

(A) was, at the end of the instructional year immediately preceding such summer or during the summer operational period—

- (i) certified to receive free or reduced price lunch under the school lunch program under this chapter;
- (ii) certified to receive free or reduced price breakfast under the school breakfast program under section 1773 of this title; or
- (iii) able to be directly certified;

(B) was, at the end of the instructional year immediately preceding such summer—

- (i) enrolled in a school described in subparagraph (B), (C), (D), (E), or (F) of section 1759a(a)(1) of this title; and
- (ii)(I) an identified student (as defined in section 1759a(a)(1)(F)(i) of this title); or
- (II) a child who otherwise met the requirements to receive free or reduced price meals, as determined through an application process using the eligibility criteria for free or reduced price meals under this chapter; or

(C) has been determined to be eligible for the program under this section in accordance with subsection (c)(1)(B).

### (3) Eligible household

The term “eligible household” means a household that includes at least 1 eligible child.

### (4) Supplemental foods

The term “supplemental foods”—

- (A) means foods—
  - (i) containing nutrients determined by nutritional research to be lacking in the diets of children; and
  - (ii) that promote the health of the population served by the program under this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as determined by the Secretary; and

(B) includes foods not described in subparagraph (A) substituted by State agencies, with the approval of the Secretary, that—

- (i) provide the nutritional equivalent of foods described in such subparagraph; and
- (ii) allow for different cultural eating patterns than foods described in such subparagraph.

(June 4, 1946, ch. 281, §13A, as added Pub. L. 117-328, div. HH, title IV, §502(c), Dec. 29, 2022, 136 Stat. 5990.)

## Editorial Notes

### REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b)(1)(A), 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.

Section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, referred to in subsecs. (e) and (f)(1)(A), is section 749(g) of Pub. L. 111-80, Oct. 21, 2009, 123 Stat. 2132, which is not classified to the Code.

### PRIOR PROVISIONS

A prior section 1762, act June 4, 1946, ch. 281, §13A, as added Mar. 12, 1970, Pub. L. 91-207, 84 Stat. 51, related

to emergency assistance to provide nutritious meals to needy children in schools, prior to repeal by Pub. L. 101-147, title III, §308, Nov. 10, 1989, 103 Stat. 915.

## Statutory Notes and Related Subsidiaries

### NO DUPLICATION OF SUMMER BENEFITS

Pub. L. 117-328, div. HH, title IV, §502(e), Dec. 29, 2022, 136 Stat. 5994, provided that: “A State may not provide to a household summer EBT benefits (as described in section 13A(a) of the Richard B. Russell National School Lunch Act [42 U.S.C. 1762(a)]) under that section and benefits under section 1101(i) of the Families First Coronavirus Response Act (7 U.S.C. 2011 note; Public Law 116-127) for the same period.”

## § 1762a. Commodity distribution program

### (a) Use of funds for purchase of agricultural commodities and products for donation

Notwithstanding any other provision of law, the Secretary shall—

- (1) use funds available to carry out the provisions of section 612c of title 7 which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this chapter, the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], and title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.]; and

- (2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 1431 of title 7, for such donation.

### (b) Nutrition quality and content information

(1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

- (2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

### (c) Authorization of appropriations for purchase of products or for cash payments in lieu of donations

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 311(a)(4)<sup>1</sup> of the Older Americans Act of 1965 or for cash payments in lieu of such donations under section 311(b)(1)<sup>1</sup> of such Act. There are hereby authorized to be ap-

<sup>1</sup> See References in Text note below.

propriated such sums as are necessary to carry out the purposes of this subsection.

**(d) Assistance procedures; cost and benefits, review; technical assistance; report to Congress; food quality standards contracting procedures**

In providing assistance under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(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

(5) make available technical assistance on the use of commodities available under this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

**(e) Consultation with school representatives**

Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

**(f) Commodity only schools**

Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 1755(c) of this title and the national average payment established under section 1753 of this title. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 1758(a) of this title, and shall represent the four basic food groups, including a serving of fluid milk.

