk of developing, a diet-related health condition.

(b) Food insecurity nutrition incentive grants

(1) Authorization

(A) In general

In each of the years specified in subsection (c), the Secretary shall make grants to eligible entities in accordance with paragraph (2).

(B) Partners and collaborators

An eligible entity that receives a grant under this subsection may partner with, or make subgrants to, public, private, nonprofit, or for-profit entities, including—

- (i) an emergency feeding organization;
- (ii) an agricultural cooperative;
- (iii) a producer network or association;
- (iv) a community health organization;

- (v) a public benefit corporation;
- (vi) an economic development corporation;
- (vii) a farmers’ market;
- (viii) a community-supported agriculture program;
- (ix) a buying club;
- (x) a retail food store participating in the supplemental nutrition assistance program;
- (xi) a State, local, or tribal agency;
- (xii) another eligible entity that receives a grant under this subsection; and
- (xiii) any other entity the Secretary designates.

(C) Federal share

Except as provided in subparagraph (D)(iii), the Federal share of the cost of carrying out an activity under this subsection shall not exceed 50 percent of the total cost of the activity.

(D) Non-Federal share

(i) In general

The non-Federal share of the cost of an activity under this subsection may be provided—

- (I) in cash or in-kind contributions as determined by the Secretary, including facilities, equipment, or services; and
- (II) by a State or local government or a private source.

(ii) Limitation

In the case of a for-profit entity, the non-Federal share described in clause (i) shall not include services of an employee, including salaries paid or expenses covered by the employer.

(iii) Tribal agencies

The Secretary may allow a Tribal agency to use funds provided to the Indian Tribe of the Tribal agency through a Federal agency (including the Indian Health Service) or other Federal benefit to satisfy all or part of the non-Federal share described in clause (i) if such use is otherwise consistent with the purpose of such funds.

(2) Criteria

(A) In general

To receive a grant under this subsection, an eligible entity shall—

- (i) meet the application criteria set forth by the Secretary; and
- (ii) propose a project that, at a minimum—

- (I) has the support of the State agency administering the supplemental nutrition assistance program;
- (II) would increase the purchase of fruits and vegetables by low-income households participating in the supplemental nutrition assistance program by providing an incentive for the purchase of fruits and vegetables at the point of purchase to a household purchasing food with supplemental nutrition assistance program benefits;

(III) except in the case of projects receiving \$100,000 or less over 1 year, would measure the purchase of fruits and vegetables by low-income households participating in the supplemental nutrition assistance program;

(IV) ensures that the same terms and conditions apply to purchases made by individuals with benefits issued under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.] and incentives provided for in this subsection as apply to purchases made by individuals who are not members of households receiving benefits, such as provided for in section 278.2(b) of title 7, Code of Federal Regulations (or a successor regulation);

(V) has adequate plans to collect data for reporting and agrees to provide that information for the report described in subsection (e)(2)(B)(iii); and

(VI) would share information with the Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers established under subsection (e).

(B) Priority

In awarding grants under this section, the Secretary shall give priority to projects that—

(i) maximize the share of funds used for direct incentives to participants;

(ii) use direct-to-consumer sales marketing;

(iii) demonstrate a track record of designing and implementing successful nutrition incentive programs that connect low-income consumers and agricultural producers;

(iv) provide locally or regionally produced fruits and vegetables;

(v) include a project design—

(I) that provides incentives when fruits or vegetables are purchased using supplemental nutrition assistance program benefits; and

(II) in which the incentives earned may be used only to purchase fruits or vegetables;

(vi) have demonstrated the ability to provide services to underserved communities;

(vii) include coordination with multiple stakeholders, such as farm organizations, nutrition education programs, cooperative extension services, public health departments, health providers, private and public health insurance agencies, cooperative grocers, grocery associations, and community-based and nongovernmental organizations;

(viii) offer supplemental services in high-need communities, including online ordering, transportation between home and store, and delivery services;

(ix) include food retailers that are open—

(I) for extended hours; and

(II) most or all days of the year; or

(x) address other criteria as established by the Secretary.

(c) Produce prescription program

(1) In general

The Secretary shall establish a grant program under which the Secretary shall award grants to eligible entities to conduct projects that demonstrate and evaluate the impact of the projects on—

(A) the improvement of dietary health through increased consumption of fruits and vegetables;

(B) the reduction of individual and household food insecurity; and

(C) the reduction in healthcare use and associated costs.

