

# FOOD AND NUTRITION ACT OF 2008

[As Amended Through P.L. 111–296, Effective Dec. 13, 2010]

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## AN ACT

To strengthen the agricultural economy; to help to achieve a fuller and more effective use of food abundances; to provide for improved levels of nutrition among low-income households through a cooperative Federal-State program of food assistance to be operated through normal channels of trade; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 2011 note] That this Act may be cited as the “Food and Nutrition Act of 2008”.*<sup>1–1</sup>

<sup>1</sup>This table of contents is not part of the Act but is included for user convenience. The numbers in brackets refer to section numbers in title 7, United States Code.

<sup>1–1</sup>Sec. 4407 of the Food, Conservation, and Energy Act of 2008 (P.L. 110–246; 122 Stat. 1903) provided: “Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.”

## DECLARATION OF POLICY

SEC. 2. [7 U.S.C. 2011] It is hereby declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a supplemental nutrition assistance program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

## DEFINITIONS

SEC. 3. [7 U.S.C. 2012] As used in this Act, the term:

(a) "Access device" means any card, plate, code, account number, or other means of access, including point of sale devices, that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act.

(b) "Allotment" means the total value of benefits a household is authorized to receive during each month.

(c) "Allowable medical expenses" means expenditures for (1) medical and dental care, (2) hospitalization or nursing care (including hospitalization or nursing care of an individual who was a household member immediately prior to entering a hospital or nursing home), (3) prescription drugs when prescribed by a licensed practitioner authorized under State law and over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional, (4) health and hospitalization insurance policies (excluding the costs of health and accident or income maintenance policies), (5) medicare premiums related to coverage under title XVIII of the Social Security Act [(42 U.S.C. 1395 et seq.)], (6) dentures, hearing aids, and prosthetics (including the costs of securing and maintaining a seeing eye dog), (7) eye glasses prescribed by a physician skilled in eye disease or by an optometrist, (8) reasonable costs of transportation necessary to secure medical treatment or services, and (9) maintaining an attendant, homemaker, home health aide, housekeeper, or child care services due to age, infirmity, or illness.

(d) BENEFIT.—The term "benefit" means the value of supplemental nutrition assistance provided to a household by means of—  
(1) an electronic benefit transfer under section 7(i); or  
(2) other means of providing assistance, as determined by the Secretary.

(e) **BENEFIT ISSUER.**—The term “benefit issuer” means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of benefits to households.

(f) “Certification period” means the period for which households shall be eligible to receive benefits. The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months. The limits specified in this subsection may be extended until the end of any transitional benefit period established under section 11(s).

(g) “Coupon” means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon.<sup>3-1</sup>

(h) “Drug addiction or alcoholic treatment and rehabilitation program” means any such program conducted by a private non-profit organization or institution, or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to provide treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(i) **EBT CARD.**—The term “EBT card” means an electronic benefit transfer card issued under section 7(i).

(j) “Elderly or disabled member” means a member of a household who—

(1) is sixty years of age or older;

(2)(A) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or Federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93-66 (42 U.S.C. 1382 note), or

(B) receives Federally or State administered supplemental assistance of the type described in section 1616(a) of the Social Security Act (42 U.S.C. 1382e(a)), interim assistance pending receipt of supplemental security income, disability-related medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or disability-based State general assistance benefits, if the Secretary determines that such benefits are conditioned on meeting disability or blindness criteria at least as stringent as those used under title XVI of the Social Security Act;

(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.) or receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i));

(4) is a veteran who—

<sup>3-1</sup>Sec. 4115(b)(1)(D) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1866) struck “or access device” and all that followed through the end of the subsection and inserted a period, leaving the comma after “coupon”, which probably should be struck.

(A) has a service-connected or non-service-connected disability which is rated as total under title 38, United States Code; or

(B) is considered in need of regular aid and attendance or permanently housebound under such title;

(5) is a surviving spouse of a veteran and—

(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United States Code; or

(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i));

(6) is a child of a veteran and—

(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

(7) is an individual receiving an annuity under section 2(a)(1)(iv) or 2(a)(1)(v) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)(1)(iv) or 231a(a)(1)(v)), if the individual's service as an employee under the Railroad Retirement Act of 1974, after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act [(42 U.S.C. 301 et seq.)], and if an application for disability benefits had been filed.

(k) "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), (5), (7), (8), and (9) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics, and their children,

served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence, (7) in the case of disabled or blind recipients of benefits under title I, II, X, XIV, or XVI of the Social Security Act, or are<sup>3-2</sup> individuals described in paragraphs (2) through (7) of subsection (j), who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section [(42 U.S.C. 1382e(e))], meals prepared and served under such arrangement, (8) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served, by such shelters, and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses, meals prepared for and served by a public or private nonprofit establishment (approved by an appropriate State or local agency) that feeds such individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices.

(l) "Food stamp program" means the program operated pursuant to the provisions of this Act.<sup>3-3</sup>

(m) "Homeless individual" means—

(1) an individual who lacks a fixed and regular nighttime residence; or

(2) an individual who has a primary nighttime residence that is—

(A) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(B) an institution that provides a temporary residence for individuals intended to be institutionalized;

(C) a temporary accommodation for not more than 90 days in the residence of another individual; or

(D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(n)(1) "Household" means—

<sup>3-2</sup> So in original. Probably, "or are" should be "and".

<sup>3-3</sup> Section 4001(b) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1853) amended this Act by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program". Due to capitalization, this instance remains unchanged. "Food stamp program" should probably be struck and replaced with "Supplemental nutrition assistance program" and this subsection should be moved so as to keep all defined terms in alphabetical order.

(A) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others; or

(B) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(2) Spouses who live together, parents and their children 21 years of age or younger who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control<sup>3-4</sup> shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so.

(3) Notwithstanding paragraphs (1) and (2), an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.

(4) In no event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house, or else live with others and pay compensation to the others for meals.

(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

(A) Residents of federally subsidized housing for the elderly, disabled or blind recipients of benefits under title I, II, X, XIV, or XVI of the Social Security Act.

(B) Individuals described in paragraphs (2) through (7) of subsection (j), who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act [(42 U.S.C. 1382e(e))] or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under that section.

(C) Temporary residents of public or private nonprofit shelters for battered women and children.

<sup>3-4</sup> Effective September 1, 1994, section 13931(1)(B) of the Mickey Leland Childhood Hunger Relief Act (P.L. 103-66; 107 Stat. 676) amended the first sentence of section 3(i) by striking “, or (3) a parent of minor children and that parent’s children” and all that follows through “parents and children, or siblings, who live together” and inserting “, Spouses who live” and all that follows through “exercising parental control” as flush to the left margin matter. The amendment was executed as a run-on amendment to effectuate the probable intent of Congress.

(D) Residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for benefits.

(E) Narcotics addicts or alcoholics, together with their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program.

(o) "Reservation" means the geographically defined area or areas over which a tribal organization exercises governmental jurisdiction.

(p) "Retail food store" means—

(1) an establishment or house-to-house trade route that sells food for home preparation and consumption and—

(A) offers for sale, on a continuous basis, a variety of foods in each of the 4 categories of staple foods specified in subsection (r)(1), including perishable foods in at least 2 of the categories; or

(B) has over 50 percent of the total sales of the establishment or route in staple foods, as determined by visual inspection, sales records, purchase records, counting of stockkeeping units, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry;

(2) an establishment, organization, program, or group living arrangement referred to in paragraphs (3), (4), (5), (7), (8), and (9) of subsection (k);

(3) a store purveying the hunting and fishing equipment described in subsection (k)(6); and

(4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

(q) "Secretary" means the Secretary of Agriculture.

(r)(1) Except as provided in paragraph (2), "staple foods" means foods in the following categories:

(A) Meat, poultry, or fish.

(B) Bread or cereals.

(C) Vegetables or fruits.

(D) Dairy products.

(2) "Staple foods" do not include accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices.

(s) "State" means the fifty States, the District of Columbia, Guam, the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this Act for participation as a State agency.

(t) "State agency" means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering

a food distribution program under section 4(b) of this Act or a supplemental nutrition assistance program under section 11(d) of this Act.

(u) “Thrifty food plan” means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary’s calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall—

(1) make household-size adjustments (based on the unrounded cost of such diet) taking into account economies of scale;

(2) make cost adjustments in the thrifty food plan for Hawaii and the urban and rural parts of Alaska to reflect the cost of food in Hawaii and urban and rural Alaska;

(3) make cost adjustments in the separate thrifty food plans for Guam, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia; and

(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996, and except that on October 1, 2003, in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002.

(v) “Tribal organization” means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term “Indian tribe” is defined in the Indian Self-Determination Act (25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

ESTABLISHMENT OF THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

SEC. 4. [7 U.S.C. 2013] (a) Subject to the availability of funds appropriated under section 18 of this Act, the Secretary is authorized to formulate and administer a supplemental nutrition assistance program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment, except that a State may not participate in the supplemental nutrition assistance program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with benefits issued under this Act. The benefits so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the supplemental nutrition assistance program.

benefits issued<sup>4-1</sup> and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—

(1) IN GENERAL.—Distribution of commodities, with or without the supplemental nutrition assistance program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

(2) ADMINISTRATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for the distribution.

(B) ADMINISTRATION BY TRIBAL ORGANIZATION.—If the Secretary determines that a tribal organization is capable of effectively and efficiently administering a distribution described in paragraph (1), then the tribal organization shall administer the distribution.

(C) PROHIBITION.—The Secretary shall not approve any plan for a distribution described in paragraph (1) that permits any household on any Indian reservation to participate simultaneously in the supplemental nutrition assistance program and the program established under this subsection.

(3) DISQUALIFIED PARTICIPANTS.—An individual who is disqualified from participation in the food distribution program on Indian reservations under this subsection is not eligible to participate in the supplemental nutrition assistance program under this Act for a period of time to be determined by the Secretary.

(4) ADMINISTRATIVE COSTS.—The Secretary is authorized to pay such amounts for administrative costs and distribution costs on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

(5) BISON MEAT.—Subject to the availability of appropriations to carry out this paragraph, the Secretary may purchase bison meat for recipients of food distributed under this subsection, including bison meat from—

- (A) Native American bison producers; and
- (B) producer-owned cooperatives of bison ranchers.

(6) TRADITIONAL AND LOCALLY-GROWN FOOD FUND.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a fund for use in purchasing traditional and locally-grown foods for recipients of food distributed under this subsection.

(B) NATIVE AMERICAN PRODUCERS.—Where practicable, of the food provided under subparagraph (A), at least 50

<sup>4-1</sup>Sec. 4115(b)(2)(B) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1867) amended subsection (a) by striking “Coupons issued” and inserting “benefits issued”. “benefits” should probably be capitalized.

percent shall be produced by Native American farmers, ranchers, and producers.

(C) DEFINITION OF TRADITIONAL AND LOCALLY GROWN.—The Secretary shall determine the definition of the term “traditional and locally-grown” with respect to food distributed under this paragraph.

(D) SURVEY.—In carrying out this paragraph, the Secretary shall—

(i) survey participants of the food distribution program on Indian reservations established under this subsection to determine which traditional foods are most desired by those participants; and

(ii) purchase or offer to purchase those traditional foods that may be procured cost-effectively.

(E) REPORT.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities carried out under this paragraph during the preceding calendar year.

(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph \$5,000,000 for each of fiscal years 2008 through 2012.

(c) The Secretary shall issue such regulations consistent with this Act as the Secretary deems necessary or appropriate for the effective and efficient administration of the supplemental nutrition assistance program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5 of the United States Code. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it.

#### ELIGIBLE HOUSEHOLDS

SEC. 5. [7 U.S.C. 2014] (a) Participation in the supplemental nutrition assistance program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Notwithstanding any other provisions of this Act except sections 6(b), 6(d)(2), and 6(g) and section 3(n)(4),<sup>5-1</sup> households in which each member receives benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), supplemental security income benefits under title XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)], or aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act [(42 U.S.C. 301 et seq.)], shall be eligible to participate in the supplemental

<sup>5-1</sup>Sec. 4115(b)(3)(A) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1867) amended subsection (a) by striking “section 3(i)(4)” and inserting “section 3(n)(4)”. The phrase “section 3(i)(4)” appeared twice in the subsection. Amendment executed both places to effectuate the probable intent of Congress.

nutrition assistance program. Except for sections 6, 16(e)(1), and section 3(n)(4),<sup>5-1</sup> households in which each member receives benefits under a State or local general assistance program that complies with standards established by the Secretary for ensuring that the program is based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month, shall be eligible to participate in the supplemental nutrition assistance program. Assistance under this program shall be furnished to all eligible households who make application for such participation.

(b) **ELIGIBILITY STANDARDS.**—Except as otherwise provided in this Act, the Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the supplemental nutrition assistance program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

(c) The income standards of eligibility shall be adjusted each October 1 and shall provide that a household shall be ineligible to participate in the supplemental nutrition assistance program if—

(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

(2) in the case of a household that does not include an elderly or disabled member, the household's income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.

(d) **EXCLUSIONS FROM INCOME.**—Household income for purposes of the supplemental nutrition assistance program shall include all income from whatever source excluding only—

(1) any gain or benefit which is not in the form of money payable directly to a household (notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law), except as provided in subsection (k);

(2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, subject to modification by the Secretary in light of subsection (f);

(3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like—

(A) awarded to a household member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof;

(B) to the extent that they do not exceed the amount used for or made available as an allowance determined by such school, institution, program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program; and

(C) to the extent loans include any origination fees and insurance premiums;

(4) all loans other than educational loans on which repayment is deferred;

(5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided): *Provided*, That no portion of benefits provided under title IV-A of the Social Security Act [(42 U.S.C. 601 et seq.)], to the extent it is attributable to an adjustment for work-related or child care expenses (except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988 [September 19, 1988]), and no portion of any educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, shall be considered such reimbursement;

(6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, and child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments;

(7) income earned by a child who is a member of the household, who is an elementary or secondary school student, and who is 17 years of age or younger;

(8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, cash donations based on need that are re-

ceived from one or more private nonprofit charitable organizations, but not in excess of \$300 in the aggregate in a quarter, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws;

(9) the cost of producing self-employed income, but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer;

(10) any income that any other Federal law specifically excludes from consideration as income for purposes of determining eligibility for the supplemental nutrition assistance program except as otherwise provided in subsection (k) of this section;

(11)(A) any payments or allowances made for the purpose of providing energy assistance under any Federal law (other than part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); or

(B) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device;

(12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the supplemental nutrition assistance program or received an allotment in the month immediately preceding the first month in which the adjustment was effective;

(13) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit);

(14) any payment made to the household under section 6(d)(4)(I) for work related expenses or for dependent care;

(15) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4));

(16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans' educational benefits, and the like excluded under paragraph (3)), to the extent that they are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance

under section 1931 of the Social Security Act (42 U.S.C. 1396u-1);

(18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for (A) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or the amount of such assistance, or (B) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker's compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels; and

(19) any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

(A) is the result of deployment to or service in a combat zone; and

(B) was not received immediately prior to serving in a combat zone.

(e) DEDUCTIONS FROM INCOME.—

(1) STANDARD DEDUCTION.—

(A) IN GENERAL.—

(i) DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States in an amount that is—

(I) equal to 8.31 percent of the income standard of eligibility established under subsection (c)(1); but

(II) not more than 8.31 percent of the income standard of eligibility established under subsection (c)(1) for a household of 6 members.

(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States shall be not less than—

(I) for fiscal year 2009, \$144, \$246, \$203, and \$127, respectively; and

(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June

30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

(B) GUAM.—

(i) IN GENERAL.—The Secretary shall allow a standard deduction for each household in Guam in an amount that is—

(I) equal to 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

(II) not more than 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia for a household of 6 members.

(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in Guam shall be not less than—

(I) for fiscal year 2009, \$289; and

(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

(C) REQUIREMENT.—Each adjustment under subparagraphs (A)(ii)(II) and (B)(ii)(II) shall be based on the unrounded amount for the prior 12-month period.

(2) EARNED INCOME DEDUCTION.—

(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term “earned income” does not include—

(i) income excluded by subsection (d); or

(ii) any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

(3) DEPENDENT CARE DEDUCTION.—

(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction for the actual cost of payments

necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

(i) expenses paid on behalf of the household by a third party;

(ii) amounts made available and excluded, for the expenses referred to in subparagraph (A), under subsection (d)(3); and

(iii) expenses that are paid under section 6(d)(4).

(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6).

(5) EXCESS MEDICAL EXPENSE DEDUCTION.—

(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds \$35 per month.

(B) METHOD OF CLAIMING DEDUCTION.—

(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information on, or verification of, actual expenses on a monthly basis.

(ii) METHOD.—The method described in clause (i) shall—

(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

(6) EXCESS SHELTER EXPENSE DEDUCTION.—

(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States, the excess shelter expense deduction shall not exceed—

(i) for the period beginning on the date of enactment of this subparagraph [August 22, 1996] and ending on December 31, 1996, \$247, \$429, \$353, \$300, and \$182 per month, respectively;

(ii) for the period beginning on January 1, 1997, and ending on September 30, 1998, \$250, \$434, \$357, \$304, and \$184 per month, respectively;

(iii) for fiscal year 1999, \$275, \$478, \$393, \$334, and \$203 per month, respectively;

(iv) for fiscal year 2000, \$280, \$483, \$398, \$339, and \$208 per month, respectively;

(v) for fiscal year 2001, \$340, \$543, \$458, \$399, and \$268 per month, respectively; and

(vi) for fiscal year 2002 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(C) STANDARD UTILITY ALLOWANCE.—

(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

(I) does not incur a heating or cooling expense, as the case may be;

(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

(III) shares the expense with, and lives with, another individual not participating in the supple-

mental nutrition assistance program, another household participating in the supplemental nutrition assistance program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

(iii) MANDATORY ALLOWANCE.—

(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

(bb) the Secretary finds (without regard to subclause (III)) that the standards will not result in an increased cost to the Secretary.

(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).

(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of

clause (ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(IV) PRORATION OF ASSISTANCE.—For the purpose of the supplemental nutrition assistance program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.

(D) HOMELESS HOUSEHOLDS.—

(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals, but that is not receiving free shelter throughout the month, to receive a deduction of \$143 per month.

(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).

(f)(1)(A) Household income for those households that, by contract for other than an hourly or piecework basis or by self-employment, derive their annual income in a period of time shorter than one year shall be calculated by averaging such income over a twelve-month period. Notwithstanding the preceding sentence, household income resulting from the self-employment of a member in a farming operation, who derives income from such farming operation and who has irregular expenses to produce such income, may, at the option of the household, be calculated by averaging such income and expenses over a 12-month period. Notwithstanding the first sentence, if the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business earnings, the State agency shall calculate the self-employment income based on anticipated earnings.

(B) Household income for those households that receive non-excluded income of the type described in subsection (d)(3) of this section shall be calculated by averaging such income over the period for which it is received.

(C) SIMPLIFIED DETERMINATION OF DEDUCTIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next recertification of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may not disregard—

(I) any reported change of residence; or

(II) under standards prescribed by the Secretary, any change in earned income.

(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

(B) In the case of the first month, or at the option of the State, the first and second months, during a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.

(C) Households specified in clauses (i), (ii), and (iii) of section 6(c)(1)(A) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B).

(3)(A) Calculation of household income on a prospective basis is the calculation of income on the basis of the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined. Such calculation shall be made in accordance with regulations prescribed by the Secretary which shall provide for taking into account both the income reasonably anticipated to be received by the household during the period for which eligibility or benefits are being determined and the income received by the household during the preceding thirty days.

(B) Calculation of household income on a retrospective basis is the calculation of income for the period for which eligibility or benefits are being determined on the basis of income received in a previous period. Such calculation shall be made in accordance with regulations prescribed by the Secretary which may provide for the determination of eligibility on a prospective basis in some or all cases in which benefits are calculated under this paragraph. Such regulations shall provide for supplementing the initial allotments of newly applying households in those cases in which the determination of income under this paragraph causes serious hardship.