**(g) Extension of alternative means of assistance**

(1) As used in this subsection, the term “eligible school district” has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary

shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

**(h) Notice of irradiated food products**

**(1) In general**

The Secretary shall develop a policy and establish procedures for the purchase and distribution of irradiated food products in school meals programs under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

**(2) Minimum requirements**

The policy and procedures shall ensure, at a minimum, that—

(A) irradiated food products are made available only at the request of States and school food authorities;

(B) reimbursements to schools for irradiated food products are equal to reimbursements to schools for food products that are not irradiated;

(C) States and school food authorities are provided factual information on the science and evidence regarding irradiation technology, including—

(i) notice that irradiation is not a substitute for safe food handling techniques; and

(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals programs;

(D) States and school food authorities are provided model procedures for providing to school food authorities, parents, and students—

(i) factual information on the science and evidence regarding irradiation technology; and

(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals;

(E) irradiated food products distributed to the Federal school meals program under this chapter and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) are labeled with a symbol or other printed notice that—

(i) indicates that the product was irradiated; and

(ii) is prominently displayed in a clear and understandable format on the container;

(F) irradiated food products are not commingled in containers with food products that are not irradiated; and

(G) schools that offer irradiated food products are encouraged to offer alternatives to irradiated food products as part of the meal plan used by the schools.

(June 4, 1946, ch. 281, §14, as added Pub. L. 93-326, §2, June 30, 1974, 88 Stat. 286; amended Pub. L. 94-105, §10, Oct. 7, 1975, 89 Stat. 515; Pub. L. 95-166, §6, Nov. 10, 1977, 91 Stat. 1334; Pub. L. 95-627, §12(b), Nov. 10, 1978, 92 Stat. 3625; Pub. L. 96-499, title II, §202(c), Dec. 5, 1980, 94 Stat. 2600; Pub. L. 97-35, title VIII, §§813(a), 819(j), Aug. 13,

1981, 95 Stat. 530, 533; Pub. L. 98-459, title VIII, § 801(a), Oct. 9, 1984, 98 Stat. 1792; Pub. L. 99-500, title III, §§ 312, 363, Oct. 18, 1986, 100 Stat. 1783-360, 1783-368, and Pub. L. 99-591, title III, §§ 312, 363, Oct. 30, 1986, 100 Stat. 3341-363, 3341-371; Pub. L. 99-661, div. D, title I, § 4102, title IV, § 4403, Nov. 14, 1986, 100 Stat. 4071, 4079; Pub. L. 100-356, § 2, June 28, 1988, 102 Stat. 669; Pub. L. 101-147, title I, § 103(a)-(b)(2)(A), (c), Nov. 10, 1989, 103 Stat. 882; Pub. L. 103-448, title I, § 115, Nov. 2, 1994, 108 Stat. 4713; Pub. L. 104-193, title VII, § 707, Aug. 22, 1996, 110 Stat. 2293; Pub. L. 105-336, title I, §§ 101(b), 106, Oct. 31, 1998, 112 Stat. 3144, 3149; Pub. L. 108-134, § 4, Nov. 22, 2003, 117 Stat. 1389; Pub. L. 108-211, § 4, Mar. 31, 2004, 118 Stat. 566; Pub. L. 108-265, title I, §§ 117, 118, June 30, 2004, 118 Stat. 752; Pub. L. 111-296, title IV, § 441(a)(6), Dec. 13, 2010, 124 Stat. 3264.)

### Editorial Notes

#### REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsecs. (a)(1), (d), and (h)(1), (2)(E), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§ 1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

The Older Americans Act of 1965, referred to in subsecs. (a)(1) and (c), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218. Title III of the Older Americans Act of 1965 is classified generally to subchapter III (§ 3021 et seq.) of chapter 35 of this title. Section 311 of the Act, which is classified to section 3030a of this title, was amended by Pub. L. 106-501, title III, § 309, Nov. 13, 2000, 114 Stat. 2246, and, as so amended, new subsecs. (a) and (b) were added, former subsec. (a)(4) was redesignated (c)(4) and repealed, and former subsec. (b)(1) was redesignated (d)(1). For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

Section 1581 of the Food Security Act, referred to in subsec. (g), is section 1581 of Pub. L. 99-198, title XV, Dec. 23, 1985, 99 Stat. 1594, which is not classified to the Code.