(2) Healthcare partners

In carrying out a project using a grant received under paragraph (1), an eligible entity shall partner with 1 or more healthcare partners.

(3) Grant applications

(A) In general

To be eligible to receive a grant under paragraph (1), an eligible entity—

(i) shall—

(I) prescribe fresh fruits and vegetables to members;

(II) submit to the Secretary an application containing such information as the Secretary may require, including the information described in subparagraph (B); and

(ii) may—

(I) provide financial or non-financial incentives for members to purchase or procure fresh fruits and vegetables;

(II) provide educational resources on nutrition to members; and

(III) establish additional accessible locations for members to procure fresh fruits and vegetables.

(B) Application

An application shall—

(i) identify the 1 or more healthcare partners with which the eligible entity is partnering under paragraph (2); and

(ii) include—

(I) a description of the methods by which an eligible entity shall—

(aa) screen and verify eligibility for members for participation in a produce prescription project, in accordance with procedures established under subsection (a)(5);

(bb) implement an effective produce prescription project, including the role of each healthcare partner in implementing the produce prescription project;

(cc) evaluate members participating in a produce prescription project with respect to the matters described in subparagraphs (A) through (C) of paragraph (1);

(dd) provide educational opportunities relating to nutrition to members participating in a produce prescription project; and

(ee) inform members of the availability of the produce prescription

project, including locations at which produce prescriptions may be re-deemed;

(II) a description of any additional nonprofit or emergency feeding organizations that shall be involved in the project and the role of each additional nonprofit or emergency feeding organization in implementing and evaluating an effective produce prescription project;

(III) documentation of a partnership agreement with a relevant State Medicaid agency or other appropriate entity, as determined by the Secretary, to evaluate the effectiveness of the produce prescription project in reducing healthcare use and associated costs;

(IV) adequate plans to collect data for reporting and agreement to provide that information for the report described in subsection (e)(2)(B)(iii); and

(V) agreement to share information with the Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers established under subsection (e).

(4) Coordination

In carrying out the grant program established under paragraph (1), the Secretary shall coordinate with the Secretary of Health and Human Services and the heads of other appropriate Federal agencies that carry out activities relating to healthcare partners.

(5) Partnerships

(A) In general

In carrying out the grant program under paragraph (1), the Secretary may enter into 1 or more memoranda of understanding with a Federal agency, a State, or a private entity to ensure the effective implementation and evaluation of each project.

(B) Memorandum of understanding

A memorandum of understanding entered into under subparagraph (A) shall include—

(i) a description of a plan to provide educational opportunities relating to nutrition to members participating in produce prescription projects;

(ii) a description of the role of the Federal agency, State, or private entity, as applicable, in implementing and evaluating an effective produce prescription project; and

(iii) documentation of a partnership agreement with a relevant State Medicaid agency or other appropriate entity, as determined by the Secretary.

(d) Applicability

(1) In general

The value of any benefit provided to a participant in any activity funded under subsections (b) or (c) shall be treated as supplemental nutrition benefits under section 8(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(b)).

(2) Prohibition on collection of sales taxes

Each State shall ensure that no State or local tax is collected on a purchase of food

with assistance provided under subsections (b) and (c).

(3) No limitation on benefits

Grants made available under subsections (b) and (c) shall not be used to carry out any project that limits the use of benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or any other Federal nutrition law.

(4) Household allotment

Assistance provided under subsections (b) and (c) to households receiving benefits under the supplemental nutrition assistance program shall not—

(A) be considered part of the supplemental nutrition assistance program benefits of the household; or

(B) be used in the collection or disposition of claims under section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022).

(e) Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers

(1) In general

The Secretary shall—

(A) establish 1 or more Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers, in consultation with the Director of the National Institute of Food and Agriculture; and

(B) to the extent practicable, consult on the design and scope of such Centers with grocers, farmers, health professionals, researchers, incentive program managers, and employees of the Department of Agriculture with direct experience with implementation of existing incentive programs or projects.