(4) In promulgating regulations under this subsection, the Secretary shall consult with the Secretary of Health and Human Services in order to assure that, to the extent feasible and consistent with the purposes of this Act and the Social Security Act [(42 U.S.C. 301 et seq.)], the income of households receiving benefits under this Act and title IV-A of the Social Security Act [(42 U.S.C. 601 et seq.)] is calculated on a comparable basis under the two Acts. The Secretary is authorized, upon the request of a State agency, to waive any of the provisions of this subsection (except the provisions of paragraph (2)(A)) to the extent necessary to permit the State agency to calculate income for purposes of this Act on the same basis that income is calculated under title IV-A of the Social Security Act [(42 U.S.C. 601 et seq.)] in that State.

(g) ALLOWABLE FINANCIAL RESOURCES.—

(1) TOTAL AMOUNT.—

(A) IN GENERAL.—The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and

shall, in so doing, assure that a household otherwise eligible to participate in the supplemental nutrition assistance program will not be eligible to participate if its resources exceed \$2,000 (as adjusted in accordance with subparagraph (B)), or, in the case of a household which consists of or includes an elderly or disabled member, if its resources exceed \$3,000 (as adjusted in accordance with subparagraph (B)).

(B) ADJUSTMENT FOR INFLATION.—

(i) IN GENERAL.—Beginning on October 1, 2008, and each October 1 thereafter, the amounts specified in subparagraph (A) shall be adjusted and rounded down to the nearest \$250 increment to reflect changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(ii) REQUIREMENT.—Each adjustment under clause (i) shall be based on the unrounded amount for the prior 12-month period.

(2) INCLUDED ASSETS.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

(i) any boat, snowmobile, or airplane used for recreational purposes;

(ii) any vacation home;

(iii) any mobile home used primarily for vacation purposes;

(iv) subject to subparagraphs (C) and (D), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds \$4,650;

(v) any savings account, regardless of whether there is a penalty for early withdrawal.

(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

(i) used to produce earned income;

(ii) necessary for the transportation of a physically disabled household member; or

(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.

(D) ALTERNATIVE VEHICLE ALLOWANCE.—If the vehicle allowance standards that a State agency uses to determine eligibility for assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) would result in a lower attribution of resources to certain households than under subparagraph (B)(iv), in lieu of applying subparagraph (B)(iv), the State agency may elect to apply the State vehicle allowance standards to all households that would incur a lower attribution of resources under the State vehicle allowance standards.

(3) The Secretary shall exclude from financial resources the value of a burial plot for each member of a household and non-liquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 6(d). The Secretary shall also exclude from financial resources any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the supplemental nutrition assistance program at the time the credits were received and participated in such program continuously during the 12-month period.<sup>5-2</sup>

(4) In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the Secretary shall exclude from financial resources the value of such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.

(5) The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great. Resources so identified shall be excluded as inaccessible resources. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. The Secretary shall not require the State agency to require verification of the value of a resource to be excluded under this paragraph unless the State agency determines that the information provided by the household is questionable.

(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER FEDERAL PROGRAMS.—

(A) IN GENERAL.—Subject to subparagraph (B), a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

<sup>5-2</sup>Effective September 1, 1994, section 13913 of the Mickey Leland Childhood Hunger Relief Act (P.L. 103-66; 107 Stat. 673) amended section 5(g)(3) by adding this sentence. Section 13913 of such Act added the new sentence as a flush left margin sentence, but the amendment was added as a run-on sentence to effectuate the probable intent of Congress.

(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1).

(B) LIMITATIONS.—Except to the extent that any of the types of resources specified in clauses (i) through (iv) are excluded under another paragraph of this subsection, subparagraph (A) does not authorize a State agency to exclude—

(i) cash;

(ii) licensed vehicles;

(iii) amounts in any account in a financial institution that are readily available to the household; or

(iv) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the supplemental nutrition assistance program.

(7) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of—

(i) any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code; and

(ii) any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other retirement plans, contracts, or accounts (as determined by the Secretary).

(8) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code.

(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other education programs, contracts, or accounts (as determined by the Secretary).

(h)(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by sections 402 and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), establish temporary emer-

gency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be promulgated without regard to section 4(c) of this Act or the procedures set forth in section 553 of title 5 of the United States Code.

(2) The Secretary shall—

(A) establish a Disaster Task Force to assist States in implementing and operating the disaster program and the regular supplemental nutrition assistance program in the disaster area; and

(B) if the Secretary, in the Secretary's discretion, determines that it is cost-effective to send members of the Task Force to the disaster area, the Secretary shall send them to such area as soon as possible after the disaster occurs to provide direct assistance to State and local officials.

(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster. The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary not greater than the applicable maximum monthly allotment for the household size.

(B) The Secretary shall adjust issuance methods and reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel, any conditions that make reliance on electronic benefit transfer systems described in section 7(h) impracticable, and any damage to or disruption of transportation and communication facilities.

(i)(1) For purposes of determining eligibility for and the amount of benefits under this Act for an individual who is an alien as described in section 6(f)(2)(B) of this Act, the income and resources of any person who as a sponsor of such individual's entry into the United States executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse if such spouse is living with the sponsor, shall be deemed to be the income and resources of such individual for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(2)(A) The amount of income of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

(i) the total yearly rate of earned and unearned income of such sponsor, and such sponsor's spouse if such spouse is living with the sponsor, shall be determined for such year under rules prescribed by the Secretary;

(ii) the amount determined under clause (i) of this subparagraph shall be reduced by an amount equal to the income eligibility standard as determined under section 5(c) of this Act for a household equal in size to the sponsor, the sponsor's spouse if living with the sponsor, and any persons dependent upon or receiving support from the sponsor or the sponsor's spouse if the spouse is living with the sponsor; and

(iii) the monthly income attributed to such alien shall be one-twelfth of the amount calculated under clause (ii) of this subparagraph.

(B) The amount of resources of a sponsor, and the sponsor's spouse if living with the sponsor, which shall be deemed to be the resources of an alien for any year shall be determined as follows:

(i) the total amount of the resources of such sponsor and such sponsor's spouse if such spouse is living with the sponsor shall be determined under rules prescribed by the Secretary;

(ii) the amount determined under clause (i) of this subparagraph shall be reduced by \$1,500; and

(iii) the resources determined under clause (ii) of this subparagraph shall be deemed to be resources of such alien in addition to any resources of such alien.

(C)(i) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this Act, be required to provide to the State agency such information and documentation with respect to the alien's sponsor and sponsor's spouse as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide such information and documentation which such alien or the sponsor provided in support of such alien's immigration application as the State agency may request.

(ii) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

(D) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid shall be recovered in accordance with the provisions of section 13(b)(2)<sup>5-3</sup> of this Act.

(E) The provisions of this subsection shall not apply with respect to any alien who is a member of the sponsor's household or to any alien who is under 18 years of age.

<sup>5-3</sup> So in original. Probably, "section 13(b)(2)" should be "section 13(b)".

(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) to have satisfied the resource limitations prescribed under subsection (g).

(k)(1) For purposes of subsection (d)(1), except as provided in paragraph (2), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if the assistance is provided in lieu of—

(A) a regular benefit payable to the household for living expenses under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(B) a benefit payable to the household for housing expenses under—

(i) a State or local general assistance program; or

(ii) another basic assistance program comparable to general assistance (as determined by the Secretary).

(2) Paragraph (1) shall not apply to—

(A) medical assistance;

(B) child care assistance;

(C) a payment or allowance described in subsection (d)(11);

(D) assistance provided by a State or local housing authority;

(E) emergency assistance for migrant or seasonal farmworker households during the period such households are in the job stream;

(F) emergency and special assistance, to the extent excluded in regulations prescribed by the Secretary; or

(G) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), if, under State law, no assistance under the program may be provided directly to the household in the form of a cash payment.

(3) For purposes of subsection (d)(1), educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of a household for living expenses shall be treated as money payable directly to the household.

(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a State law (other than a law referred to in paragraph (2)(H))<sup>5-4</sup> to provide energy assistance to a household shall be considered money payable directly to the household.

(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(6), an expense paid on behalf of a household under a State law to provide energy assistance shall be

<sup>5-4</sup>So in original. Probably, "paragraph (2)(H)" should be "paragraph (2)(G)".

considered an out-of-pocket expense incurred and paid by the household.

(1) Notwithstanding section 181(a)(2) of the Workforce Investment Act of 1998 [(29 U.S.C. 2931(a)(2))], earnings to individuals participating in on-the-job training under title I of the Workforce Investment Act of 1998 [(29 U.S.C. 2801 et seq.)] shall be considered earned income for purposes of the supplemental nutrition assistance program, except for dependents less than 19 years of age.

(m)<sup>5-5</sup> SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection [August 22, 1996], the Secretary shall establish a procedure by which a State may submit a method, designed to not increase Federal costs, for the approval of the Secretary, that the Secretary determines will produce a reasonable estimate of income excluded under subsection (d)(9) in lieu of calculating the actual cost of producing self-employment income.

(2) INCLUSIVE OF ALL TYPES OF INCOME OR LIMITED TYPES OF INCOME.—The method submitted by a State under paragraph (1) may allow a State to estimate income for all types of self-employment income or may be limited to 1 or more types of self-employment income.

(3) DIFFERENCES FOR DIFFERENT TYPES OF INCOME.—The method submitted by a State under paragraph (1) may differ for different types of self-employment income.

(n) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies, at the option of the State agencies, to determine the amount of any legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) concerning payments made in prior months in lieu of obtaining current information from the households.

#### ELIGIBILITY DISQUALIFICATIONS

SEC. 6. [7 U.S.C. 2015] (a) In addition to meeting the standards of eligibility prescribed in section 5 of this Act, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the supplemental nutrition assistance program.

(b)(1) Any person who has been found by any State or Federal court or administrative agency to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation

<sup>5-5</sup> Effective August 22, 1996, section 812 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) added subsec. (m) (relating to simplified calculation of income for the self-employed). Effective July 1, 1997, section 109(a)(4) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) struck subsec. (m). The first subsec. (m) was struck to effectuate the probable intent of Congress.

of this Act, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing program benefits shall, immediately upon the rendering of such determination, become ineligible for further participation in the program—

(i) for a period of 1 year upon the first occasion of any such determination;

(ii) for a period of 2 years upon—

(I) the second occasion of any such determination; or

(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for benefits; and

(iii) permanently upon—

(I) the third occasion of any such determination;

(II) the second occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for benefits;

(III) the first occasion of a finding by a Federal, State, or local court of the trading of firearms, ammunition, or explosives for benefits; or

(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of \$500 or more.

During the period of such ineligibility, no household shall receive increased benefits under this Act as the result of a member of such household having been disqualified under this subsection.

(2) Each State agency shall proceed against an individual alleged to have engaged in such activity either by way of administrative hearings, after notice and an opportunity for a hearing at the State level, or by referring such matters to appropriate authorities for civil or criminal action in a court of law.

(3) Such periods of ineligibility as are provided for in paragraph (1) of this subsection shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the ineligibility is based is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of ineligibility be subject to review.

(4) The Secretary shall prescribe such regulations as the Secretary may deem appropriate to ensure that information concerning any such determination with respect to a specific individual is forwarded to the Office of the Secretary by any appropriate State or Federal entity for the use of the Secretary in administering the provisions of this section. No State shall withhold such information from the Secretary or the Secretary's designee for any reason whatsoever.

(c) Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household shall be eligible to participate in the supplemental nutrition assistance program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility.

(1)(A) A State agency may require certain categories of households to file periodic reports of income and household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting—

(i) for periods shorter than 4 months by migrant or seasonal farmworker households;

(ii) for periods shorter than 4 months by households in which all members are homeless individuals; or

(iii) for periods shorter than 1 year by households that have no earned income and in which all adult members are elderly or disabled.

(B) Each household that is not required to file such periodic reports shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations.

(C) A State agency may require periodic reporting on a monthly basis by households residing on a reservation only if—

(i) the State agency reinstates benefits, without requiring a new application, for any household residing on a reservation that submits a report not later than 1 month after the end of the month in which benefits would otherwise be provided;

(ii) the State agency does not delay, reduce, suspend, or terminate the allotment of a household that submits a report not later than 1 month after the end of the month in which the report is due;

(iii) on the date of enactment of this subparagraph, the State agency requires households residing on a reservation to file periodic reports on a monthly basis; and

(iv) the certification period for households residing on a reservation that are required to file periodic reports on a monthly basis is 2 years, unless the State demonstrates just cause to the Secretary for a shorter certification period.

(D) FREQUENCY OF REPORTING.—

(i) IN GENERAL.—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

(I) not less often than once each 6 months; but

(II) not more often than once each month.

(ii) REPORTING BY HOUSEHOLDS WITH EXCESS INCOME.—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the income standard of eligibility established under section 5(c)(2).

(2) Any household required to file a periodic report under paragraph (1) of this subsection shall, (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given

month, within thirty days of the end of that month unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information in the event all adult members of the household are mentally or physically handicapped or lacking in reading or writing skills to such a degree as to be unable to fill out the required forms, (C) have a reasonable period of time after the close of the month in which to file their reports on State agency designed forms, (D) be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under section 11(e)(10) of this Act, and (E) be provided each month (or other applicable period) with an appropriate, simple form for making the required reports of the household together with clear instructions explaining how to complete the form and the rights and responsibilities of the household under any periodic reporting system.

(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if they contain the information relevant to eligibility and benefit determinations that is specified by the State agency. All report forms, including those related to periodic reports of circumstances, shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this Act including the prescribed penalties. Reports required to be filed monthly under paragraph (1) shall be the sole reporting requirement for subject matter included in such reports. In promulgating regulations implementing these reporting requirements, the Secretary shall consult with the Commissioner of Social Security and the Secretary of Health and Human Services, and, wherever feasible, households that receive assistance under title IV-A of the Social Security Act [(42 U.S.C. 601 et seq.)] and that are required to file comparable reports under that Act shall be provided the opportunity to file reports at the same time for purposes of both Acts.

(4) Except as provided in paragraph (1)(C), any household that fails to submit periodic reports required by paragraph (1) shall not receive an allotment for the payment period to which the unsubmitted report applies until such report is submitted.

(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.

(d) CONDITIONS OF PARTICIPATION.—

(1) WORK REQUIREMENTS.—

(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be

eligible to participate in the supplemental nutrition assistance program if the individual—

(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

(ii) refuses without good cause to participate in an employment and training program established under paragraph (4), to the extent required by the State agency;

(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

(I) the applicable Federal or State minimum wage; or

(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

(v) voluntarily and without good cause—

(I) quits a job; or

(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

(vi) fails to comply with section 20.

(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the supplemental nutrition assistance program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the supplemental nutrition assistance program for a period, determined by the State agency, that does not exceed the lesser of—

(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

(ii) 180 days.

(C) DURATION OF INELIGIBILITY.—

(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the supplemental nutrition assistance program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 1 month after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

(ii) **SECOND VIOLATION.**—The second time that an individual becomes ineligible to participate in the supplemental nutrition assistance program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 3 months after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

(iii) **THIRD OR SUBSEQUENT VIOLATION.**—The third or subsequent time that an individual becomes ineligible to participate in the supplemental nutrition assistance program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 6 months after the date the individual became ineligible;

(III) a date determined by the State agency;

or

(IV) at the option of the State agency, permanently.

(D) **ADMINISTRATION.**—

(i) **GOOD CAUSE.**—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

(ii) **VOLUNTARY QUIT.**—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

(iii) **DETERMINATION BY STATE AGENCY.**—

(I) **IN GENERAL.**—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

(aa) the meaning of any term used in subparagraph (A);

(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

(cc) whether an individual is in compliance with a requirement under subparagraph (A).

(II) **NOT LESS RESTRICTIVE.**—A State agency may not use a meaning, procedure, or determination under subclause (I) that is less restrictive on individuals receiving benefits under this Act than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(iv) **STRIKE AGAINST THE GOVERNMENT.**—For the purpose of subparagraph (A)(v), an employee of the

Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

(v) SELECTING A HEAD OF HOUSEHOLD.—

(I) IN GENERAL.—For purposes of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the supplemental nutrition assistance program agree to the selection.

(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the supplemental nutrition assistance program, but may not change the designation during a certification period unless there is a change in the composition of the household.

(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the supplemental nutrition assistance program under subparagraph (B)—

(I) the household shall, if otherwise eligible, become eligible to participate in the supplemental nutrition assistance program; and

(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the supplemental nutrition assistance program for the remaining period of ineligibility.

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system, in which case, failure by such person to comply with any work requirement to which such person is subject shall be the same as failure to comply with that requirement of paragraph (1); (B) a parent or other member of a household with responsibility for the care of a dependent child under age six or of an incapacitated person; (C) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person enrolled in an institution of higher education shall be ineligible to participate in the supplemental nutrition assistance program unless he or she meets the requirements of subsection (e) of this section); (D) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; (E) employed a minimum of thirty hours per week or receiving weekly earnings which

equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or (F) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis. A State that requested a waiver to lower the age specified in subparagraph (B) and had the waiver denied by the Secretary as of August 1, 1996, may, for a period of not more than 3 years, lower the age of a dependent child that qualifies a parent or other member of a household for an exemption under subparagraph (B) to between 1 and 6 years of age.

(3) Notwithstanding any other provision of law, a household shall not participate in the supplemental nutrition assistance program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 501(2) of the Labor Management Relations Act, 1947, [(29 U.S.C. 142(2))] because of a labor dispute (other than a lockout) as defined in section 2(9) of the National Labor Relations Act [(29 U.S.C. 152(9))]; *Provided*, That a household shall not lose its eligibility to participate in the supplemental nutrition assistance program as a result of one of its members going on strike if the household was eligible immediately prior to such strike, however, such household shall not receive an increased allotment as the result of a decrease in the income of the striking member or members of the household: *Provided further*, That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout.

(4) EMPLOYMENT AND TRAINING.—

(A) IN GENERAL.—

(i) IMPLEMENTATION.—Each State agency shall implement an employment and training program designed by the State agency and approved by the Secretary for the purpose of assisting members of households participating in the supplemental nutrition assistance program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment.

(ii) STATEWIDE WORKFORCE DEVELOPMENT SYSTEM.—Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through such a system.

(B) For purposes of this Act, an “employment and training program” means a program that contains one or more of the following components, except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:

(i) Job search programs.

(ii) Job search training programs that include, to the extent determined appropriate by the State agency, reasonable job search training and support activities that may consist of jobs skills assessments, job finding clubs, training in tech-

niques for employability, job placement services, or other direct training or support activities, including educational programs, determined by the State agency to expand the job search abilities or employability of those subject to the program.

(iii) Workfare programs operated under section 20.

(iv) Programs designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. An employment or training experience program established under this clause shall—

(I) not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

(II) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

(v) Educational programs or activities to improve basic skills and literacy, or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.

(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.

(vii)<sup>6-1</sup> Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment.

(viii) As approved by the Secretary or the State under regulations issued by the Secretary, other employment, educational and training programs, projects, and experiments, such as a supported work program, aimed at accomplishing the purpose of the employment and training program.

(C) The State agency may provide that participation in an employment and training program may supplement or supplant other employment-related requirements imposed on those subject to the program.

(D)(i) Each State agency may exempt from any requirement for participation in any program under this paragraph categories of household members.

(ii) Each State agency may exempt from any requirement for participation individual household members not included in any category designated as exempt under clause (i).

(iii) Any exemption of a category or individual under this subparagraph shall be periodically evaluated to determine whether the exemption continues to be valid.

(E) Each State agency shall establish requirements for participation by individuals not exempt under subparagraph (D) in one or

<sup>6-1</sup>Indentation so as in original (see sec. 4108(1) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1863)).

more employment and training programs under this paragraph, including the extent to which any individual is required to participate. Such requirements may vary among participants.

(F)(i) The total hours of work in an employment and training program carried out under this paragraph required of members of a household, together with the hours of work of such members in any program carried out under section 20, in any month collectively may not exceed a number of hours equal to the household's allotment for such month divided by the higher of the applicable State minimum wage or Federal minimum hourly rate under the Fair Labor Standards Act of 1938 [(29 U.S.C. 201 et seq.)].