#### CODIFICATION

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

#### AMENDMENTS

2010—Subsec. (d). Pub. L. 111-296 struck out concluding provisions which read as follows: “Within eighteen months after November 10, 1977, 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 chapter 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.”

2004—Subsec. (a). Pub. L. 108-265, § 117, struck out “, during the period beginning July 1, 1974, and ending June 30, 2004,” before “shall—” in introductory provisions.

Pub. L. 108-211 substituted “June 30, 2004” for “March 31, 2004” in introductory provisions.

Subsec. (h). Pub. L. 108-265, § 118, added subsec. (h).

2003—Subsec. (a). Pub. L. 108-134 substituted “March 31, 2004” for “September 30, 2003” in introductory provisions.

1998—Subsec. (a). Pub. L. 105-336, § 106, substituted “2003” for “1998” in introductory provisions.

Subsec. (f). Pub. L. 105-336, § 101(b), substituted “1755(c)” for “1755(e)”.

1996—Subsec. (b). Pub. L. 104-193, § 707(a), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.”

Subsec. (e). Pub. L. 104-193, § 707(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “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.”

Subsec. (g)(3). Pub. L. 104-193, § 707(c), struck out par. (3) relating to cash compensation for losses due to changed methodology of study during 1982-1983 school year.

1994—Subsec. (a). Pub. L. 103-448, § 115(1), substituted “1998” for “1994” in introductory provisions.

Subsec. (b). Pub. L. 103-448, § 115(2), designated existing provisions as par. (1) and added pars. (2) and (3).

1989—Subsec. (a). Pub. L. 101-147, § 103(a), substituted “1994” for “1989”.

Subsec. (g). Pub. L. 101-147, § 103(b)(1), (2)(A), amended subsec. (g), as amended identically by Pub. L. 99-500 and 99-591, § 363, and Pub. L. 99-661, § 4403, and as further amended by Pub. L. 100-356, § 2, to read as if only the amendment by Pub. L. 99-661 was enacted, and further amended subsec. (g) identically to the amendments that were made by section 2(a) and (b) of Pub. L. 100-356, resulting in changing text by striking out only the language that was inserted by section 2(c) of Pub. L. 100-356 at the end of par. (3)(A), “The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988.”, see 1986 and 1988 Amendment notes below.

Subsec. (g)(3)(A). Pub. L. 101-147, § 103(c), substituted last four sentences for former last two sentences which read as follows: “The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

“(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

“(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.”

1988—Subsec. (g)(3)(A). Pub. L. 100-356, § 2(c), inserted at end “The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after June 28, 1988.”

Pub. L. 100-356, § 2(a), inserted at end “The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this chapter for the school year ending June 30, 1982, including—

“(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 1755(e) of this title; and

“(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.”

Subsec. (g)(3)(B). Pub. L. 100-356, § 2(b), substituted “such sums as may be necessary” for “\$50,000”.

1986—Subsec. (a). Pub. L. 99-500 and Pub. L. 99-591, §312, and Pub. L. 99-661, §4102, amended subsec. (a) identically, substituting “1989” for “1984”.

Subsec. (g). Pub. L. 99-500 and Pub. L. 99-591, §363, and Pub. L. 99-661, §4403, amended section identically, adding subsec. (g).

1984—Subsec. (c). Pub. L. 98-459 substituted “(b)(1)” for “(c)(1)”.

1981—Subsec. (a)(1). Pub. L. 97-35, §819(j)(1), substituted “III” for “VII”.

Subsec. (c). Pub. L. 97-35, §819(j)(2), substituted references to section 311(a)(4) and (c)(1) of the Older Americans Act of 1965, for references to section 3045f(a)(4) and (d)(4) of this title.