(2) Establishment

The Centers shall be capable of providing services related to grants under subsections (b) and (c), including—

(A) offering incentive program training and technical assistance to applicants and grantees to the extent practicable, including—

(i) collecting and providing information on best practices that may include communications, signage, record-keeping, incentive instruments, development and integration of point of sale systems, and reporting;

(ii) disseminating information and assisting with collaboration among grantee projects, applicable State agencies, and nutrition education programs;

(iii) facilitating communication between grantees and the Department of Agriculture and applicable State agencies; and

(iv) providing support for the development of best practices for produce prescription projects and the sharing of information among eligible entities and healthcare providers that participate in a produce prescription project under subsection (c); and

(v) other services identified by the Secretary; and

(B) creating a system to collect and compile core data sets from eligible entities that—

(i) uses standard metrics with consideration of outcome measures for existing projects;

(ii) includes to the extent practicable grocers, farmers, health professionals, researchers, incentive program managers, and employees of the Department of Agriculture with direct experience with implementation of existing incentive programs in the design of the instrument through which data will be collected and the mechanism for reporting;

(iii) compiles project data from grantees, and beginning in fiscal year 2020 generates an annual report to Congress on grant outcomes, including—

(I) the results of the project; and

(II) the amount of grant funds used for the project; and

(iv) creates and maintains a publicly accessible online site that makes annual reports and incentive program information available in an anonymized format that protects confidential, personal, or other sensitive data.

(3) Cooperative agreement

(A) In general

To carry out paragraph (1), the Secretary may, on a competitive basis, enter into 1 or more cooperative agreements with 1 or more organizations with expertise in developing outcome-based reporting, at least 1 of which has expertise in the food insecurity nutrition incentive program and at least 1 of which has expertise in produce prescription projects.

(B) Inclusion

The organizations referred to in subparagraph (A) may include—

- (i) nongovernmental organizations;
- (ii) State cooperative extension services;
- (iii) regional food system centers;
- (iv) Federal, State, or Tribal agencies;
- (v) institutions of higher education (as defined in section 1001(a) of title 20); or
- (vi) other appropriate entities as determined by the Secretary.

(f) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2014 through 2023.

(2) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(A) \$35,000,000 for the period of fiscal years 2014 and 2015;

(B) \$20,000,000 for each of fiscal years 2016 and 2017;

(C)¹ \$25,000,000 for fiscal year 2018;

(C)¹ \$45,000,000 for fiscal year 2019;

(D) \$48,000,000 for fiscal year 2020;

(E) \$48,000,000 for fiscal year 2021;

(F) \$53,000,000 for fiscal year 2022; and

(G) \$56,000,000 for fiscal year 2023 and each fiscal year thereafter.

(3) Use of funds

With respect to funds made available under this section for fiscal years 2019 through 2023—

(A) for each fiscal year the Secretary shall use not more than 10 percent of such funds available for such fiscal year for the produce prescription program described in subsection (c);

(B) for each fiscal year not more than 8 percent of such funds available for such fiscal year shall be used by the National Institute of Food and Agriculture and the Food and Nutrition Service for administration; and

(C) the Secretary shall use for the Nutrition Incentive Program Training, Technical Assistance, Evaluation, and Information Centers established under subsection (e) not more than—

(i) \$17,000,000 in the aggregate for fiscal years 2019 and 2020; and

(ii) \$7,000,000 for each of the fiscal years 2021 through 2023.

(Pub. L. 110-234, title IV, § 4405, May 22, 2008, 122 Stat. 1138; Pub. L. 110-246, § 4(a), title IV, § 4405, June 18, 2008, 122 Stat. 1664, 1899; Pub. L. 113-79, title IV, § 4208, Feb. 7, 2014, 128 Stat. 826; Pub. L. 115-334, title IV, § 4205(a), Dec. 20, 2018, 132 Stat. 4656.)

Editorial Notes

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsecs. (a)(3)(A), (5)(A)(i), (b)(2)(A)(ii)(IV), and (d)(3), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Social Security Act, referred to in subsec. (a)(5)(A)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

The authorities provided by each provision of, and each amendment made by, Pub. L. 110-246, as in effect on Sept. 30, 2012, to continue, and the Secretary of Agriculture to carry out the authorities, until the later of Sept. 30, 2013, or the date specified in the provision of, or amendment made by, Pub. L. 110-246, see section 701(a) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Emergency Food Assistance Act of 1983 which comprises this chapter.

AMENDMENTS

2018—Pub. L. 115-334, § 4205(a)(1), substituted “The Gus Schumacher nutrition incentive program” for “Food insecurity nutrition incentive” in section catchline.

Subsec. (a)(1). Pub. L. 115-334, § 4205(a)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) defined “eligible entity”.

¹ So in original. Two subpars. (C) have been enacted.

Subsec. (a)(3). Pub. L. 115–334, § 4205(a)(2)(B), substituted “means—” and subpars. (A) and (B) for “means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).”