(ii) The total hours of participation in such program required of any member of a household, individually, in any month, together with any hours worked in another program carried out under section 20 and any hours worked for compensation (in cash or in kind) in any other capacity, shall not exceed one hundred and twenty hours per month.

(iii)<sup>6-1</sup> Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).

(G) The State agency may operate any program component under this paragraph in which individuals elect to participate.

(H) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.

(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program; and

(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation), except that no such payment or reimbursement shall exceed the applicable local market rate. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).

(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of

<sup>6-1</sup>Indentation so as in original (see sec. 4108(2) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1863)).

purchase of service contracts or vouchers or by providing vouchers to the household.

(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of the Internal Revenue Code of 1986.

(J) The Secretary shall promulgate guidelines that (i) enable State agencies, to the maximum extent practicable, to design and operate an employment and training program that is compatible and consistent with similar programs operated within the State, and (ii) ensure, to the maximum extent practicable, that employment and training programs are provided for Indians on reservations.

(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including funds used to carry out subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).

(L) The Secretary shall ensure that State agencies comply with the requirements of this paragraph and section 11(e)(19).

(M) The facilities of the State public employment offices and other State agencies and providers carrying out activities under title I of the Workforce Investment Act of 1998 [(29 U.S.C. 2801 et seq.)] may be used to find employment and training opportunities for household members under the programs under this paragraph.

(e) No individual who is a member of a household otherwise eligible to participate in the supplemental nutrition assistance program under this section shall be eligible to participate in the supplemental nutrition assistance program as a member of that or any other household if the individual is enrolled at least half-time in an institution of higher education, unless the individual—

(1) is under age 18 or is age 50 or older;

(2) is not physically or mentally fit;

(3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of—

(A) a program under title I of the Workforce Investment Act of 1998 [(29 U.S.C. 2801 et seq.)];

(B) an employment and training program under this section;

(C) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

- (D) another program for the purpose of employment and training operated by a State or local government, as determined to be appropriate by the Secretary;
- (4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;
- (5) is—
- (A) a parent with responsibility for the care of a dependent child under age 6; or
- (B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual to attend class and satisfy the requirements of paragraph (4);
- (6) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
- (7) is so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act or its successor programs; or
- (8) is enrolled full-time in an institution of higher education, as determined by the institution, and is a single parent with responsibility for the care of a dependent child under age 12.

(f) No individual who is a member of a household otherwise eligible to participate in the supplemental nutrition assistance program under this section shall be eligible to participate in the supplemental nutrition assistance program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259); or (D) an alien who has qualified for conditional entry pursuant to sections 207 and 208 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158); or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)). No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the

supplemental nutrition assistance program as a member of any household. The income (less, at State option, a pro rata share) and financial resources of the individual rendered ineligible to participate in the supplemental nutrition assistance program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member.

(g) No individual who receives supplemental security income benefits under title XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)], State supplementary payments described in section 1616 of such Act [(42 U.S.C. 1382e)], or payments of the type referred to in section 212(a) of Public Law 93-66, as amended [(42 U.S.C. 1382 note)], shall be considered to be a member of a household for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act [(42 U.S.C. 1382e(a))] and section 212(a) of Public Law 93-66 [(42 U.S.C. 1382 note)], and (2) the level of which has been found by the Commissioner of Social Security to have been specifically increased so as to include the bonus value of food stamps.

(h) No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the supplemental nutrition assistance program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the supplemental nutrition assistance program.

(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the supplemental nutrition assistance program.

(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.

(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE BENEFITS.—An individual shall be ineligible to participate in the supplemental nutrition assistance program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive mul-

tiple benefits simultaneously under the supplemental nutrition assistance program.

(k) DISQUALIFICATION OF FLEEING FELONS.—

(1) IN GENERAL.—No member of a household who is otherwise eligible to participate in the supplemental nutrition assistance program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) violating a condition of probation or parole imposed under a Federal or State law.

(2) PROCEDURES.—The Secretary shall—

(A) define the terms “fleeing” and “actively seeking” for purposes of this subsection; and

(B) ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual.

(l) CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as “the individual”) who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the supplemental nutrition assistance program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in obtaining support for—

(i) the child; or

(ii) the individual and the child.

(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(m) NONCUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as “the individual”) shall not be eligible to participate in the supplemental nutrition assistance program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in providing support for the child.

(2) REFUSAL TO COOPERATE.—

(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.

(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

(1) IN GENERAL.—At the option of a State agency, no individual shall be eligible to participate in the supplemental nutrition assistance program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) a court is allowing the individual to delay payment; or

(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.

(o) WORK REQUIREMENT.—

(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term “work program” means—

(A) a program under the title I of the Workforce Investment Act of 1998 [(29 U.S.C. 2801 et seq.)];

(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); and

(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the

State, including a program under subsection (d)(4), other than a job search program or a job search training program.

(2) **WORK REQUIREMENT.**—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the supplemental nutrition assistance program as a member of any household if, during the preceding 36-month period, the individual received supplemental nutrition assistance program benefits for not less than 3 months (consecutive or otherwise) during which the individual did not—

(A) work 20 hours or more per week, averaged monthly;

(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency;

(C) participate in and comply with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State; or

(D) receive benefits pursuant to paragraph (3), (4), (5), or (6).

(3) **EXCEPTION.**—Paragraph (2) shall not apply to an individual if the individual is—

(A) under 18 or over 50 years of age;

(B) medically certified as physically or mentally unfit for employment;

(C) a parent or other member of a household with responsibility for a dependent child;

(D) otherwise exempt under subsection (d)(2); or

(E) a pregnant woman.

(4) **WAIVER.**—

(A) **IN GENERAL.**—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

(i) has an unemployment rate of over 10 percent;

or

(ii) does not have a sufficient number of jobs to provide employment for the individuals.

(B) **REPORT.**—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(5) **SUBSEQUENT ELIGIBILITY.**—

(A) **REGAINING ELIGIBILITY.**—An individual denied eligibility under paragraph (2) shall regain eligibility to participate in the supplemental nutrition assistance program if, during a 30-day period, the individual—

(i) works 80 or more hours;

(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

(iii) participates in and complies with the requirements of a program under section 20 or a comparable program established by a State or political subdivision of a State.

(B) MAINTAINING ELIGIBILITY.—An individual who regains eligibility under subparagraph (A) shall remain eligible as long as the individual meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

(C) LOSS OF EMPLOYMENT.—

(i) IN GENERAL.—An individual who regained eligibility under subparagraph (A) and who no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2) shall remain eligible for a consecutive 3-month period, beginning on the date the individual first notifies the State agency that the individual no longer meets the requirements of subparagraph (A), (B), or (C) of paragraph (2).

(ii) LIMITATION.—An individual shall not receive any benefits pursuant to clause (i) for more than a single 3-month period in any 36-month period.

(6) 15-PERCENT EXEMPTION.—

(A) DEFINITIONS.—In this paragraph:

(i) CASELOAD.—The term “caseload” means the average monthly number of individuals receiving supplemental nutrition assistance program benefits during the 12-month period ending the preceding June 30.

(ii) COVERED INDIVIDUAL.—The term “covered individual” means a member of a household that receives supplemental nutrition assistance program benefits, or an individual denied eligibility for supplemental nutrition assistance program benefits solely due to paragraph (2), who—

(I) is not eligible for an exception under paragraph (3);

(II) does not reside in an area covered by a waiver granted under paragraph (4);

(III) is not complying with subparagraph (A), (B), or (C) of paragraph (2);

(IV) is not receiving supplemental nutrition assistance program benefits during the 3 months of eligibility provided under paragraph (2); and

(V) is not receiving supplemental nutrition assistance program benefits under paragraph (5).

(B) GENERAL RULE.—Subject to subparagraphs (C) through (G), a State agency may provide an exemption from the requirements of paragraph (2) for covered individuals.

(C) FISCAL YEAR 1998.—Subject to subparagraphs (E) and (G), for fiscal year 1998, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State in fiscal year 1998, as estimated by the Secretary, based on the survey conducted to carry out

section 16(c) for fiscal year 1996 and such other factors as the Secretary considers appropriate due to the timing and limitations of the survey.

(D) **SUBSEQUENT FISCAL YEARS.**—Subject to subparagraphs (E) through (G), for fiscal year 1999 and each subsequent fiscal year, a State agency may provide a number of exemptions such that the average monthly number of the exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by the Secretary under subparagraph (C), adjusted by the Secretary to reflect changes in the State's caseload and the Secretary's estimate of changes in the proportion of members of households that receive supplemental nutrition assistance program benefits covered by waivers granted under paragraph (4).

(E) **CASELOAD ADJUSTMENTS.**—The Secretary shall adjust the number of individuals estimated for a State under subparagraph (C) or (D) during a fiscal year if the number of members of households that receive supplemental nutrition assistance program benefits in the State varies from the State's caseload by more than 10 percent, as determined by the Secretary.

(F) **EXEMPTION ADJUSTMENTS.**—During fiscal year 1999 and each subsequent fiscal year, the Secretary shall increase or decrease the number of individuals who may be granted an exemption by a State agency under this paragraph to the extent that the average monthly number of exemptions in effect in the State for the preceding fiscal year under this paragraph is lesser or greater than the average monthly number of exemptions estimated for the State agency for such preceding fiscal year under this paragraph.

(G) **REPORTING REQUIREMENT.**—A State agency shall submit such reports to the Secretary as the Secretary determines are necessary to ensure compliance with this paragraph.

(7) **OTHER PROGRAM RULES.**—Nothing in this subsection shall make an individual eligible for benefits under this Act if the individual is not otherwise eligible for benefits under the other provisions of this Act.

(p) **DISQUALIFICATION FOR OBTAINING CASH BY DESTROYING FOOD AND COLLECTING DEPOSITS.**—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally obtained cash by purchasing products with supplemental nutrition assistance program benefits that have containers that require return deposits, discarding the product, and returning the container for the deposit amount shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

(q) **DISQUALIFICATION FOR SALE OF FOOD PURCHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.**—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative

agency in a hearing under subsection (b) to have intentionally sold any food that was purchased using supplemental nutrition assistance program benefits shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

**SEC. 7. [7 U.S.C. 2016] ISSUANCE AND USE OF PROGRAM BENEFITS.**

(a) **IN GENERAL.**—Except as provided in subsection (i), EBT cards shall be issued only to households which have been duly certified as eligible to participate in the supplemental nutrition assistance program.

(b) **USE.**—Benefits issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the supplemental nutrition assistance program at prices prevailing in such stores: *Provided*, That nothing in this Act shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores.

(c) **DESIGN.**—

(1) **IN GENERAL.**—EBT cards issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose.

(2) **PROHIBITION.**—The name of any public official shall not appear on any EBT card.

(d) The Secretary shall prescribe appropriate procedures for the delivery of benefits to benefit issuers and for the subsequent controls to be placed over such benefits by benefit issuers in order to ensure adequate accountability.

(e) Notwithstanding any other provision of this Act, the State agency shall be strictly liable to the Secretary for any financial losses involved in the acceptance, storage and issuance of benefits, except that in the case of losses resulting from the issuance and replacement of authorizations for benefits which are sent through the mail, the State agency shall be liable to the Secretary to the extent prescribed in the regulations promulgated by the Secretary.

(f) **ALTERNATIVE BENEFIT DELIVERY.**—

(1) **IN GENERAL.**—If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the supplemental nutrition assistance program, the Secretary shall require a State agency to issue or deliver benefits using alternative methods.

(2) **NO IMPOSITION OF COSTS.**—The cost of documents or systems that may be required by this subsection may not be imposed upon a retail food store participating in the supplemental nutrition assistance program.

(3) **DEVALUATION AND TERMINATION OF ISSUANCE OF PAPER COUPONS.**—

(A) **COUPON ISSUANCE.**—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, no State shall issue any coupon, stamp, certificate, or authorization card to a household that receives supplemental nutrition assistance under this Act.

(B) EBT CARDS.—Effective beginning on the date that is 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, only an EBT card issued under subsection (i) shall be eligible for exchange at any retail food store.

(C) DE-OBLIGATION OF COUPONS.—Coupons not redeemed during the 1-year period beginning on the date of enactment of the Food, Conservation, and Energy Act of 2008 shall—

(i) no longer be an obligation of the Federal Government; and

(ii) not be redeemable.

(g)(1) The State agency may establish a procedure for staggering the issuance of benefits to eligible households throughout the month. Upon the request of the tribal organization that exercises governmental jurisdiction over the reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days of a month.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Any procedure established under paragraph (1) shall—

(i) not reduce the allotment of any household for any period; and

(ii) ensure that no household experiences an interval between issuances of more than 40 days.

(B) MULTIPLE ISSUANCES.—The procedure may include issuing benefits to a household in more than 1 issuance during a month only when a benefit correction is necessary.

(h) ELECTRONIC BENEFIT TRANSFERS.—

(1) IN GENERAL.—

(A) IMPLEMENTATION.—Not later than October 1, 2002, each State agency shall implement an electronic benefit transfer system under which household benefits determined under section 8(a) or 26 are issued from and stored in a central databank, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

(B) TIMELY IMPLEMENTATION.—Each State agency is encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

(i) commercial electronic funds transfer technology;

(ii) the need to permit interstate operation and law enforcement monitoring; and

(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.

(2) The Secretary shall issue final regulations that establish standards for the approval of such a system. The standards shall include—

(A) defining the required level of recipient protection regarding privacy, ease of use, and access to and service in retail food stores;

(B) the terms and conditions of participation by retail food stores, financial institutions, and other appropriate parties;

(C)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

(ii) effective not later than 2 years after the date of enactment of this clause [August 22, 1996], to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment;

(D) system transaction interchange, reliability, and processing speeds;

(E) financial accountability;

(F) the required testing of system operations prior to implementation;

(G) the analysis of the results of system implementation in a limited project area prior to expansion; and

(H) procurement standards.

(3) In the case of a system described in paragraph (1) in which participation is not optional for households, the Secretary shall not approve such a system unless—

(A) a sufficient number of eligible retail food stores, including those stores able to serve minority language populations, have agreed to participate in the system throughout the area in which it will operate to ensure that eligible households will not suffer a significant reduction in their choice of retail food stores or a significant increase in the cost of food or transportation to participating food stores; and

(B) any special equipment necessary to allow households to purchase food with the benefits issued under this Act is operational—

(i) in the case of a participating retail food store in which coupons are used to purchase 15 percent or more of the total dollar amount of food sold by the store (as determined by the Secretary), at all registers in the store; and

(ii) in the case of other participating stores, at a sufficient number of registers to provide service that is comparable to service provided individuals who are not members of households receiving supplemental nutrition assistance program benefits, as determined by the Secretary.

(4) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 16, subject to the limitations in section 16(g).

(5) The Secretary shall periodically inform State agencies of the advantages of using electronic benefit systems to issue benefits

in accordance with this subsection in lieu of issuing coupons to households.

(6) This subsection shall not diminish the authority of the Secretary to conduct projects to test automated or electronic benefit delivery systems under section 17(f).

(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper-based supplemental nutrition assistance issuance system.

(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.

(10) FEDERAL LAW NOT APPLICABLE.—Section 920 of the Electronic Fund Transfer Act shall not apply to electronic benefit transfer or reimbursement systems under this Act.

(11) APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

(A) DEFINITIONS.—In this paragraph:

(i) AFFILIATE.—The term “affiliate” has the meaning provided the term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

(ii) COMPANY.—The term “company” has the meaning provided the term in section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971), but shall not include a bank, a bank holding company, or any subsidiary of a bank holding company.

(iii) ELECTRONIC BENEFIT TRANSFER SERVICE.—The term “electronic benefit transfer service” means the processing of electronic transfers of household benefits, determined under section 8(a) or 26, if the benefits are—

(I) issued from and stored in a central databank;

(II) electronically accessed by household members at the point of sale; and

(III) provided by a Federal or State government.

(iv) POINT-OF-SALE SERVICE.—The term “point-of-sale service” means any product or service related to the electronic authorization and processing of payments for merchandise at a retail food store, including

credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

(B) RESTRICTIONS.—A company may not sell or provide electronic benefit transfer services, or fix or vary the consideration for electronic benefit transfer services, on the condition or requirement that the customer—

(i) obtain some additional point-of-sale service from the company or an affiliate of the company; or

(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

(C) CONSULTATION WITH THE FEDERAL RESERVE BOARD.—Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System.

(12)<sup>7-1</sup> RECOVERING ELECTRONIC BENEFITS.—

(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity.

(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.

(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months.

(D) NOTICE.—A State agency shall—

(i) send notice to a household the benefits of which are stored under subparagraph (B); and

(ii) not later than 48 hours after request by the household, make the stored benefits available to the household.

(12)<sup>7-1</sup> INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this subsection.

(i) STATE OPTION TO ISSUE BENEFITS TO CERTAIN INDIVIDUALS MADE INELIGIBLE BY WELFARE REFORM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State agency may, with the approval of the Secretary, issue benefits under this Act to an individual who is ineligible to participate in the supplemental nutrition assistance program solely as a result of section 6(o)(2) of this Act or section 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612 or 1613).

(2) STATE PAYMENTS TO SECRETARY.—

(A) IN GENERAL.—Not later than the date the State agency issues benefits to individuals under this subsection, the State agency shall pay the Secretary, in accordance

<sup>7-1</sup> 1st paragraph (12) added by sec. 4114 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1864). 2nd paragraph (12) added by section 4115(a)(9) of that Act (122 Stat. 1864) and probably should be redesignated as paragraph (13).

with procedures established by the Secretary, an amount that is equal to—

(i) the value of the benefits; and

(ii) the costs of issuing and redeeming benefits, and other Federal costs, incurred in providing the benefits, as determined by the Secretary.

(B) CREDITING.—Notwithstanding section 3302(b) of title 31, United States Code, payments received under subparagraph (A) shall be credited to the supplemental nutrition assistance program appropriation account or the account from which the costs were drawn, as appropriate, for the fiscal year in which the payment is received.

(3) REPORTING.—To be eligible to issue benefits under this subsection, a State agency shall comply with reporting requirements established by the Secretary to carry out this subsection.

(4) PLAN.—To be eligible to issue benefits under this subsection, a State agency shall—

(A) submit a plan to the Secretary that describes the conditions and procedures under which the benefits will be issued, including eligibility standards, benefit levels, and the methodology the State agency will use to determine amounts due the Secretary under paragraph (2); and

(B) obtain the approval of the Secretary for the plan.

(5) VIOLATIONS.—A sanction, disqualification, fine, or other penalty prescribed under Federal law (including sections 12 and 15) shall apply to a violation committed in connection with a benefit issued under this subsection.

(6) INELIGIBILITY FOR ADMINISTRATIVE REIMBURSEMENT.—Administrative and other costs incurred in issuing a benefit under this subsection shall not be eligible for Federal funding under this Act.

(7) EXCLUSION FROM ENHANCED PAYMENT ACCURACY SYSTEMS.—Section 16(c) shall not apply to benefits issued under this subsection.

(j) INTEROPERABILITY AND PORTABILITY OF ELECTRONIC BENEFIT TRANSFER TRANSACTIONS.—

(1) DEFINITIONS.—In this subsection:

(A) ELECTRONIC BENEFIT TRANSFER CARD.—The term “electronic benefit transfer card” means a card that provides benefits under this Act through an electronic benefit transfer service (as defined in subsection (h)(11)(A)).<sup>7-2</sup>

(B) ELECTRONIC BENEFIT TRANSFER CONTRACT.—The term “electronic benefit transfer contract” means a contract that provides for the issuance, use, or redemption of program benefits in the form of electronic benefit transfer cards.

(C) INTEROPERABILITY.—The term “interoperability” means a system that enables program benefits in the form

<sup>7-2</sup>Sec. 4115(a)(11)(C) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-236; 122 Stat. 1865) amended this subsection “in subparagraph (A), by striking ‘subsection (i)(11)(A)’ and inserting ‘subsection (h)(11)(A)’”. Amendment executed in paragraph (1)(A) to effectuate the probable intent of Congress.

of an electronic benefit transfer card to be redeemed in any State.