Subsec. (f). Pub. L. 97-35, §813(a), added subsec. (f).

1980—Subsec. (a). Pub. L. 96-499 substituted “September 30, 1984” for “September 30, 1982”.

1978—Subsec. (a)(1). Pub. L. 95-627 inserted “(which may include domestic seafood commodities and their products)” after “under such section”.

1977—Subsec. (a). Pub. L. 95-166, §6(1), extended termination date for termination of commodity distribution program to Sept. 30, 1982, from Sept. 30, 1977.

Subsecs. (c) to (e). Pub. L. 95-166, §6(2), added subsecs. (c) to (e).

1975—Pub. L. 94-105 designated existing provisions as subsec. (a), substituted “September 30, 1977” for “June 30, 1975”, and added subsec. (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-296 effective Oct. 1, 2010, except as otherwise specifically provided, see section 445 of Pub. L. 111-296, set out as a note under section 1751 of this title.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-336 effective Oct. 1, 1998, see section 401 of Pub. L. 105-336, set out as a note under section 1755 of this title.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-448 effective Oct. 1, 1994, see section 401 of Pub. L. 103-448, set out as a note under section 1755 of this title.

##### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-147, title I, §103(b)(2)(B), Nov. 10, 1989, 103 Stat. 882, provided that: “The amendments made by subparagraph (A) [amending this section] shall take effect as if such amendments had been effective on June 28, 1988.”

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 813(a) of Pub. L. 97-35 effective 90 days after Aug. 13, 1981, and amendment by section 819(j) of Pub. L. 97-35 effective Oct. 1, 1981, see section 820(a)(4), (5) of Pub. L. 97-35, set out as a note under section 1753 of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-627 effective Oct. 1, 1978, see section 14 of Pub. L. 95-627, set out as a note under section 1755 of this title.

#### STUDY OF EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY

Pub. L. 103-448, title III, §304, Nov. 2, 1994, 108 Stat. 4750, directed Comptroller General of the United States to conduct study on incidence and effect of States restricting or prohibiting legally contracted commercial entity from physically combining federally donated

and inspected meat or poultry from another State and to submit report to Congress not later than Sept. 1, 1996.

#### § 1763. Repealed. Pub. L. 101-147, title I, § 104, Nov. 10, 1989, 103 Stat. 883

Section, act June 4, 1946, ch. 281, §15, formerly §14, as added May 14, 1970, Pub. L. 91-248, §9, 84 Stat. 213; amended Nov. 7, 1973, Pub. L. 93-150, §8, 87 Stat. 564; renumbered §15, June 30, 1974, Pub. L. 93-326, §2, 88 Stat. 286; Nov. 10, 1977, Pub. L. 95-166, §16, 91 Stat. 1344; Aug. 13, 1981, Pub. L. 97-35, title VIII, §819(i), 95 Stat. 533, established National Advisory Council on Child Nutrition.

#### § 1764. Repealed. Pub. L. 94-105, § 22, Oct. 7, 1975, 89 Stat. 528

Section, act June 4, 1946, ch. 281, §15, as added June 30, 1971, Pub. L. 92-32, §1, 85 Stat. 85, authorized use, during fiscal 1971, of not to exceed \$35,000,000 from section 612c of Title 7, and not to exceed \$100,000,000 during fiscal 1972 to carry out provisions of this chapter, with unexpended funds to remain available in accordance with last sentence of section 1752 of this title.

#### § 1765. Election to receive cash payments

(a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this chapter and the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 1755(c) of this title.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

(June 4, 1946, ch. 281, §16, as added Pub. L. 94-105, §12, Oct. 7, 1975, 89 Stat. 515; amended Pub. L. 101-147, title III, §309, Nov. 10, 1989, 103 Stat. 915; Pub. L. 105-336, title I, §101(b), Oct. 31, 1998, 112 Stat. 3144.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in subsec. (a), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§1771 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of this title and Tables.

##### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-336 substituted “1755(c)” for “1755(e)”.

1989—Pub. L. 101-147 inserted “Election to receive cash payments” as section catchline.