Subsec. (a)(4), (5). Pub. L. 115–334, § 4205(a)(2)(C), added pars. (4) and (5).

Subsec. (b)(1)(B) to (D). Pub. L. 115–334, § 4205(a)(3)(A), added subpar. (B), redesignated former subpars. (B) and (C) as (C) and (D), respectively, substituted “Except as provided in subparagraph (D)(iii), the” for “The” in subpar. (C) as so redesignated, and added cl. (iii) of subpar. (D) as so redesignated.

Subsec. (b)(2)(A). Pub. L. 115–334, § 4205(a)(3)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) related to criteria for an eligible entity.

Subsec. (b)(2)(B)(v) to (x). Pub. L. 115–334, § 4205(a)(3)(B)(ii), added cls. (v) to (ix), redesignated former cl. (vi) as (x), and struck out former cl. (v) which read as follows: “are located in underserved communities; or”.

Subsec. (b)(3), (4). Pub. L. 115–334, § 4205(a)(3)(C), struck out pars. (3) and (4) which related to treatment of benefits as supplemental nutrition benefits under section 8(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(b)) and evaluation of projects, respectively.

Subsec. (c). Pub. L. 115–334, § 4205(a)(6), added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (c)(1). Pub. L. 115–334, § 4205(a)(4)(A), substituted “to carry out this section \$5,000,000 for each of fiscal years 2014 through 2023” for “to carry out subsection (b) \$5,000,000 for each of fiscal years 2014 through 2018”.

Subsec. (c)(2). Pub. L. 115–334, § 4205(a)(4)(B), substituted “this section” for “subsection (b)” in introductory provisions and added subpar. (C) relating to fiscal year 2019 and subpars. (D) to (G).

Subsec. (c)(3). Pub. L. 115–334, § 4205(a)(4)(B)(iv), added par. (3).

Subsecs. (d), (e). Pub. L. 115–334, § 4205(a)(6), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 115–334, § 4205(a)(5), redesignated subsec. (c) as (f).

2014—Pub. L. 113–79 amended section generally. Prior to amendment, section related to hunger-free communities.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of this title.

§ 7518. Micro-grants for food security

(a) Purpose

The purpose of this section is to increase the quantity and quality of locally grown food through small-scale gardening, herding, and livestock operations in food insecure communities in areas of the United States that have significant levels of food insecurity and import a significant quantity of food.

(b) Definitions

In this section:

(1) Eligible entity

The term “eligible entity” means an entity that—

(A) is—

- (i) an individual;
- (ii) an Indian tribe or tribal organization, as defined in section 5304 of title 25;
- (iii) a nonprofit organization engaged in increasing food security, as determined by the Secretary, including—

- (I) a religious organization;
- (II) a food bank; or
- (III) a food pantry;

- (iv) a federally funded educational facility, including—

- (I) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

- (II) a public elementary school or public secondary school;

- (III) a public institution of higher education (as defined in section 1001 of title 20);

- (IV) a Tribal College or University (as defined in section 1059c(b) of title 20); or

- (V) a job training program; or

- (v) a local or Tribal government that may not levy local taxes under State or Federal law; and

(B) is located in an eligible State.

(2) Eligible State

The term “eligible State” means—

- (A) the State of Alaska;
- (B) the State of Hawaii;
- (C) American Samoa;
- (D) the Commonwealth of the Northern Mariana Islands;
- (E) the Commonwealth of Puerto Rico;
- (F) the Federated States of Micronesia;
- (G) Guam;
- (H) the Republic of the Marshall Islands;
- (I) the Republic of Palau; and
- (J) the United States Virgin Islands.

(c) Establishment

The Secretary shall distribute funds to the agricultural department or agency of each eligible State for the competitive distribution of subgrants to eligible entities to increase the quantity and quality of locally grown food in food insecure communities, including through small-scale gardening, herding, and livestock operations.

(d) Distribution of funds

(1) In general

Of the amount made available under subsection (g), the Secretary shall distribute—

- (A) 40 percent to the State of Alaska;
- (B) 40 percent to the State of Hawaii; and
- (C) 2.5 percent to each eligible State described in any of subparagraphs (C) through (J) of subsection (b)(2).

(2) Carryover of funds

Funds distributed under paragraph (1) shall remain available until expended.

(3) Administrative funds

An eligible State that receives funds under paragraph (1) may use not more than 3 percent of those funds—