(D) INTERSTATE TRANSACTION.—The term “interstate transaction” means a transaction that is initiated in 1 State by the use of an electronic benefit transfer card that is issued in another State.

(E) PORTABILITY.—The term “portability” means a system that enables program benefits in the form of an electronic benefit transfer card to be used in any State by a household to purchase food at a retail food store or wholesale food concern approved under this Act.

(F) SETTLING.—The term “settling” means movement, and reporting such movement, of funds from an electronic benefit transfer card issuer that is located in 1 State to a retail food store, or wholesale food concern, that is located in another State, to accomplish an interstate transaction.

(G) SMART CARD.—The term “smart card” means an intelligent benefit card described in section 17(f).

(H) SWITCHING.—The term “switching” means the routing of an interstate transaction that consists of transmitting the details of a transaction electronically recorded through the use of an electronic benefit transfer card in 1 State to the issuer of the card that is in another State.

(2) REQUIREMENT.—Not later than October 1, 2002, the Secretary shall ensure that systems that provide for the electronic issuance, use, and redemption of program benefits in the form of electronic benefit transfer cards are interoperable, and supplemental nutrition assistance program benefits are portable, among all States.

(3) COST.—The cost of achieving the interoperability and portability required under paragraph (2) shall not be imposed on any retail store, or any wholesale food concern, approved to participate in the supplemental nutrition assistance program.

(4) STANDARDS.—Not later than 210 days after the date of enactment of this subsection, the Secretary shall promulgate regulations that—

(A) adopt a uniform national standard of interoperability and portability required under paragraph (2) that is based on the standard of interoperability and portability used by a majority of State agencies; and

(B) require that any electronic benefit transfer contract that is entered into 30 days or more after the regulations are promulgated, by or on behalf of a State agency, provide for the interoperability and portability required under paragraph (2) in accordance with the national standard.

(5) EXEMPTIONS.—

(A) CONTRACTS.—The requirements of paragraph (2) shall not apply to the transfer of benefits under an electronic benefit transfer contract before the expiration of the term of the contract if the contract—

(i) is entered into before the date that is 30 days after the regulations are promulgated under paragraph (4); and

(ii) expires after October 1, 2002.

(B) WAIVER.—At the request of a State agency, the Secretary may provide 1 waiver to temporarily exempt, for a period ending on or before the date specified under clause (iii), the State agency from complying with the requirements of paragraph (2), if the State agency—

(i) establishes to the satisfaction of the Secretary that the State agency faces unusual technological barriers to achieving by October 1, 2002, the interoperability and portability required under paragraph (2);

(ii) demonstrates that the best interest of the supplemental nutrition assistance program would be served by granting the waiver with respect to the electronic benefit transfer system used by the State agency to administer the supplemental nutrition assistance program; and

(iii) specifies a date by which the State agency will achieve the interoperability and portability required under paragraph (2).

(C) SMART CARD SYSTEMS.—The Secretary shall allow a State agency that is using smart cards for the delivery of supplemental nutrition assistance program benefits to comply with the requirements of paragraph (2) at such time after October 1, 2002, as the Secretary determines that a practicable technological method is available for interoperability with electronic benefit transfer cards.

(6) FUNDING.—

(A) IN GENERAL.—In accordance with regulations promulgated by the Secretary, the Secretary shall pay 100 percent of the costs incurred by a State agency under this Act for switching and settling interstate transactions—

(i) incurred after the date of enactment of this subsection and before October 1, 2002, if the State agency uses the standard of interoperability and portability adopted by a majority of State agencies; and

(ii) incurred after September 30, 2002, if the State agency uses the uniform national standard of interoperability and portability adopted under paragraph (4)(A).

(B) LIMITATION.—The total amount paid to State agencies for each fiscal year under subparagraph (A) shall not exceed \$500,000.

#### VALUE OF ALLOTMENT

SEC. 8. [7 U.S.C. 2017] (a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the supplemental nutrition assistance program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 (d) and (e) of this Act, rounded to the nearest lower whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be 8 percent of the cost of the thrifty food plan for

a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment.

(b) The value of benefits that may be provided under this Act shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this Act.

(c)(1) The value of the allotment issued to any eligible household for the initial month or other initial period for which an allotment is issued shall have a value which bears the same ratio to the value of the allotment for a full month or other initial period for which the allotment is issued as the number of days (from the date of application) remaining in the month or other initial period for which the allotment is issued bears to the total number of days in the month or other initial period for which the allotment is issued, except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than \$10. Households shall receive full months' allotments for all months within a certification period, except as provided in the first sentence of this paragraph with respect to an initial month.

(2) As used in this subsection, the term "initial month" means (A) the first month for which an allotment is issued to a household, (B) the first month for which an allotment is issued to a household following any period in which such household was not participating in the supplemental nutrition assistance program under this Act after the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10), and (C) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the supplemental nutrition assistance program after previous participation in such program.

(3) **OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.**—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.

(d) **REDUCTION OF PUBLIC ASSISTANCE BENEFITS.**—

(1) **IN GENERAL.**—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the

household to perform an action required under the law or program, for the duration of the reduction—

(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

(B) the State agency may reduce the allotment of the household by not more than 25 percent.

(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the supplemental nutrition assistance program.

(e) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in section 3(n)(5), a State agency may provide an allotment for the individual to—

(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

(B) the individual, if the individual leaves the center.

(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.

(f) ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.—

(1) IN GENERAL.—

(A) APPLICABILITY.—

(i) IN GENERAL.—Subject to clause (ii), at the option of the State agency, allotments for residents of any facility described in subparagraph (B), (C), (D), or (E) of section 3(n)(5) (referred to in this subsection as a “covered facility”) may be determined and issued under this paragraph in lieu of subsection (a).

(ii) LIMITATION.—Unless the Secretary authorizes implementation of this paragraph in all States under paragraph (3), clause (i) shall apply only to residents of covered facilities participating in a pilot project under paragraph (2).

(B) AMOUNT OF ALLOTMENT.—The allotment for each eligible resident described in subparagraph (A) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of covered facilities.

(C) ISSUANCE OF ALLOTMENT.—

(i) IN GENERAL.—The State agency shall issue an allotment determined under this paragraph to a covered facility as the authorized representative of the residents of the covered facility.

(ii) ADJUSTMENT.—The Secretary shall establish procedures to ensure that a covered facility does not

receive a greater proportion of a resident's monthly allotment than the proportion of the month during which the resident lived in the covered facility.

(D) DEPARTURES OF RESIDENTS OF COVERED FACILITIES.—

(i) NOTIFICATION.—Any covered facility that receives an allotment for a resident under this paragraph shall—

(I) notify the State agency promptly on the departure of the resident; and

(II) notify the resident, before the departure of the resident, that the resident—

(aa) is eligible for continued benefits under the supplemental nutrition assistance program; and

(bb) should contact the State agency concerning continuation of the benefits.

(ii) ISSUANCE TO DEPARTED RESIDENTS.—On receiving a notification under clause (i)(I) concerning the departure of a resident, the State agency—

(I) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the supplemental nutrition assistance program; and

(II) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this paragraph unless the departed resident reapplies to participate in the supplemental nutrition assistance program.

(iii) STATE OPTION.—The State agency may elect not to issue an allotment under clause (ii)(I) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

(iv) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the supplemental nutrition assistance program, the allotment of the departed resident shall be determined without regard to this paragraph.

(2) PILOT PROJECTS.—

(A) IN GENERAL.—Before the Secretary authorizes implementation of paragraph (1) in all States, the Secretary shall carry out, at the request of 1 or more State agencies and in 1 or more areas of the United States, such number of pilot projects as the Secretary determines to be sufficient to test the feasibility of determining and issuing allotments to residents of covered facilities under paragraph (1) in lieu of subsection (a).

(B) PROJECT PLAN.—To be eligible to participate in a pilot project under subparagraph (A), a State agency shall submit to the Secretary for approval a project plan that includes—

- (i) a specification of the covered facilities in the State that will participate in the pilot project;
- (ii) a schedule for reports to be submitted to the Secretary on the pilot project;
- (iii) procedures for standardizing allotment amounts that takes into account the allotments typically received by residents of covered facilities; and
- (iv) a commitment to carry out the pilot project in compliance with the requirements of this subsection other than paragraph (1)(B).

(3) AUTHORIZATION OF IMPLEMENTATION IN ALL STATES.—

(A) IN GENERAL.—The Secretary shall—

- (i) determine whether to authorize implementation of paragraph (1) in all States; and
- (ii) notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the determination.

(B) DETERMINATION NOT TO AUTHORIZE IMPLEMENTATION IN ALL STATES.—

(i) IN GENERAL.—If the Secretary makes a finding described in clause (ii), the Secretary—

- (I) shall not authorize implementation of paragraph (1) in all States; and
- (II) shall terminate all pilot projects under paragraph (2) within a reasonable period of time (as determined by the Secretary).

(ii) FINDING.—The finding referred to in clause (i) is that—

- (I) an insufficient number of project plans that the Secretary determines to be eligible for approval are submitted by State agencies under paragraph (2)(B); or
- (II)(aa) a sufficient number of pilot projects have been carried out under paragraph (2)(A); and  
(bb) authorization of implementation of paragraph (1) in all States is not in the best interest of the supplemental nutrition assistance program.

APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 9. [7 U.S.C. 2018] (a)(1) Regulations issued pursuant to this Act shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem benefits under the supplemental nutrition assistance program and for the approval of those applicants whose participation will effectuate the purposes of the supplemental nutrition assistance program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (A) the nature and extent of the food business conducted by the applicant; (B) the volume of benefit transactions which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (C) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such

applicant of a nontransferable certificate of approval. No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the supplemental nutrition assistance program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.

(2) The Secretary shall issue regulations providing for—

(A) the periodic reauthorization of retail food stores and wholesale food concerns; and

(B) periodic notice to participating retail food stores and wholesale food concerns of the definitions of “retail food store”, “staple foods”, “eligible foods”, and “perishable foods”.

(3)<sup>10-1</sup> AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program.

(b)(1) No wholesale food concern may be authorized to accept and redeem benefits unless the Secretary determines that its participation is required for the effective and efficient operation of the supplemental nutrition assistance program. No co-located wholesale-retail food concern may be authorized to accept and redeem benefits as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to households that receive supplemental nutrition assistance program benefits. In addition, no firm may be authorized to accept and redeem benefits as both a retail food store and as a wholesale food concern at the same time.

(2)(A) A buyer or transferee (other than a bona fide buyer or transferee) of a retail food store or wholesale food concern that has been disqualified under section 12(a) may not accept or redeem benefits until the Secretary receives full payment of any penalty imposed on such store or concern.

(B) A buyer or transferee may not, as a result of the sale or transfer of such store or concern, be required to furnish a bond under section 12(d).

(c) Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information, which may include relevant income and sales tax filing documents, which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores

<sup>10-1</sup> Indentation so as in original (see sec. 4115(b)(6)(B)(ii) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1868)).

and concerns may be verified. Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act, except that such information may be disclosed to any used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this Act or any other Federal or State law and the regulations issued under this Act or such law, and State agencies that administer the special supplemental nutrition program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966, for purposes of administering the provisions of that Act and the regulations issued under that Act. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

(d) Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the supplemental nutrition assistance program may obtain a hearing on such refusal as provided in section 14 of this Act. A retail food store or wholesale food concern that is denied approval to accept and redeem benefits because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.

(e) Approved retail food stores shall display a sign providing information on how persons may report abuses they have observed in the operation of the supplemental nutrition assistance program.

(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.

**SEC. 10. [7 U.S.C. 2019] REDEMPTION OF PROGRAM BENEFITS.**

Regulations issued pursuant to this Act shall provide for the redemption of benefits accepted by retail food stores through approved wholesale food concerns or through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,<sup>10-1</sup> or which are insured under the Federal Credit Union Act [(12 U.S.C. 1751

<sup>10-1</sup> The Federal Savings and Loan Insurance Corporation was abolished by section 401(a)(1) of P.L. 101-73, 103 Stat. 354, August 9, 1989.

et seq.)]and have retail food stores or wholesale food concerns in their field of membership, with the cooperation of the Treasury Department, except that retail food stores defined in section 3(p)(4) shall be authorized to redeem their members' food benefits prior to receipt by the members of the food so purchased, and publicly operated community mental health centers or private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs, public and private nonprofit shelters that prepare and serve meals for battered women and children, and public or private nonprofit group living arrangements that serve meals to disabled or blind residents shall not be authorized to redeem benefits through financial institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation<sup>10-1</sup> or the Federal Credit Union Act. Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem benefits through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(h) has been implemented. No financial institution may impose on or collect from a retail food store a fee or other charge for the redemption of benefits that are submitted to the financial institution in a manner consistent with the requirements, other than any requirements relating to cancellation of benefits, for the presentation of coupons by financial institutions to the Federal Reserve banks.

**SEC. 11. [7 U.S.C. 2020] ADMINISTRATION.**

(a) STATE RESPONSIBILITY.—

(1) IN GENERAL.—The State agency of each participating State shall have responsibility for certifying applicant households and issuing EBT cards.

(2) LOCAL ADMINISTRATION.—The responsibility of the agency of the State government shall not be affected by whether the program is operated on a State-administered or county-administered basis, as provided under section 3(t)(1).

(3) RECORDS.—

(A) IN GENERAL.—Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this Act (including regulations issued under this Act).

(B) INSPECTION AND AUDIT.—Records described in subparagraph (A) shall—

(i) be available for inspection and audit at any reasonable time;

(ii) subject to subsection (e)(8), be available for review in any action filed by a household to enforce any provision of this Act (including regulations issued under this Act); and

(iii) be preserved for such period of not less than 3 years as may be specified in regulations.

(4) REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.—

(A) IN GENERAL.—The Secretary shall develop standards for identifying major changes in the operations of a State agency, including—

(i) large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in subsection (e);

(ii) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in subsection (e)(6)(B);

(iii) changes that potentially increase the difficulty of reporting information under subsection (e) or section 6(c); and

(iv) changes that may disproportionately increase the burdens on any of the types of households described in subsection (e)(2)(A).

(B) NOTIFICATION.—If a State agency implements a major change in operations, the State agency shall—

(i) notify the Secretary; and

(ii) collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of the types of households described in subsection (e)(2)(A).

(b) When a State agency learns, through its own reviews under section 16 or other reviews, or through other sources, that it has improperly denied, terminated, or underissued benefits to an eligible household, the State agency shall promptly restore any improperly denied benefits to the extent required by sections 11(e)(11) and 14(b), and shall take other steps to prevent a recurrence of such errors where such error was caused by the application of State agency practices, rules or procedures inconsistent with the requirements of this Act or with regulations or policies of the Secretary issued under the authority of this Act.

(c) CIVIL RIGHTS COMPLIANCE.—

(1) IN GENERAL.—In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.

(2) RELATION TO OTHER LAWS.—The administration of the program by a State agency shall be consistent with the rights of households under the following laws (including implementing regulations):

(A) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(C) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(d) The State agency (as defined in section 3(t)(1)) of each State desiring to participate in the supplemental nutrition assistance program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State in every political subdivision. The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled. In the case of all or part of an Indian reservation, the State agency as defined in section 3(t)(1) shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 3(t)(1)) is failing, subsequent to the enactment of this Act [Amendatory Act enacted on September 29, 1977.], properly to administer such program on such reservation in accordance with the purposes of this Act and further determines that the State agency as defined in section 3(t)(2) is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qualify as expeditiously as possible as a State agency pursuant to section 3(t)(2). A State agency, as defined in section 3(t)(1), before it submits its plan of operation to the Secretary for the administration of the supplemental nutrition assistance program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

(e) The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) that the State agency shall—

(A) at the option of the State agency, inform low-income households about the availability, eligibility require-

ments, application procedures, and benefits of the supplemental nutrition assistance program; and

(B) comply with regulations of the Secretary requiring the use of appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

(2)(A) that the State agency shall establish procedures governing the operation of supplemental nutrition assistance program offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English.

(B) In carrying out subparagraph (A), a State agency—

(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the supplemental nutrition assistance program;

(ii)(I) shall develop an application containing the information necessary to comply with this Act; and

(II) if the State agency maintains a website for the State agency, shall make the application available on the website in each language in which the State agency makes a printed application available;

(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a supplemental nutrition assistance program office in person during office hours;

(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

(I) the information contained in the application is true; and

(II) all members of the household are citizens or are aliens eligible to receive supplemental nutrition assistance program benefits under section 6(f);

(vi) shall provide a method of certifying and issuing benefits to eligible homeless individuals, to ensure that participation in the supplemental nutrition assistance program is limited to eligible households; and

(vii) may establish operating procedures that vary for local supplemental nutrition assistance program offices to reflect regional and local differences within the State.

(C)<sup>11-1</sup> ELECTRONIC AND AUTOMATED SYSTEMS.—

<sup>11-1</sup> Indentation so as in original (see sec. 4119(1) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1873)).

(i) IN GENERAL.—Nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency's application system that does not rely exclusively on the collection and retention of paper applications or other records.

(ii) STATE OPTION FOR TELEPHONIC SIGNATURE.—A State agency may establish a system by which an applicant household may sign an application through a recorded verbal assent over the telephone.

(iii) REQUIREMENTS.—A system established under clause (ii) shall—

(I) record for future reference the verbal assent of the household member and the information to which assent was given;

(II) include effective safeguards against impersonation, identity theft, and invasions of privacy;

(III) not deny or interfere with the right of the household to apply in writing;

(IV) promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions;

(V) comply with paragraph (1)(B);

(VI) satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household member provides verbal assent considered as the date of application for all purposes; and

(VII) comply with such other standards as the Secretary may establish.

(D) The signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;

(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification of income other than that determined to be excluded by section 5(d) of this Act (in part through the use of the information, if any, obtained under section 16(e) of this Act), household size (in any case such size is questionable), and such other eligibility factors as the Secretary determines to be necessary to implement sections 5 and 6 of this Act, although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and such other eligibility factors as the State agency determines are necessary, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application, and that the State agency shall provide each applicant household, at the time of application, a clear written

statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification prior to the start of the last month of its certification period advising the household that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection: *Provided*, That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 5(f)(2) and 6(c) of this Act if administratively necessary;

(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 5 and 6 of this Act and shall include no additional requirements imposed by the State agency;

(6) that—

(A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this Act; and

(B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the Office of Personnel Management pursuant to section 208 of the Intergovernmental Personnel Act of 1970 [(42 U.S.C. 4728)] modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis;

(7) that an applicant household may be represented in the certification process and that an eligible household may be represented in benefit issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose, by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances, except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph;

(8) safeguards which prohibit the use or disclosure of information obtained from applicant households, except that—

(A) the safeguards shall permit—

(i) the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally-assisted State programs; and

(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;

(B) the safeguards shall not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of law;

(C) notwithstanding any other provision of law, all information obtained under this Act from an applicant household shall be made available, upon request, to local, State or Federal law enforcement officials for the purpose of investigating an alleged violation of this Act or any regulation issued under this Act;

(D) the safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service) for purposes of collecting the amount of an overissuance of benefits, as determined under section 13(b) of this Act, from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 of the United States Code or a Federal income tax refund as authorized by section 3720A of title 31, United States Code;

(E) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—

(i) the member—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);

(ii) locating or apprehending the member is an official duty; and

(iii) the request is being made in the proper exercise of an official duty; and

(F) the safeguards shall not prevent compliance with paragraph (15) or (18)(B) or subsection (u);

(9) that the State agency shall—

(A) provide benefits no later than 7 days after the date of application to any household which—

(i)(I) has gross income that is less than \$150 per month; or

(II) is a destitute migrant or a seasonal farm-worker household in accordance with the regulations governing such households in effect July 1, 1982; and

(ii) has liquid resources that do not exceed \$100;

(B) provide benefits no later than 7 days after the date of application to any household that has a combined gross income and liquid resources that is less than the monthly rent, or mortgage, and utilities of the household; and

(C) to the extent practicable, verify the income and liquid resources of a household referred to in subparagraph (A) or (B) prior to issuance of benefits to the household;

(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the supplemental nutrition assistance program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier, except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective. At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing;

(11) upon receipt of a request from a household, for the prompt restoration in the form of benefits to a household of any allotment or portion thereof which has been wrongfully denied or terminated, except that allotments shall not be restored for any period of time more than one year prior to the date the State agency receives a request for such restoration from a household or the State agency is notified or otherwise discovers that a loss to a household has occurred;

(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

(13) for indicators of expected performance in the administration of the program;

(14) that the State agency shall specify a plan of operation for providing supplemental nutrition assistance program benefits for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program;

(15) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive supplemental nutrition assistance program benefits because that member is present in the United States in violation of the Immigration and Nationality Act [(8 U.S.C. 1101 et seq.)];

(16) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the supplemental nutrition assistance program;

(17) at the option of the State agency, that information may be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act [(42 U.S.C. 1320b-7)] and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act [(42 U.S.C. 503(d)] may be requested and utilized by the State agency described in section 3(t)(1) to the extent permitted under the provisions of section 303(d) of the Social Security Act;

(18) that the State agency shall establish a system and take action on a periodic basis—

(A) to verify and otherwise ensure that an individual does not receive benefits in more than 1 jurisdiction within the State; and

(B) to verify and otherwise ensure that an individual who is placed under detention in a Federal, State, or local penal, correctional, or other detention facility for more than 30 days shall not be eligible to participate in the supplemental nutrition assistance program as a member of any household, except that—

(i) the Secretary may determine that extraordinary circumstances make it impracticable for the State agency to obtain information necessary to discontinue inclusion of the individual; and

(ii) a State agency that obtains information collected under section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) pursuant to section 1611(e)(1)(I)(ii)(II) of that Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)), or under another program determined by the Secretary to be comparable to the program carried out under that section, shall be considered in compliance with this subparagraph.

(19) the plans of the State agency for carrying out employment and training programs under section 6(d)(4), including the nature and extent of such programs, the geographic areas and households to be covered under such program, and the basis, including any cost information, for exemptions of categories and individuals and for the choice of employment and training program components reflected in the plans;

(20) in a project area in which 5,000 or more households participate in the supplemental nutrition assistance program, for the establishment and operation of a unit for the detection of fraud in the supplemental nutrition assistance program, including the investigation, and assistance in the prosecution, of such fraud;

(21) at the option of the State, for procedures necessary to obtain payment of uncollected overissuance of benefits from unemployment compensation pursuant to section 13(c);

(22) the guidelines the State agency uses in carrying out section 6(i); and

(23) if a State elects to carry out a Simplified Supplemental Nutrition Assistance Program under section 26, the plans of the State agency for operating the program, including—

(A) the rules and procedures to be followed by the State agency to determine supplemental nutrition assistance program benefits;

(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

(C) a description of the method by which the State agency will carry out a quality control system under section 16(c).

[(f) <sup>11-2</sup>]

(g) If the Secretary determines, upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of compliance by a State agency of a type specified in this subsection, that in the administration of the supplemental nutrition assistance program there is a failure by a State agency without good cause to comply with any of the provisions of this Act, the regulations issued pursuant to this Act, the State plan of operation submitted pursuant to subsection (d) of this section, the State plan for automated data processing submitted pursuant to subsection (o)(2) of this section, or the requirements established pursuant to section 23 of this Act, the Secretary

<sup>11-2</sup>Subsec. (f) struck by sec. 241(b)(2) of P.L. 111-296, 124 Stat. 3236, Dec. 13, 2010.

shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue, and, whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 16(a), 16(c), and 16(g) of this Act as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14 of this Act.

(h) If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any benefits issued as a result of such negligence or fraud.

(i) APPLICATION AND DENIAL PROCEDURES.—

(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law, households in which all members are applicants for or recipients of supplemental security income shall be informed of the availability of benefits under the supplemental nutrition assistance program and be assisted in making a simple application to participate in such program at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration.

(2) DENIAL AND TERMINATION.—Except in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no household shall have its application to participate in the supplemental nutrition assistance program denied nor its benefits under the supplemental nutrition assistance program terminated solely on the basis that its application to participate has been denied or its benefits have been terminated under any of the programs carried out under the statutes specified in the second sentence of section 5(a) and without a separate determination by the State agency that the household fails to satisfy the eligibility requirements for participation in the supplemental nutrition assistance program.

(j)(1) Any individual who is an applicant for or recipient of supplemental security income or social security benefits (under regulations prescribed by the Secretary in conjunction with the Commissioner of Social Security) shall be informed of the availability of benefits under the supplemental nutrition assistance program and informed of the availability of a simple application to participate in such program at the social security office.

(2) The Secretary and the Commissioner of Social Security shall revise the memorandum of understanding in effect on the date of enactment of the Food Security Act of 1985, regarding serv-

ices to be provided in social security offices under this subsection and subsection (i), in a manner to ensure that—

(A) applicants for and recipients of social security benefits are adequately notified in social security offices that assistance may be available to them under this Act;

(B) applications for assistance under this Act from households in which all members are applicants for or recipients of supplemental security income will be forwarded immediately to the State agency in an efficient and timely manner; and

(C) the Commissioner of Social Security receives from the Secretary reimbursement for costs incurred to provide such services.

(k) Subject to the approval of the President, post offices in all or part of the State may provide, on request by the State agency, supplemental nutrition assistance program benefits to eligible households.

(l) Whenever the ratio of a State's average supplemental nutrition assistance program participation in any quarter of a fiscal year to the State's total population in that quarter (estimated on the basis of the latest available population estimates as provided by the Department of Commerce, Bureau of the Census, Series P-25, Current Population Reports (or its successor series)) exceeds 60 per centum, the Office of the Inspector General of the Department of Agriculture shall immediately schedule a financial audit review of a sample of project areas within that State. Any financial audit review subsequent to the first such review, required under the preceding sentence, shall be conducted at the option of the Office of the Inspector General.

(m) The Secretary shall provide for the use of fee agents in rural Alaska. As used in this subsection "fee agent" means a paid agent who, although not a State employee, is authorized by the State to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide other services as required by the State agency. Such services shall not include making final decisions on household eligibility or benefit levels.

(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both benefits and payments referred to in section 6(g) or both benefits and assistance provided in lieu of benefits under section 17(b)(1).

(o)(1) The Secretary shall develop, after consultation with, and with the assistance of, an advisory group of State agencies appointed by the Secretary without regard to the provisions of the Federal Advisory Committee Act [(5 U.S.C. App. 2)], a model plan for the comprehensive automation of data processing and computerization of information systems under the supplemental nutrition assistance program. The plan shall be developed and made available for public comment through publication of the proposed plan in the Federal Register not later than October 1, 1986. The Secretary shall complete the plan, taking into consideration public

comments received, not later than February 1, 1987. The elements of the plan may include intake procedures, eligibility determinations and calculation of benefits, verification procedures, coordination with related Federal and State programs, the issuance of benefits, reconciliation procedures, the generation of notices, and program reporting. In developing the plan, the Secretary shall take into account automated data processing and information systems already in existence in States and shall provide for consistency with such systems.

(2) Not later than October 1, 1987, each State agency shall develop and submit to the Secretary for approval a plan for the use of an automated data processing and information retrieval system to administer the supplemental nutrition assistance program in such State. The State plan shall take into consideration the model plan developed by the Secretary under paragraph (1) and shall provide time frames for completion of various phases of the State plan. If a State agency already has a sufficient automated data processing and information retrieval system, the State plan may, subject to the Secretary's approval, reflect the existing State system.

(3) Not later than April 1, 1988, the Secretary shall prepare and submit to Congress an evaluation of the degree and sufficiency of each State's automated data processing and computerized information systems for the administration of the supplemental nutrition assistance program, including State plans submitted under paragraph (2). Such report shall include an analysis of additional steps needed for States to achieve effective and cost-efficient data processing and information systems. The Secretary, thereafter, shall periodically update such report.

(4) Based on the Secretary's findings in such report submitted under paragraph (3), the Secretary may require a State agency, as necessary to rectify identified shortcomings in the administration of the supplemental nutrition assistance program in the State, except where such direction would displace State initiatives already under way, to take specified steps to automate data processing systems or computerize information systems for the administration of the supplemental nutrition assistance program in the State if the Secretary finds that, in the absence of such systems, there will be program accountability or integrity problems that will substantially affect the administration of the supplemental nutrition assistance program in the State.

(5)(A) Subject to subparagraph (B), in the case of a plan for an automated data processing and information retrieval system submitted by a State agency to the Secretary under paragraph (2), such State agency shall—

(i) commence implementation of its plan not later than October 1, 1988; and

(ii) meet the time frames set forth in the plan.

(B) The Secretary shall extend a deadline imposed under subparagraph (A) to the extent the Secretary deems appropriate based on the Secretary's finding of a good faith effort of a State agency to implement its plan in accordance with subparagraph (A).

(p) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, in carrying out the supplemental nutrition assistance program, a State agency shall not be required to use an in-

come and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b-7).

(q) DENIAL OF BENEFITS FOR PRISONERS.—The Secretary shall assist States, to the maximum extent practicable, in implementing a system to conduct computer matches or other systems to prevent prisoners described in subsection (e)(18)(B) from participating in the supplemental nutrition assistance program as a member of any household.

(r) DENIAL OF BENEFITS FOR DECEASED INDIVIDUALS.—Each State agency shall—

(1) enter into a cooperative arrangement with the Commissioner of Social Security, pursuant to the authority of the Commissioner under section 205(r)(3) of the Social Security Act (42 U.S.C. 405(r)(3)), to obtain information on individuals who are deceased; and

(2) use the information to verify and otherwise ensure that benefits are not issued to individuals who are deceased.

(s) TRANSITIONAL BENEFITS OPTION.—

(1) IN GENERAL.—A State agency may provide transitional supplemental nutrition assistance program benefits—

(A) to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(B) at the option of the State, to a household with children that ceases to receive cash assistance under a State-funded public assistance program.

(2) TRANSITIONAL BENEFITS PERIOD.—Under paragraph (1), a household may receive transitional supplemental nutrition assistance program benefits for a period of not more than 5 months after the date on which cash assistance is terminated.

(3) AMOUNT OF BENEFITS.—During the transitional benefits period under paragraph (2), a household shall receive an amount of supplemental nutrition assistance program benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for the change in household income as a result of—

(A) the termination of cash assistance; and

(B) at the option of the State agency, information from another program in which the household participates.

(4) DETERMINATION OF FUTURE ELIGIBILITY.—In the final month of the transitional benefits period under paragraph (2), the State agency may—

(A) require the household to cooperate in a recertification of eligibility; and

(B) initiate a new certification period for the household without regard to whether the preceding certification period has expired.

(5) LIMITATION.—A household shall not be eligible for transitional benefits under this subsection if the household—

(A) loses eligibility under section 6;

(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.

(6) APPLICATIONS FOR RECERTIFICATION.—

(A) IN GENERAL.—A household receiving transitional benefits under this subsection may apply for recertification at any time during the transitional benefits period under paragraph (2).

(B) DETERMINATION OF ALLOTMENT.—If a household applies for recertification under subparagraph (A), the allotment of the household for all subsequent months shall be determined without regard to this subsection.

(t) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—

(1) IN GENERAL.—Subject to the availability of appropriations under section 18(a), for each fiscal year, the Secretary shall use not more than \$5,000,000 of funds made available under section 18(a)(1) to make grants to pay 100 percent of the costs of eligible entities approved by the Secretary to carry out projects to develop and implement—

(A) simple supplemental nutrition assistance program application and eligibility determination systems; or

(B) measures to improve access to supplemental nutrition assistance program benefits by eligible households.

(2) TYPES OF PROJECTS.—A project under paragraph (1) may consist of—

(A) coordinating application and eligibility determination processes, including verification practices, under the supplemental nutrition assistance program and other Federal, State, and local assistance programs;

(B) establishing methods for applying for benefits and determining eligibility that—

(i) more extensively use—

(I) communications by telephone; and

(II) electronic alternatives such as the Internet; or

(ii) otherwise improve the administrative infrastructure used in processing applications and determining eligibility;

(C) developing procedures, training materials, and other resources aimed at reducing barriers to participation and reaching eligible households;

(D) improving methods for informing and enrolling eligible households; or

(E) carrying out such other activities as the Secretary determines to be appropriate.

(3) LIMITATION.—A grant under this subsection shall not be made for the ongoing cost of carrying out any project.

(4) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this subsection, an entity shall be—

(A) a State agency administering the supplemental nutrition assistance program;

(B) a State or local government;

(C) an agency providing health or welfare services;

(D) a public health or educational entity; or

(E) a private nonprofit entity such as a community-based organization, food bank, or other emergency feeding organization.

(5) SELECTION OF ELIGIBLE ENTITIES.—The Secretary—

(A) shall develop criteria for the selection of eligible entities to receive grants under this subsection; and

(B) may give preference to any eligible entity that consists of a partnership between a governmental entity and a nongovernmental entity.

(u) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION.—

(1) IN GENERAL.—Each State agency shall enter into an agreement with the State agency administering the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) CONTENTS.—The agreement shall establish procedures that ensure that—

(A) any child receiving benefits under this Act shall be certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application; and

(B) each State agency shall cooperate in carrying out paragraphs (3)(F) and (4) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).

**SEC. 12. [7 U.S.C. 2021] CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

(a) DISQUALIFICATION.—

(1) IN GENERAL.—An approved retail food store or wholesale food concern that violates a provision of this Act or a regulation under this Act may be—

(A) disqualified for a specified period of time from further participation in the supplemental nutrition assistance program;

(B) assessed a civil penalty of up to \$100,000 for each violation; or

(C) both.

(2) REGULATIONS.—Regulations promulgated under this Act shall provide criteria for the finding of a violation of, the suspension or disqualification of and the assessment of a civil penalty against a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.

(b) PERIOD OF DISQUALIFICATION.—Subject to subsection (c), a disqualification under subsection (a) shall be—

(1) for a reasonable period of time, not to exceed 5 years, upon the first occasion of disqualification;

(2) for a reasonable period of time, not to exceed 10 years, upon the second occasion of disqualification;

- (3)<sup>12-1</sup> permanent upon—
- (A) the third occasion of disqualification;
  - (B) the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards, except that the Secretary shall have the discretion to impose a civil penalty of up to \$20,000 for each violation (except that the amount of civil penalties imposed for violations occurring during a single investigation may not exceed \$40,000) in lieu of disqualification under this subparagraph, for such purchase of coupons or trafficking in coupons or cards that constitutes a violation of the provisions of this Act or the regulations issued pursuant to this Act, if the Secretary determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the Act and the regulations, including evidence that—
    - (i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and
    - (ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or
    - (II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or
  - (C) a finding of the sale of firearms, ammunition, explosives, or controlled substance (as defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil penalty of up to \$20,000 for each violation (except that the amount of civil money penalties<sup>12-2</sup> imposed for violations occurring during a single investigation may not exceed \$40,000) in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence (including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation) that the store or food concern

<sup>12-1</sup> Section 1 of the Act entitled “An Act to amend the Hunger Prevention Act of 1988 to make a technical correction”, approved November 5, 1988 (P.L. 100-619) provides that “In section 701(b)(4) strike out ‘and sections 310 through 352’ and insert in lieu thereof ‘sections 310 through 343, and sections 345 through 352.’”, thereby subjecting the amendment made by section 344 to the general effective date of October 1, 1988 prescribed in section 701(a). Section 1 of P.L. 100-619 did not specify which Act was being amended. The amendment was executed to section 701(b)(4) of the Hunger Prevention Act of 1988 to effectuate the probable intent of Congress.

<sup>12-2</sup> Probably should be “civil penalties”. Sec. 4132 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1875) struck all other occurrences of “civil money penalty” in this section and replaced with “civil penalty”.

had an effective policy and program in effect to prevent violations of this Act; and

(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.

(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICATION AND PENALTY DETERMINATIONS.—

(1) CIVIL PENALTY.—In addition to a disqualification under this section, the Secretary may assess a civil penalty in an amount not to exceed \$100,000 for each violation.

(2) REVIEW.—The action of disqualification or the imposition of a civil penalty shall be subject to review as provided in section 14 of this Act.

(d) CONDITIONS OF AUTHORIZATION.—

(1) IN GENERAL.—As a condition of authorization to accept and redeem benefits, the Secretary may require a retail food store or wholesale food concern that, pursuant to subsection (a), has been disqualified for more than 180 days, or has been subjected to a civil penalty in lieu of a disqualification period of more than 180 days, to furnish a collateral bond or irrevocable letter of credit for a period of not more than 5 years to cover the value of benefits that the store or concern may in the future accept and redeem in violation of this Act.

(2) COLLATERAL.—The Secretary also may require a retail food store or wholesale food concern that has been sanctioned for a violation and incurs a subsequent sanction regardless of the length of the disqualification period to submit a collateral bond or irrevocable letter of credit.

(3) BOND REQUIREMENTS.—The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond.

(4) FORFEITURE.—If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act.

(5) HEARING.—A store or concern described in paragraph (4) may obtain a hearing on such forfeiture pursuant to section 14.

(e)(1) In the event any retail food store or wholesale food concern that has been disqualified under subsection (a) is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern shall be subjected to a civil penalty in an amount established by the Secretary through regulations to reflect that portion of the disqualification period that has not yet expired. If the retail food store or wholesale food concern has been disqualified permanently, the civil penalty shall be double the penalty for a ten-year disqualification period, as calculated under regulations issued by the Secretary. The disqualification period imposed under subsection (b) shall continue in

effect as to the person or persons who sell or otherwise transfer ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil penalty under this subsection.

(2) At any time after a civil penalty imposed under paragraph (1) has become final under the provisions of section 14(a), the Secretary may request the Attorney General to institute a civil action against the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business to collect the penalty and such court shall have jurisdiction to hear and decide such action. In such action, the validity and amount of such penalty shall not be subject to review.

(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in regulations issued under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.

(f) The Secretary may impose a fine against any person not approved by the Secretary to accept and redeem food coupons who violates any provision of this Act or a regulation issued under this Act, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine.

(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).<sup>12-2</sup>

(2) TERMS.—A disqualification under paragraph (1)—

(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) notwithstanding section 14, shall not be subject to judicial or administrative review.

(h) FLAGRANT VIOLATIONS.—

<sup>12-2</sup> So in original. Probably, “(7 U.S.C. 1786)” should be “(42 U.S.C. 1786)”.

(1) **IN GENERAL.**—The Secretary, in consultation with the Inspector General of the Department of Agriculture, shall establish procedures under which the processing of program benefit redemptions for a retail food store or wholesale food concern may be immediately suspended pending administrative action to disqualify the retail food store or wholesale food concern.

(2) **REQUIREMENTS.**—Under the procedures described in paragraph (1), if the Secretary, in consultation with the Inspector General, determines that a retail food store or wholesale food concern is engaged in flagrant violations of this Act (including regulations promulgated under this Act), unsettled program benefits that have been redeemed by the retail food store or wholesale food concern—

(A) may be suspended; and

(B)(i) if the program disqualification is upheld, may be subject to forfeiture pursuant to section 15(g); or

(ii) if the program disqualification is not upheld, shall be released to the retail food store or wholesale food concern.

(3) **NO LIABILITY FOR INTEREST.**—The Secretary shall not be liable for the value of any interest on funds suspended under this subsection.

#### COLLECTION AND DISPOSITION OF CLAIMS

#### SEC. 13. [7 U.S.C. 2022] (a) GENERAL AUTHORITY OF THE SECRETARY.—

(1) **DETERMINATION OF CLAIMS.**—Except in the case of an at-risk amount required under section 16(c)(1)(D)(i)(III), the Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this Act or the regulations issued pursuant to this Act, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients, including the power to waive claims if the Secretary determines that to do so would serve the purposes of this Act. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies. The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 16 of this Act to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 14 of this Act.

(2) **CLAIMS ESTABLISHED UNDER QUALITY CONTROL SYSTEM.**—To the extent that a State agency does not pay a claim established under section 16(c)(1), including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 16(c)(7). If the State agency appeals such claim (in whole or in part), the interest

on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 1 year after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned.

(3) COMPUTATION OF INTEREST.—Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.

(4) JOINT AND SEVERAL LIABILITY OF HOUSEHOLD MEMBERS.—Each adult member of a household shall be jointly and severally liable for the value of any overissuance of benefits.

(b) COLLECTION OF OVERISSUANCES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of benefits issued to a household by—

(A) reducing the allotment of the household;

(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

(D) any other means.

(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of benefits without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

(A) 10 percent of the monthly allotment of the household; or

(B) \$10.

(4) PROCEDURES.—A State agency shall collect an overissuance of benefits issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.

(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number

of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

(B) PROCEDURES.—

(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

(I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and

(II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

(v) REMISSION TO THE SECRETARY.—

(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

(vi) ALTERNATIVE METHOD OF COLLECTION.—

(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.

(c)(1) As used in this subsection, the term “uncollected overissuance” means the amount of an overissuance of benefits, as determined under subsection (b)(1), that has not been recovered pursuant to subsection (b)(1).

(2) A State agency may determine on a periodic basis, from information supplied pursuant to section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)), whether an individual receiving compensation under the State’s unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) owes an uncollected overissuance.

(3) A State agency may recover an uncollected overissuance—

(A) by—

(i) entering into an agreement with an individual described in paragraph (2) under which specified amounts will be withheld from unemployment compensation otherwise payable to the individual; and

(ii) furnishing a copy of the agreement to the State agency administering the unemployment compensation law; or

(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation.

(d) The amount of an overissuance of benefits, as determined under subsection (b)(1), that has not been recovered pursuant to such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code or a Federal income tax refund as authorized by section 3720A of title 31, United States Code.

#### ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 14. [7 U.S.C. 2023] (a)(1) Whenever an application of a retail food store or wholesale food concern to participate in the supplemental nutrition assistance program is denied pursuant to section 9 of this Act, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 12 of this Act, or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 13 of this Act, or a claim against a State agency is stated pursuant to the provisions of section 13 of this Act, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved.

(2) DELIVERY OF NOTICES.—A notice under paragraph (1) shall be delivered by any form of delivery that the Secretary determines will provide evidence of the delivery.

(3) If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this Act, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate.

(4) If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final.

(5) If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination.

(6) Determinations regarding claims made pursuant to section 16(c) (including determinations as to whether there is good cause for not imposing all or a portion of the penalty) shall be made on the record after opportunity for an agency hearing in accordance with section 556 and 557 of title 5, United States Code, in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence.

(7) Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections 13 (c) and (d) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499m (c) and (d)) and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence.

(8) The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 16(c).

(9) The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 16(c) in amounts less than \$50,000.

(10) Such summary procedure need not include an oral hearing.

(11) On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than \$50,000.

(12) Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 16(c) shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.

(13) If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business,

or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination.

(14) The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process.

(15) The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue, except that judicial review of determinations regarding claims made pursuant to section 16(c) shall be a review on the administrative record.

(16) If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(17) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless on application to the court on not less than ten days' notice, and after hearing thereon and a consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(18) **SUSPENSION OF STORES PENDING REVIEW.**—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.

(b) In any judicial action arising under this Act, any allotments found to have been wrongfully withheld shall be restored only for periods of not more than one year prior to the date of the commencement of such action, or in the case of an action seeking review of a final State agency determination, not more than one year prior to the date of the filing of a request with the State for the restoration of such allotments or, in either case, not more than one year prior to the date the State agency is notified or otherwise discovers the possible loss to a household.

#### VIOLATIONS AND ENFORCEMENT

**SEC. 15. [7 U.S.C. 2024]** (a) Notwithstanding any other provision of this Act, the Secretary may provide for the issuance or presentment for redemption of benefits to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this Act or the regulations issued pursuant to this Act.

(b)(1) Subject to the provisions of paragraph (2) of this subsection, whoever knowingly uses, transfers, acquires, alters, or pos-

sesses benefits in any manner contrary to this Act or the regulations issued pursuant to this Act shall, if such benefits are of a value of \$5,000 or more, be guilty of a felony and shall be fined not more than \$250,000 or imprisoned for not more than twenty years, or both, and shall, if such benefits are of a value of \$100 or more, but less than \$5,000, or if the item used, transferred, acquired, altered, or possessed is an benefit<sup>15-1</sup> that has a value of \$100 or more, but less than \$5,000,<sup>15-2</sup> be guilty of a felony and shall, upon the first conviction thereof, be fined not more than \$10,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than six months nor more than five years and may also be fined not more than \$10,000 or, if such benefits<sup>15-3</sup> are of a value of less than \$100, or if the item used, transferred, acquired, altered, or processed is an benefit that has a value of less than \$100, shall be guilty of a misdemeanor, and, upon the first conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the supplemental nutrition assistance program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

(2) In the case of any individual convicted of an offense under paragraph (1) of this subsection, the court may permit such individual to perform work approved by the court for the purpose of providing restitution for losses incurred by the United States and the State agency as a result of the offense for which such individual was convicted. If the court permits such individual to perform such work and such individual agrees thereto, the court shall withhold the imposition of the sentence on the condition that such individual perform the assigned work. Upon the successful completion of the assigned work the court may suspend such sentence.

(c) Whoever presents, or causes to be presented, benefits for payment or redemption of the value of \$100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act, shall be guilty of a felony and, upon the first conviction thereof, shall be fined not more than \$20,000 or imprisoned for not more than five years, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not less than one year nor more than five years and may also be fined not more

<sup>15-1</sup> Sec. 4115(b)(10)(B)(iii) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1869) amended section 15(b)(1) of this Act by striking "access device" each place it appears and inserting "benefit". The resulting phrase "an benefit" should probably be struck and replaced with "a benefit".

<sup>15-2</sup> Section 1748(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624; 104 Stat. 3797) amended the first sentence of section 15(b)(1) by inserting "\$100 or more" each place that such term appears the following: "but less than \$5,000.". This amendment probably should have made reference to an earlier amendment that added the term "\$100 or more" the second place it appears.

<sup>15-3</sup> Sec. 4115(b)(10)(B)(ii) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1869) amended section 15(b)(1) of this Act by striking "coupons or authorization cards" and inserting "benefits". The term "coupons or authorization cards" appeared twice in the paragraph. Amendment executed to both places to effectuate the probable intent of Congress.

than \$20,000, or, if such benefits are of a value of less than \$100, shall be guilty of a misdemeanor and, upon the first conviction thereof, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both, and, upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than \$1,000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the supplemental nutrition assistance program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

(d) Benefits issued pursuant to this Act shall be deemed to be obligations of the United States within the meaning of section 8 of title 18, United States Code.

(e) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished by any person in exchange for benefits,<sup>15-4</sup> or anything of value obtained by use of an access device, in any manner contrary to this Act or the regulations issued under this Act. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.

(f) CRIMINAL FORFEITURE.—

(1) IN GENERAL.—In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

(2) PROPERTY SUBJECT TO FORFEITURE.—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).

(3) INTEREST OF OWNER.—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

(4) PROCEEDS.—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

<sup>15-4</sup>Sec. 4115(b)(10)(G) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1869) amended this subsection by striking “coupon, authorization cards or access devices” and inserting “benefits”. Original text read “coupons, authorization cards or access devices”. Amendment executed to effectuate the probable intent of Congress.

(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.

#### ADMINISTRATIVE COST-SHARING AND QUALITY CONTROL

SEC. 16. [7 U.S.C. 2025] (a) Subject to subsection (k), the Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the supplemental nutrition assistance program, which costs shall include, but not be limited to, the cost of (1) the certification of applicant households, (2) the acceptance, storage, protection, control, and accounting of benefits after their delivery to receiving points within the State, (3) the issuance of benefits to all eligible households, (4) informational activities relating to the supplemental nutrition assistance program, including those undertaken under section 11(e)(1)(A), but not including recruitment activities, (5) fair hearings, (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g), (7) supplemental nutrition assistance program investigations and prosecutions, and (8) implementing and operating the immigration status verification system established under section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)): *Provided*, That the Secretary is authorized at the Secretary's discretion to pay any State agency administering the supplemental nutrition assistance program on all or part of an Indian reservation under section 11(d) of this Act or in a Native village within the State of Alaska identified in section 11(b) of Public Law 92-203, as amended.<sup>16-1</sup> such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the supplemental nutrition assistance program, as well as to permit each State to retain 35 percent of the value of all funds or allotments recovered or collected pursuant to sections 6(b) and 13(c) and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise from an error of a State agency. The officials responsible for making determinations of ineligibility under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection.

(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term “work supplementation or support program” means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the supplemental nutrition assistance program) is provided to an employer to be used for hiring and employing a public assist-

<sup>16-1</sup>Period so in original. See amendment made by sec. 758 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (P.L. 106-78, 113 Stat. 1172, Oct. 22, 1999).

ance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the supplemental nutrition assistance program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the supplemental nutrition assistance program that contains an individual who is participating in the work supplementation or support program—

(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

(C) for purposes of—

(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.

(c) QUALITY CONTROL SYSTEM.—<sup>16-2</sup>

(1) IN GENERAL.—

<sup>16-2</sup>Sec. 4118(e) of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171; 116 Stat. 321; May 13, 2002) provides that the amendments made by that section shall not apply with respect to any sanction, appeal, new investment agreement, or other action by the Secretary of Agriculture or a State agency that is based on a payment error rate calculated for any fiscal year before fiscal year 2003.

(A) SYSTEM.—In carrying out the supplemental nutrition assistance program, the Secretary shall carry out a system that enhances payment accuracy and improves administration by establishing fiscal incentives that require State agencies with high payment error rates to share in the cost of payment error.

(B) ADJUSTMENT OF FEDERAL SHARE OF ADMINISTRATIVE COSTS FOR FISCAL YEARS BEFORE FISCAL YEAR 2003.—

(i) IN GENERAL.—Subject to clause (ii), with respect to any fiscal year before fiscal year 2003, the Secretary shall adjust a State agency's federally funded share of administrative costs under subsection (a), other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing that share of all such administrative costs by 1 percentage point to a maximum of 60 percent of all such administrative costs for each full  $\frac{1}{10}$  of a percentage point by which the payment error rate is less than 6 percent.

(ii) LIMITATION.—Only States with a rate of invalid decisions in denying eligibility that is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment under clause (i).

(C) ESTABLISHMENT OF LIABILITY AMOUNT FOR FISCAL YEAR 2003 AND THEREAFTER.—With respect to fiscal year 2004 and any fiscal year thereafter for which the Secretary determines that, for the second or subsequent consecutive fiscal year, a 95 percent statistical probability exists that the payment error rate of a State agency exceeds 105 percent of the national performance measure for payment error rates announced under paragraph (6), the Secretary shall establish an amount for which the State agency may be liable (referred to in this paragraph as the "liability amount") that is equal to the product obtained by multiplying—

(i) the value of all allotments issued by the State agency in the fiscal year;

(ii) the difference between—

(I) the payment error rate of the State agency; and

(II) 6 percent; and

(iii) 10 percent.

(D) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—With respect to the liability amount established for a State agency under subparagraph (C) for any fiscal year, the Secretary shall—

(i)(I) waive the responsibility of the State agency to pay all or any portion of the liability amount established for the fiscal year (referred to in this paragraph as the "waiver amount");

(II) require that a portion, not to exceed 50 percent, of the liability amount established for the fiscal year be used by the State agency for new investment,

approved by the Secretary, to improve administration by the State agency of the supplemental nutrition assistance program (referred to in this paragraph as the “new investment amount”), which new investment amount shall not be matched by Federal funds;

(III) designate a portion, not to exceed 50 percent, of the amount established for the fiscal year for payment to the Secretary in accordance with subparagraph (E) (referred to in this paragraph as the “at-risk amount”); or

(IV) take any combination of the actions described in subclauses (I) through (III); or

(i) make the determinations described in clause (i) and enter into a settlement with the State agency, only with respect to any waiver amount or new investment amount, before the end of the fiscal year in which the liability amount is determined under subparagraph (C).

(E) PAYMENT OF AT-RISK AMOUNT FOR CERTAIN STATES.—

(i) IN GENERAL.—A State agency shall pay to the Secretary the at-risk amount designated under subparagraph (D)(i)(III) for any fiscal year in accordance with clause (ii), if, with respect to the immediately following fiscal year, a liability amount has been established for the State agency under subparagraph (C).

(ii) METHOD OF PAYMENT OF AT-RISK AMOUNT.—

(I) REMISSION TO THE SECRETARY.—In the case of a State agency required to pay an at-risk amount under clause (i), as soon as practicable after completion of all administrative and judicial reviews with respect to that requirement to pay, the chief executive officer of the State shall remit to the Secretary the at-risk amount required to be paid.

(II) ALTERNATIVE METHOD OF COLLECTION.—

(aa) IN GENERAL.—If the chief executive officer of the State fails to make the payment under subclause (I) within a reasonable period of time determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this section by the amount required to be paid under clause (i).

(bb) ACCRUAL OF INTEREST.—During any period of time determined by the Secretary under item (aa), interest on the payment under subclause (I) shall not accrue under section 13(a)(2).

(F) USE OF PORTION OF LIABILITY AMOUNT FOR NEW INVESTMENT.—

(i) REDUCTION OF OTHER AMOUNTS DUE TO STATE AGENCY.—In the case of a State agency that fails to comply with a requirement for new investment under

subparagraph (D)(i)(II) or clause (iii)(I), the Secretary may reduce any amount due to the State agency under any other provision of this section by the portion of the liability amount that has not been used in accordance with that requirement.

(ii) EFFECT OF STATE AGENCY'S WHOLLY PREVAILING ON APPEAL.—If a State agency begins required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State agency, and the determination by the Secretary of the liability amount is reduced to \$0 on administrative or judicial review, the Secretary shall pay to the State agency an amount equal to 50 percent of the new investment amount that was included in the liability amount subject to the appeal.

(iii) EFFECT OF SECRETARY'S WHOLLY PREVAILING ON APPEAL.—If a State agency does not begin required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State agency, and the determination by the Secretary of the liability amount is wholly upheld on administrative or judicial review, the Secretary shall—

(I) require all or any portion of the new investment amount to be used by the State agency for new investment, approved by the Secretary, to improve administration by the State agency of the supplemental nutrition assistance program, which amount shall not be matched by Federal funds; and

(II) require payment of any remaining portion of the new investment amount in accordance with subparagraph (E)(ii).

(iv) EFFECT OF NEITHER PARTY'S WHOLLY PREVAILING ON APPEAL.—The Secretary shall promulgate regulations regarding obligations of the Secretary and the State agency in a case in which the State agency appeals the liability amount of the State agency and neither the Secretary nor the State agency wholly prevails.

(G) CORRECTIVE ACTION PLANS.—The Secretary shall foster management improvements by the States by requiring State agencies, other than State agencies with payment error rates of less than 6 percent, to develop and implement corrective action plans to reduce payment errors.

(2) As used in this section—

(A) the term “payment error rate” means the sum of the point estimates of an overpayment error rate and an underpayment error rate determined by the Secretary from data collected in a probability sample of participating households;

(B) the term “overpayment error rate” means the percentage of the value of all allotments issued in a fiscal year by a State agency that are either—

(i) issued to households that fail to meet basic program eligibility requirements; or

(ii) overissued to eligible households; and

(C) the term “underpayment error rate” means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

(3) The following errors may be measured for management purposes but shall not be included in the payment error rate:

(A) Any errors resulting in the application of new regulations promulgated under this Act during the first 120 days from the required implementation date for such regulations.

(B) Errors resulting from the use by a State agency of correctly processed information concerning households or individuals received from Federal agencies or from actions based on policy information approved or disseminated, in writing, by the Secretary or the Secretary’s designee.

(4) REPORTING REQUIREMENTS.—The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency’s payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d). If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

(5) PROCEDURES.—To facilitate the implementation of this subsection, each State agency shall expeditiously submit to the Secretary data concerning the operations of the State agency in each fiscal year sufficient for the Secretary to establish the State agency’s payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d). The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim established under paragraph (1) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 14 (as provided for in paragraph (7)), before the end of the fiscal year following such fiscal year.

(6) NATIONAL PERFORMANCE MEASURE FOR PAYMENT ERROR RATES.—

(A) ANNOUNCEMENT.—At the time the Secretary makes the notification to State agencies of their error rates, the Secretary shall also announce a national performance measure that shall be the sum of the products of each State agency’s error rate as developed for the notifications under paragraph (8) times that State agency’s proportion of the total value of national allotments issued for the fiscal year using the most recent issuance data available at the time of the notifications issued pursuant to paragraph (8).

(B) USE OF ALTERNATIVE MEASURE OF STATE ERROR.—Where a State fails to meet reporting requirements pursuant to paragraph (4), the Secretary may use another measure of a State’s error developed pursuant to paragraph (8), to develop the national performance measure.

(C) USE OF NATIONAL PERFORMANCE MEASURE.—The announced national performance measure shall be used in determining the liability amount of a State under paragraph (1)(C) for the fiscal year whose error rates are being announced under paragraph (8).

(D) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The national performance measure announced under this paragraph shall not be subject to administrative or judicial review.

(7) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), if the Secretary asserts a financial claim against or establishes a liability amount with respect to a State agency under paragraph (1), the State may seek administrative and judicial review of the action pursuant to section 14.

(B) DETERMINATION OF PAYMENT ERROR RATE.—With respect to any fiscal year, a determination of the payment error rate of a State agency or a determination whether the payment error rate exceeds 105 percent of the national performance measure for payment error rates shall be subject to administrative or judicial review only if the Secretary establishes a liability amount with respect to the fiscal year under paragraph (1)(C).

(C) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—An action by the Secretary under subparagraph (D) or (F)(iii) of paragraph (1) shall not be subject to administrative or judicial review.

(8)(A) This paragraph applies to the determination of whether a payment is due by a State agency for a fiscal year under paragraph (1).

(B) Not later than the first May 31 after the end of the fiscal year referred to in subparagraph (A), the case review and all arbitrations of State-Federal difference cases shall be completed.

(C) Not later than the first June 30 after the end of the fiscal year referred to in subparagraph (A), the Secretary shall—

(i) determine final error rates, the national average payment error rate, and the amounts of payment claimed against State agencies or liability amount established with respect to State agencies;

(ii) notify State agencies of the payment claims or liability amounts; and

(iii) provide a copy of the document providing notification under clause (ii) to the chief executive officer and the legislature of the State.

(D) A State agency desiring to appeal a payment claim or liability amount determined under subparagraph (C) shall submit to an administrative law judge—

(i) a notice of appeal, not later than 10 days after receiving a notice of the claim or liability amount; and

(ii) evidence in support of the appeal of the State agency, not later than 60 days after receiving a notice of the claim or liability amount.

(E) Not later than 60 days after a State agency submits evidence in support of the appeal, the Secretary shall submit responsive evidence to the administrative law judge to the extent such evidence exists.

(F) Not later than 30 days after the Secretary submits responsive evidence, the State agency shall submit rebuttal evidence to the administrative law judge to the extent such evidence exists.

(G) The administrative law judge, after an evidentiary hearing, shall decide the appeal—

(i) not later than 60 days after receipt of rebuttal evidence submitted by the State agency; or

(ii) if the State agency does not submit rebuttal evidence, not later than 90 days after the State agency submits the notice of appeal and evidence in support of the appeal.

(H) In considering a claim or liability amount under this paragraph, the administrative law judge shall consider all grounds for denying the claim or liability amount, in whole or in part, including the contention of a State agency that the claim or liability amount should be waived, in whole or in part, for good cause.

(I) The deadlines in subparagraphs (D), (E), (F), and (G) shall be extended by the administrative law judge for cause shown.

(9) As used in this subsection, the term “good cause” includes—

(A) a natural disaster or civil disorder that adversely affects supplemental nutrition assistance program operations;

(B) a strike by employees of a State agency who are necessary for the determination of eligibility and processing of case changes under the supplemental nutrition assistance program;

(C) a significant growth in the caseload under the supplemental nutrition assistance program in a State prior to or during a fiscal year, such as a 15 percent growth in caseload;

(D) a change in the supplemental nutrition assistance program or other Federal or State program that has a substantial adverse impact on the management of the supplemental nutrition assistance program of a State; and

(E) a significant circumstance beyond the control of the State agency.

(d) BONUSES FOR STATES THAT DEMONSTRATE HIGH OR MOST IMPROVED PERFORMANCE.—

(1) FISCAL YEARS 2003 AND 2004.—

(A) GUIDANCE.—With respect to fiscal years 2003 and 2004, the Secretary shall establish, in guidance issued to State agencies not later than October 1, 2002—

(i) performance criteria relating to—

(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

(II) other indicators of effective administration determined by the Secretary; and

(ii) standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii).

(B) PERFORMANCE BONUS PAYMENTS.—With respect to each of fiscal years 2003 and 2004, the Secretary shall—

(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of \$48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

(2) FISCAL YEARS 2005 AND THEREAFTER.—

(A) REGULATIONS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

(i) establish, by regulation, performance criteria relating to—

(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

(II) other indicators of effective administration determined by the Secretary;

(ii) establish, by regulation, standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii); and

(iii) before issuing proposed regulations to carry out clauses (i) and (ii), solicit ideas for performance criteria and standards for high and most improved performance from State agencies and organizations that represent State interests.

(B) PERFORMANCE BONUS PAYMENTS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of \$48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

(3) PROHIBITION ON RECEIPT OF PERFORMANCE BONUS PAYMENTS.—A State agency shall not be eligible for a performance bonus payment with respect to any fiscal year for which the State agency has a liability amount established under subsection (c)(1)(C).

(4) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to award a performance bonus payment under this subsection shall not be subject to administrative or judicial review.

(e) The Secretary and State agencies shall (1) require, as a condition of eligibility for participation in the supplemental nutrition assistance program, that each household member furnish to the State agency their social security account number (or numbers, if they have more than one number), and (2) use such account num-

bers in the administration of the supplemental nutrition assistance program. The Secretary and State agencies shall have access to the information regarding individual supplemental nutrition assistance program applicants and participants who receive benefits under title XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)] that has been provided to the Commissioner of Social Security, but only to the extent that the Secretary and the Commissioner of Social Security determine necessary for purposes of determining or auditing a household's eligibility to receive assistance or the amount thereof under the supplemental nutrition assistance program, or verifying information related thereto.

(f) Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of officers and employees of the Department of Agriculture may be paid in judicial or administrative proceedings to which such officers and employees have been made parties and that arise directly out of their performance of duties under this Act.

(g) COST SHARING FOR COMPUTERIZATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—

(A) would assist in meeting the requirements of this Act;

(B) meet such conditions as the Secretary prescribes;

(C) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;

(D) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(E) would be tested adequately before and after implementation, including through pilot projects in limited areas for major systems changes as determined under rules promulgated by the Secretary, data from which shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly; and

(F) would be operated in accordance with an adequate plan for—

(i) continuous updating to reflect changed policy and circumstances; and

(ii) testing the effect of the system on access for eligible households and on payment accuracy.

(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—

(A) is reimbursed for the costs under any other Federal program; or

(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.

(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

## (1) IN GENERAL.—

(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available for 15 months, from funds made available for each fiscal year under section 18(a)(1), \$90,000,000 for each fiscal year.

(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

(i) is determined and adjusted by the Secretary; and

(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).

(C) REALLOCATION.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than \$50,000 for each fiscal year.

## (E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

(i) IN GENERAL.—In addition to the allocations under subparagraph (A), from funds made available under section 18(a)(1), the Secretary shall allocate not more than \$20,000,000 for each fiscal year to reimburse a State agency that is eligible under clause (ii) for the costs incurred in serving members of households receiving supplemental nutrition assistance program benefits who—

(I) are not eligible for an exception under section 6(o)(3); and

(II) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2).

(ii) ELIGIBILITY.—To be eligible for an additional allocation under clause (i), a State agency shall make and comply with a commitment to offer a position in a program described in subparagraph (B) or (C) of section 6(o)(2) to each applicant or recipient who—

(I) is in the last month of the 3-month period described in section 6(o)(2);

(II) is not eligible for an exception under section 6(o)(3);

(III) is not eligible for a waiver under section 6(o)(4); and

(IV) is not exempt under section 6(o)(6).

(2) If, in carrying out such program during such fiscal year, a State agency incurs costs that exceed the amount allocated to the State agency under paragraph (1), the Secretary shall pay such

State agency an amount equal to 50 per centum of such additional costs, subject to the first limitation in paragraph (3), including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work.

(3) The Secretary shall also reimburse each State agency in an amount equal to 50 per centum of the total amount of payments made or costs incurred by the State agency in connection with transportation costs and other expenses reasonably necessary and directly related to participation in an employment and training program under section 6(d)(4), except that the amount of the reimbursement for dependent care expenses shall not exceed an amount equal to the payment made under section 6(d)(4)(I)(i)(II) but not more than the applicable local market rate, and such reimbursement shall not be made out of funds allocated under paragraph (1).

(4) Funds provided to a State agency under this subsection may be used only for operating an employment and training program under section 6(d)(4), and may not be used for carrying out other provisions of this Act.

(5) The Secretary shall monitor the employment and training programs carried out by State agencies under section 6(d)(4) to measure their effectiveness in terms of the increase in the numbers of household members who obtain employment and the numbers of such members who retain such employment as a result of their participation in such employment and training programs.

(i)(1) The Department of Agriculture may use quality control information made available under this section to determine which project areas have payment error rates (as defined in subsection (d)(1)) that impair the integrity of the supplemental nutrition assistance program.

(2) The Secretary may require a State agency to carry out new or modified procedures for the certification of households in areas identified under paragraph (1) if the Secretary determines such procedures would improve the integrity of the supplemental nutrition assistance program and be cost effective.

(j) Not later than 180 days after the date of the enactment of the Hunger Prevention Act of 1988 [enacted on September 19, 1988], and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to State agency personnel who undertake the certification of households that include a member who engages in farming.

(k) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—

(1) DEFINITIONS.—In this subsection:

(A) AFDC PROGRAM.—The term “AFDC program” means the program of aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq. (as in effect, with respect to a State, during the base period for that State)).

(B) BASE PERIOD.—The term “base period” means the period used to determine the amount of the State family assistance grant for a State under section 403 of the Social Security Act (42 U.S.C. 603).

(C) MEDICAID PROGRAM.—The term “medicaid program” means the program of medical assistance under a

State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) DETERMINATIONS OF AMOUNTS ATTRIBUTABLE TO BENEFITING PROGRAMS.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture and the States, shall, with respect to the base period for each State, determine—

(A) the annualized amount the State received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as in effect during the base period)) for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the supplemental nutrition assistance program, the AFDC program and the medicaid program, and the AFDC program, the supplemental nutrition assistance program, and the medicaid program that were allocated to the AFDC program; and

(B) the annualized amount the State would have received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as so in effect)), section 1903(a)(7) of the Social Security Act (42 U.S.C. 1396b(a)(7) (as so in effect)), and subsection (a) of this section (as so in effect), for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the supplemental nutrition assistance program, the AFDC program and the medicaid program, and the AFDC program, the supplemental nutrition assistance program, and the medicaid program, if those costs had been allocated equally among such programs for which the individual, family, or household was eligible or applied for.

(3) REDUCTION IN PAYMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall reduce, for each fiscal year, the amount paid under subsection (a) to each State by an amount equal to the amount determined for the supplemental nutrition assistance program under paragraph (2)(B). The Secretary shall, to the extent practicable, make the reductions required by this paragraph on a quarterly basis.

(B) APPLICATION.—If the Secretary of Health and Human Services does not make the determinations required by paragraph (2) by September 30, 1999—

(i) during the fiscal year in which the determinations are made, the Secretary shall reduce the amount paid under subsection (a) to each State by an amount equal to the sum of the amounts determined for the supplemental nutrition assistance program under paragraph (2)(B) for fiscal year 1999 through the fiscal year during which the determinations are made; and

(ii) for each subsequent fiscal year, subparagraph (A) applies.

(4) APPEAL OF DETERMINATIONS.—

(A) IN GENERAL.—Not later than 5 days after the date on which the Secretary of Health and Human Services makes any determination required by paragraph (2) with respect to a State, the Secretary shall notify the chief executive officer of the State of the determination.

(B) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

(i) IN GENERAL.—Not later than 60 days after the date on which a State receives notice under subparagraph (A) of a determination, the State may appeal the determination, in whole or in part, to an administrative law judge of the Department of Health and Human Services by filing an appeal with the administrative law judge.

(ii) DOCUMENTATION.—The administrative law judge shall consider an appeal filed by a State under clause (i) on the basis of such documentation as the State may submit and as the administrative law judge may require to support the final decision of the administrative law judge.

(iii) REVIEW.—In deciding whether to uphold a determination, in whole or in part, the administrative law judge shall conduct a thorough review of the issues and take into account all relevant evidence.

(iv) DEADLINE.—Not later than 60 days after the date on which the record is closed, the administrative law judge shall—

(I) make a final decision with respect to an appeal filed under clause (i); and

(II) notify the chief executive officer of the State of the decision.

(C) REVIEW BY DEPARTMENTAL APPEALS BOARD.—

(i) IN GENERAL.—Not later than 30 days after the date on which a State receives notice under subparagraph (B) of a final decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (referred to in this paragraph as the “Board”) by filing an appeal with the Board.

(ii) REVIEW.—The Board shall review the decision on the record.

(iii) DEADLINE.—Not later than 60 days after the date on which the appeal is filed, the Board shall—

(I) make a final decision with respect to an appeal filed under clause (i); and

(II) notify the chief executive officer of the State of the decision.

(D) JUDICIAL REVIEW.—The determinations of the Secretary of Health and Human Services under paragraph (2), and a final decision of the administrative law judge or Board under subparagraphs (B) and (C), respectively, shall not be subject to judicial review.

(E) REDUCED PAYMENTS PENDING APPEAL.—The pendency of an appeal under this paragraph shall not affect the

requirement that the Secretary reduce payments in accordance with paragraph (3).

(5) ALLOCATION OF ADMINISTRATIVE COSTS.—

(A) IN GENERAL.—No funds or expenditures described in subparagraph (B) may be used to pay for costs—

(i) eligible for reimbursement under subsection (a) (or costs that would have been eligible for reimbursement but for this subsection); and

(ii) allocated for reimbursement to the supplemental nutrition assistance program under a plan submitted by a State to the Secretary of Health and Human Services to allocate administrative costs for public assistance programs.

(B) FUNDS AND EXPENDITURES.—Subparagraph (A) applies to—

(i) funds made available to carry out part A of title IV, or title XX, of the Social Security Act (42 U.S.C. 601 et seq., 1397 et seq.);

(ii) expenditures made as qualified State expenditures (as defined in section 409(a)(7)(B) of that Act (42 U.S.C. 609(a)(7)(B)));

(iii) any other Federal funds (except funds provided under subsection (a)); and

(iv) any other State funds that are—

(I) expended as a condition of receiving Federal funds; or

(II) used to match Federal funds under a Federal program other than the supplemental nutrition assistance program.

RESEARCH, DEMONSTRATION, AND EVALUATIONS

SEC. 17. [7 U.S.C. 2026] (a)(1) The Secretary may enter into contracts with or make grants to public or private organizations or agencies under this section to undertake research that will help improve the administration and effectiveness of the supplemental nutrition assistance program in delivering nutrition-related benefits. The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.

(2) The Secretary may, on application, permit not more than two State agencies to establish procedures that allow households whose monthly supplemental nutrition assistance program benefits do not exceed \$20, at their option, to receive, in lieu of their supplemental nutrition assistance program benefits for the initial period under section 8 and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed \$60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 11(e) (except that no household shall begin to receive combined allotments under this section until it has complied with all applicable verification requirements of section 11(e)(3)) and (with respect to the first aggregate allotment so issued) within 40 days of the last benefit issuance.

(b)(1)(A) The Secretary may conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects de-

signed to test program changes that might increase the efficiency of the supplemental nutrition assistance program and improve the delivery of supplemental nutrition assistance program benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

(B) PROJECT REQUIREMENTS.—

(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless—

(I) the project is consistent with the goal of the supplemental nutrition assistance program of providing food assistance to raise levels of nutrition among low-income individuals; and

(II) the project includes an evaluation to determine the effects of the project.

(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

(I) improve program administration;

(II) increase the self-sufficiency of supplemental nutrition assistance program recipients;

(III) test innovative welfare reform strategies;

or

(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

(iii) RESTRICTIONS ON PERMISSIBLE PROJECTS.—If the Secretary finds that a project under subparagraph (A) would reduce benefits by more than 20 percent for more than 5 percent of households in the area subject to the project (not including any household whose benefits are reduced due to a failure to comply with work or other conduct requirements), the project—

(I) may not include more than 15 percent of the number of households in the State receiving supplemental nutrition assistance program benefits; and

(II) shall continue for not more than 5 years after the date of implementation, unless the Secretary approves an extension requested by the State agency at any time.

(iv) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

(I) involves the payment of the value of an allotment in the form of cash or otherwise providing benefits in a form not restricted to the purchase of food, unless the project was approved prior to the date of enactment of this subparagraph [August 22, 1996];

(II) has the effect of substantially transferring funds made available under this Act to services or benefits provided primarily through another public assistance program, or using the funds for any purpose other than the purchase of food, program administration, or an employment or training program;

- (III) is inconsistent with—
- (aa) paragraphs (4) and (5) of section 3(n);
  - (bb) the last sentence of section 5(a), insofar as a waiver denies assistance to an otherwise eligible household or individual if the household or individual has not failed to comply with any work, behavioral, or other conduct requirement under this or another program;
  - (cc) section 5(c)(2);
  - (dd) paragraph (2)(B), (4)(F)(i), or (4)(K) of section 6(d);
  - (ee) section 8(b);
  - (ff) section 11(e)(2)(B);
  - (gg) the time standard under section 11(e)(3);
  - (hh) subsection (a), (c), (g), (h)(2), or (h)(3) of section 16;
  - (ii) this paragraph; or
  - (jj) subsection (a)(1) or (g)(1) of section 20;
- (IV) modifies the operation of section 5 so as to have the effect of—
- (aa) increasing the shelter deduction to households with no out-of-pocket housing costs or housing costs that consume a low percentage of the household's income; or
  - (bb) absolving a State from acting with reasonable promptness on substantial reported changes in income or household size (except that this subclause shall not apply with regard to changes related to supplemental nutrition assistance program deductions);
- (V) is not limited to a specific time period;
- (VI) waives a provision of section 26; or
- (VII) waives a provision of section 7(i).

(v) **ADDITIONAL INCLUDED PROJECTS.**—A pilot or experimental project may include projects involving the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are age sixty-five or over or any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)] or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the use of identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of EBT cards.

(vi) **CASH PAYMENT PILOT PROJECTS.**—Subject to the availability of appropriations under section 18(a), any pilot or experimental project implemented under this paragraph and operating as of October 1, 1981,

involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act [(42 U.S.C. 1381 et seq.)] shall be continued if the State so requests.

(C)(i) No waiver or demonstration program shall be approved under this Act after the date of enactment of this subparagraph unless—

(I) any household whose food assistance is issued in a form other than EBT cards has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, the tax on purchases of food by any such household is waived, or the Secretary determines on the basis of information provided by the State agency that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

(II) the State agency conducting the demonstration project pays the cost of any increased allotments.

(ii) Clause (i) shall not apply if a waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.

(D) RESPONSE TO WAIVERS.—

(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

(I) approves the waiver request;

(II) denies the waiver request and describes any modification needed for approval of the waiver request;

(III) denies the waiver request and describes the grounds for the denial; or

(IV) requests clarification of the waiver request.

(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.

(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for supplemental nutrition assistance program benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A)

appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 6(d) of this Act, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, shall be ineligible to participate in the supplemental nutrition assistance program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days (ten days in at least one pilot project area designated by the Secretary) after the initial registration for employment referred to in section 6(d)(1)(A)(i) of this Act, to accept an offer of employment from a political subdivision or provider pursuant to a program carried out under title I of the Workforce Investment Act of 1998 [(29 U.S.C. 2801 et seq.)], for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph, if all of the jobs supported under the program have been made available to participants in the program before the political subdivision or provider providing the jobs extends an offer of employment under this paragraph, and if the political subdivision or provider, in employing the person, complies with the requirements of Federal law that relate to the program. The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following enactment of this Act [Amendatory Act enacted on September 29, 1977.], shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.

(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the supple-

mental nutrition assistance program employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(B) Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 6(d) to permit a State to operate an employment and training program for supplemental nutrition assistance program recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.). Any work experience program conducted as part of the project shall be conducted in conformity with section 482(f) of such Act (42 U.S.C. 682(f)).

(C) A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of subsections (a)(19) and (g) of section 402 of such Act (42 U.S.C. 602) (but not including the provision of transitional benefits under clauses (ii) through (vii) of section 402(g)(1)(A)) and sections 481 through 487 of such Act (42 U.S.C. 681 through 687). Each reference to "aid to families with dependent children" in such sections shall be deemed to be a reference to supplemental nutrition assistance program benefits for purposes of the demonstration project.

(D) Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which supplemental nutrition assistance program benefits are converted to cash shall occur only with the consent of the participant.

(E) For the purposes of any project conducted under this paragraph, the provisions of this Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402, and sections 481 through 487, of the Social Security Act.

(F) At least 60 days prior to granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraph for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(G) Waivers may be granted under this paragraph to conduct projects at any one time in a total of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

(H) A waiver for a change in program rules may be granted under this paragraph only for a demonstration project that has been approved by the Secretary, that will be evaluated according to criteria prescribed by the Secretary, and that will be in operation for no more than 4 years.

(I) The Secretary may not grant a waiver under this paragraph on or after the date of enactment of this subparagraph [Aug. 22, 1996]. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on the day before such date.

(c) The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the supplemental nutrition assistance program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence. Further, the Secretary shall, by way of making contracts with or grants to public or private organizations or agencies, implement pilot programs to test various means of measuring on a continuing basis the nutritional status of low income people, with special emphasis on people who are eligible for supplemental nutrition assistance, in order to develop minimum common criteria and methods for systematic nutrition monitoring that could be applied on a nationwide basis. The locations of the pilot programs shall be selected to provide a representative geographic and demographic cross-section of political subdivisions that reflect natural usage patterns of health and nutritional services and that contain high proportions of low income people. The Secretary shall report on the progress of these pilot programs on an annual basis commencing on July 1, 1982, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Secretary deems appropriate.

(d) EMPLOYMENT INITIATIVES PROGRAM.—

(1) ELECTION TO PARTICIPATE.—

(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households in the State that received supplemental nutrition assistance program benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

(2) PROCEDURE.—

(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the allotments that would otherwise be issued to a household under the supplemental nutrition assistance program, but for the operation of this subsection, to provide cash benefits in lieu of the allotments to the household if the household is eligible under paragraph (3).

(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household participating in the program in the State would be eligible to receive under this Act but for the operation of this subsection.

(C) OTHER PROVISIONS.—For purposes of the supplemental nutrition assistance program (other than this subsection)—

(i) cash assistance under this subsection shall be considered to be an allotment; and

(ii) each household receiving cash benefits under this subsection shall not receive any other supplemental nutrition assistance program benefits during the period for which the cash assistance is provided.

(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

(i) increase the cash benefits provided to each household participating in the program in the State under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by the household, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

(ii) pay the cost of any increase in cash benefits required by clause (i).

(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

(A) has worked in unsubsidized employment for not less than the preceding 90 days;

(B) has earned not less than \$350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

(D) is continuing to earn not less than \$350 per month from the employment referred to in subparagraph (A); and

(E) elects to receive cash benefits in lieu of supplemental nutrition assistance program benefits under this subsection.

(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.

(e) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other

laws enacted by the Ninety-seventh Congress which affect the supplemental nutrition assistance program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied supplemental nutrition assistance program benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.

(f) In order to encourage States to plan, design, develop, and implement a system for making supplemental nutrition assistance program benefits available through the use of intelligent benefit cards or other automated or electronic benefit delivery systems, the Secretary may conduct one or more pilot or experimental projects, subject to the restrictions imposed by subsection (b)(1) and section 7(f)(2), designed to test whether the use of such cards or systems can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. Intelligent benefit cards developed under such a demonstration project shall contain information, encoded on a computer chip embedded in a credit card medium, including the eligibility of the individual and the amount of benefits to which such individual is entitled. Any other automated or electronic benefit delivery system developed under such a demonstration project shall be able to use a plastic card to access such information from a data file.

(g) In order to assess the effectiveness of the employment and training programs established under section 6(d) in placing individuals into the work force and withdrawing such individuals from the supplemental nutrition assistance program, the Secretary is authorized to carry out studies comparing the pre- and post-program labor force participation, wage rates, family income, level of receipt of supplemental nutrition assistance program and other transfer payments, and other relevant information, for samples of participants in such employment and training programs as compared to the appropriate control or comparison groups that did not participate in such programs. Such studies shall, to the maximum extent possible—

(1) collect such data for up to 3 years after the individual has completed the employment and training program; and

(2) yield results that can be generalized to the national program as a whole.

The results of such studies and reports shall be considered in developing or updating the performance standards required under section 6.

(h) The Secretary shall conduct a sufficient number of demonstration projects to evaluate the effects, in both rural and urban areas, of including in financial resources under section 5(g) the fair market value of licensed vehicles to the extent the value of each vehicle exceeds \$4,500, but excluding the value of—

(1) any licensed vehicle that is used to produce earned income, necessary for transportation of an elderly or physically disabled household member, or used as the household's home; and

(2) one licensed vehicle used to obtain, continue, or seek employment (including travel to and from work), used to pursue employment-related education or training, or used to secure food or the benefits of the supplemental nutrition assistance program.

(i) The Secretary shall conduct, under such terms and conditions as the Secretary shall prescribe, for a period not to exceed 4 years, projects to test allowing not more than 11,000 eligible households, in the aggregate, to accumulate resources up to \$10,000 each (which shall be excluded from consideration as a resource) for later expenditure for a purpose directly related to improving the education, training, or employability (including self-employment) of household members, for the purchase of a home for the household, for a change of the household's residence, or for making major repairs to the household's home.

(j) The Secretary shall use up to \$4,000,000 of the funds provided in advance in appropriations Acts for projects authorized by this section to conduct demonstration projects in which State or local supplemental nutrition assistance program agencies test innovative ideas for working with State or local law enforcement agencies to investigate and prosecute benefit trafficking.

(k) PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out, under such terms and conditions as the Secretary considers to be appropriate, pilot projects to develop and test methods—

(A) of using the supplemental nutrition assistance program to improve the dietary and health status of households eligible for or participating in the supplemental nutrition assistance program; and

(B) to reduce overweight, obesity (including childhood obesity), and associated co-morbidities in the United States.

(2) GRANTS.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as defined by the Secretary), for use in accordance with projects that meet the strategy goals of this subsection.

(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this paragraph, an organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) SELECTION CRITERIA.—Pilot projects shall be evaluated against publicly disseminated criteria that may include—

(i) identification of a low-income target audience that corresponds to individuals living in households with incomes at or below 185 percent of the poverty level;

(ii) incorporation of a scientifically based strategy that is designed to improve diet quality through more healthful food purchases, preparation, or consumption;

(iii) a commitment to a pilot project that allows for a rigorous outcome evaluation, including data collection;

(iv) strategies to improve the nutritional value of food served during school hours and during after-school hours;

(v) innovative ways to provide significant improvement to the health and wellness of children;

(vi) other criteria, as determined by the Secretary.

(D) USE OF FUNDS.—Funds provided under this paragraph shall not be used for any project that limits the use of benefits under this Act.

(3) PROJECTS.—Pilot projects carried out under paragraph (1) may include projects to determine whether healthier food purchases by and healthier diets among households participating in the supplemental nutrition assistance program result from projects that—

(A) increase the supplemental nutrition assistance purchasing power of the participating households by providing increased supplemental nutrition assistance program benefit allotments to the participating households;

(B) increase access to farmers markets by participating households through the electronic redemption of supplemental nutrition assistance program benefits at farmers' markets;

(C) provide incentives to authorized supplemental nutrition assistance program retailers to increase the availability of healthy foods to participating households;

(D) subject authorized supplemental nutrition assistance program retailers to stricter retailer requirements with respect to carrying and stocking healthful foods;

(E) provide incentives at the point of purchase to encourage households participating in the supplemental nutrition assistance program to purchase fruits, vegetables, or other healthful foods; or

(F) provide to participating households integrated communication and education programs, including the provision of funding for a portion of a school-based nutrition coordinator to implement a broad nutrition action plan and parent nutrition education programs in elementary schools, separately or in combination with pilot projects carried out under subparagraphs (A) through (E).

(4) EVALUATION AND REPORTING.—

(A) EVALUATION.—

(i) INDEPENDENT EVALUATION.—

(I) IN GENERAL.—The Secretary shall provide for an independent evaluation of projects selected

under this subsection that measures the impact of the pilot program on health and nutrition as described in paragraph (1).

(II) REQUIREMENT.—The independent evaluation under subclause (I) shall use rigorous methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective.

(ii) COSTS.—The Secretary may use funds provided to carry out this section to pay costs associated with monitoring and evaluating each pilot project.

(B) REPORTING.—Not later than 90 days after the last day of fiscal year 2009 and each fiscal year thereafter until the completion of the last evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

(i) the status of each pilot project;

(ii) the results of the evaluation completed during the previous fiscal year; and

(iii) to the maximum extent practicable—

(I) the impact of the pilot project on appropriate health, nutrition, and associated behavioral outcomes among households participating in the pilot project;

(II) baseline information relevant to the stated goals and desired outcomes of the pilot project; and

(III) equivalent information about similar or identical measures among control or comparison groups that did not participate in the pilot project.

(C) PUBLIC DISSEMINATION.—In addition to the reporting requirements under subparagraph (B), evaluation results shall be shared broadly to inform policy makers, service providers, other partners, and the public in order to promote wide use of successful strategies.

(5) FUNDING.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(B) MANDATORY FUNDING.—Out of any funds made available under section 18, on October 1, 2008, the Secretary shall make available \$20,000,000 to carry out a project described in paragraph (3)(E), to remain available until expended.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. [7 U.S.C. 2027] (a)(1) To carry out this Act, there are authorized to be appropriated such sums as are necessary for each of fiscal years 2008 through 2012. Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each

such fiscal year to carry out the provisions of section 17 of this Act, subject to paragraph (3).

(2) No funds authorized to be appropriated under this Act or any other Act of Congress shall be used by any person, firm, corporation, group, or organization at any time, directly or indirectly, to interfere with or impede the implementation of any provision of this Act or any rule, regulation, or project thereunder, except that this limitation shall not apply to the provision of legal and related assistance in connection with any proceeding or action before any State or Federal agency or court. The President shall ensure that this paragraph is complied with by such order or other means as the President deems appropriate.

(3)(A) Of the amounts made available under the second sentence of paragraph (1), not more than \$2,000,000 in any fiscal year may be used by the Secretary to make 2-year competitive grants that will—

(i) enhance interagency cooperation in nutrition education activities; and

(ii) develop cost effective ways to inform people eligible for supplemental nutrition assistance program benefits about nutrition, resource management, and community nutrition education programs, such as the expanded food and nutrition education program.

(B) The Secretary shall make awards under this paragraph to one or more State cooperative extension services (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) who shall administer the grants in coordination with other State or local agencies serving low-income people.

(C) Each project shall include an evaluation component and shall develop an implementation plan for replication in other States.

(D) The Secretary shall report to the appropriate committees of Congress on the results of the projects and shall disseminate the results through the cooperative extension service system and to State human services and health department offices, local supplemental nutrition assistance program offices, and other entities serving low-income households.

(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. Notwithstanding any other provision of this Act, if in any fiscal year the Secretary finds that the requirements of participating States will exceed the appropriation, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the supplemental nutrition assistance program to the extent necessary to comply with the provisions of this subsection.

(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments

will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

(d) Not later than sixty days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the supplemental nutrition assistance program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than seven days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments.

(e) Funds collected from claims against households or State agencies, including claims collected pursuant to sections <sup>18-1</sup> 7(f), subsections (g) and (h) of section 11, subsections (b) and (c) of section 13, and section 16(c)(1), claims resulting from resolution of audit findings, and claims collected from households receiving overissuances, shall be credited to the supplemental nutrition assistance program appropriation account for the fiscal year in which the collection occurs. Funds provided to State agencies under section 16(c) of this Act shall be paid from the appropriation account for the fiscal year in which the funds are provided.

(f) No funds appropriated to carry out this Act may be transferred to the Office of the Inspector General, or the Office of the General Counsel, of the Department of Agriculture.

**SEC. 19. [7 U.S.C. 2028] CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.**

(a) PAYMENTS TO GOVERNMENTAL ENTITIES.—

(1) DEFINITION OF GOVERNMENTAL ENTITY.—In this subsection, the term “governmental entity” means—

- (A) the Commonwealth of Puerto Rico; and
- (B) American Samoa.

(2) BLOCK GRANTS.—

(A) AMOUNT OF BLOCK GRANTS.—From the sums appropriated under this Act, the Secretary shall, subject to this section, pay to governmental entities to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C)—

- (i) for fiscal year 2003, \$1,401,000,000; and
- (ii) subject to the availability of appropriations under section 18(a), for each fiscal year thereafter, the amount specified in clause (i), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30, 2002, and June 30 of the immediately preceding fiscal year.

<sup>18-1</sup> So in original. Probably should be “section” .

(B) PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—

(i) IN GENERAL.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 99.6 percent of the funds made available under subparagraph (A) for payment to the Commonwealth of Puerto Rico to pay—

(I) 100 percent of the expenditures by the Commonwealth for the fiscal year for the provision of nutrition assistance included in the plan of the Commonwealth approved under subsection (b); and

(II) 50 percent of the related administrative expenses.

(ii) EXCEPTION FOR EXPENDITURES FOR CERTAIN SYSTEMS.—Notwithstanding clause (i), the Commonwealth of Puerto Rico may spend in fiscal year 2002 or 2003 not more than \$6,000,000 of the amount required to be paid to the Commonwealth for fiscal year 2002 under this paragraph (as in effect on the day before the date of enactment of this clause) to pay 100 percent of the costs of—

(I) upgrading and modernizing the electronic data processing system used to carry out nutrition assistance programs for needy persons;

(II) implementing systems to simplify the determination of eligibility to receive the nutrition assistance; and

(III) operating systems to deliver the nutrition assistance through electronic benefit transfers.

(C) PAYMENTS TO AMERICAN SAMOA.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay 100 percent of the expenditures by American Samoa for a nutrition assistance program extended under section 601(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).

(D) CARRYOVER OF FUNDS.—For fiscal year 2002 and each fiscal year thereafter, not more than 2 percent of the funds made available under this paragraph for the fiscal year to each governmental entity may be carried over to the following fiscal year.

(3) TIME AND MANNER OF PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—The Secretary shall, subject to the provisions of subsection (b), pay to the Commonwealth for the applicable fiscal year, at such times and in such manner as the Secretary may determine, the amount estimated by the Commonwealth pursuant to subsection (b)(1)(A)(iv), reduced or increased to the extent of any prior overpayment or current underpayment which the Secretary determines has been made under this section and with respect to which adjustment has not already been made under this subsection.

(b)(1)(A) In order to receive payments under this Act for any fiscal year, the Commonwealth shall have a plan for that fiscal year approved by the Secretary under this section. By July 1 of

each year, if the Commonwealth wishes to receive payments, it shall submit a plan for the provision of the assistance described in subsection (a)(2)(B) for the following fiscal year which—

(i) designates the agency or agencies directly responsible for the administration, or supervision of the administration, of the program for the provision of such assistance;

(ii) assesses the food and nutrition needs of needy persons residing in the Commonwealth;

(iii) describes the program for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

(iv) estimates the amount of expenditures necessary for the provision of the assistance described in the program and related administrative expenses, up to the amount provided for payment by subsection (a)(2)(B); and

(v) includes such other information as the Secretary may require.

(B)(i) The Secretary shall approve or disapprove any plan submitted pursuant to subparagraph (A) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of subparagraph (A). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in subparagraph (B)(ii), notify the appropriate agency in the Commonwealth that payments will not be made to it under subsection (a) for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments.

(ii) The Secretary may suspend the denial of payments under subparagraph (B)(i) for such period as the Secretary determines appropriate and instead withhold payments provided for under subsection (a), in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of subparagraph (A), at which time such withheld payments shall be paid.

(2)(A) The Commonwealth shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(2)(B), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

(B) Within 120 days of the end of the fiscal year, the Commonwealth shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(C)(i) If the Secretary finds that there is a substantial failure by the Commonwealth to comply with any of the requirements of subparagraphs (A) and (B), or to comply with the requirements of

subsection (b)(1)(A) in the administration of a plan approved under subsection (b)(1)(B), the Secretary shall, except as provided in subparagraph (C)(ii), notify the appropriate agency in the Commonwealth that further payments will not be made to it under subsection (a) until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments.

(ii) The Secretary may suspend the termination of payments under subparagraph (C)(i) for such period as the Secretary determines appropriate, and instead withhold payments provided for under subsection (a), in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), at which time such withheld payments shall be paid.

(iii) Upon a finding under subparagraph (C)(i) of a substantial failure to comply with any of the requirements of subparagraphs (A) and (B) and subsection (b)(1)(A), the Secretary may, in addition to or in lieu of any action taken under subparagraphs (C)(i) and (C)(ii), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the Commonwealth of Puerto Rico, and upon suit by the Attorney General in an appropriate district court of the United States and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(c)(1) The Secretary shall provide for the review of the programs for the provision of the assistance described in subsection (a)(2)(A) for which payments are made under this Act.

(2) The Secretary is authorized as the Secretary deems practicable to provide technical assistance with respect to the programs for the provision of the assistance described in subsection (a)(2)(A).

(d) Whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over \$200, the penalty shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

#### WORKFARE

SEC. 20. [7 U.S.C. 2029] (a)(1) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the supplemental nutrition assistance program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 8(a) of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 [(29 U.S.C. 201 et seq.)].

(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

(B) A political subdivision may comply with the requirements of this section by operating any workfare program which the Secretary determines meets the provisions and protections provided under this section.

(b) A household member shall be exempt from workfare requirements imposed under this section if such member is—

(1) exempt from section 6(d)(1) as the result of clause (B), (C), (D), (E), or (F) of section 6(d)(2);

(2) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least 20 hours a week in a work activity required under title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(3) mentally or physically unfit;

(4) under sixteen years of age;

(5) sixty years of age or older; or

(6) a parent or other caretaker of a child in a household in which another member is subject to the requirements of this section or is employed fulltime.

(c) No operating agency shall require any participating member to work in any workfare position to the extent that such work exceeds in value the allotment to which the household is otherwise entitled or that such work, when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.

(d) The operating agency shall—

(1) not provide any work that has the effect of replacing or preventing the employment of an individual not participating in the workfare program;

(2) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours; and

(3) reimburse participants for actual costs of transportation and other actual costs all of which are reasonably necessary and directly related to participation in the program but not to exceed \$25 in the aggregate per month.

(e) The operating agency may allow a job search period, prior to making workfare assignments, of up to thirty days following a determination of eligibility.

(f) **DISQUALIFICATION.**—An individual or a household may become ineligible under section 6(d)(1) to participate in the supplemental nutrition assistance program for failing to comply with this section.

(g)(1) The Secretary shall pay to each operating agency 50 per centum of all administrative expenses incurred by such agency in operating a workfare program, including reimbursements to participants for work-related expenses as described in subsection (d)(3) of this section.

(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section,

the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

(B) For purposes of subparagraph (A), the term “funds saved from employment related to a workfare program operated under this section” means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

(i) while such members are participating for the first time in a workfare program operated under this section; or

(ii) in the thirty-day period beginning on the date such first participation is terminated.

(3) The Secretary may suspend or cancel some or all of these payments, or may withdraw approval from a political subdivision to operate a workfare program, upon a finding that the subdivision has failed to comply with the workfare requirements.

**[SEC. 21. [7 U.S.C. 2030] DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.]**<sup>21-1</sup>

MINNESOTA FAMILY INVESTMENT PROJECT

SEC. 22. [7 U.S.C. 2031] (a) IN GENERAL.—

(1) Subject to paragraph (2), upon written application of the State of Minnesota that complies with this section and sections 6 to 11, 13, 130, and 132 of article 5 of 282 of the 1989 Laws of Minnesota, and after approval of such application by the Secretary in accordance with subsections (b) and (d), the State may implement a family investment demonstration project (hereinafter in this section referred to as the Project) in parts of the State to determine whether the Project more effectively helps families to become self-supporting and enhances their ability to care for their children than do the supplemental nutrition assistance program and programs under parts A and F of title IV of the Social Security Act. The State may provide cash payments under the Project, subject to paragraph (2), that replace assistance otherwise available under the supplemental nutrition assistance program and under part A of title IV of the Social Security Act.

(2) The Project may be implemented only in accordance with this section and only if the Secretary of Health and Human Services approves an application submitted by the State permitting the State to include in the Project families who are eligible to receive benefits under part A of title IV of the Social Security Act.

(b) REQUIRED TERMS AND CONDITIONS OF THE PROJECT.—The application submitted by the State under subsection (a) shall provide an assurance that the Project shall satisfy all of the following requirements:

<sup>21-1</sup>Sec. 4115(b)(14) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1870) repealed section 21.

(1) Only families may be eligible to receive assistance and services through the Project.

(2) Participating families, families eligible for or participating in the program authorized under part A of title IV of the Social Security Act or the supplemental nutrition assistance program that are assigned to and found eligible for the Project, and families required to submit an application for the Project that are found eligible for the Project shall be ineligible to receive benefits under the supplemental nutrition assistance program.

(3)(A) Subject to the provisions of this paragraph and any reduction imposed under subsection (c)(3) of this section, the value of assistance provided to participating families shall not be less than the aggregate value of the assistance such families could receive under the supplemental nutrition assistance program and part A of title IV of the Social Security Act if such families did not participate in the Project.

(B) For purposes of satisfying the requirement specified in subparagraph (A)—

(i) payments for child care expenses under the Project shall be considered part of the value of assistance provided to participating families with earnings;

(ii) payments for child care expenses for families without earnings shall not be considered part of the value of assistance provided to participating families or the aggregate value of assistance that such families could have received under the supplemental nutrition assistance program and part A of title IV of the Social Security Act; and

(iii) any child support payments not assigned to the State under the provisions of part A of title IV of the Social Security Act, less \$50 per month, shall be considered part of the aggregate value of assistance participating families would receive if such families did not participate in the Project;

(C) For purposes of satisfying the requirement specified in subparagraph (A), the State shall—

(i) identify the sets of characteristics indicative of families that might receive less assistance under the Project;

(ii) establish a mechanism to determine, for each participating family that has a set of characteristics identified under clause (i) whether such family could receive more assistance, in the aggregate, under the supplemental nutrition assistance program and part A of title IV of the Social Security Act if such family did not participate in the project;

(iii) increase the amount of assistance provided under the Project to any family that could receive more assistance, in the aggregate, under the supplemental nutrition assistance program and part A of title IV of the Social Security Act if such family did not participate in the Project, so that the assistance provided under the Project to such family is not less than the aggregate amount of assistance such family could receive under the supplemental nutrition assistance program and part A of title IV of the Social Se-

curity Act if such family did not participate in the Project; and

(iv) increase the amount of assistance paid to participating families, if the State or locality imposes a sales tax on food, by the amount needed to compensate for the tax. This subparagraph shall not be construed to require the State to make the determination under clause (ii) for families that do not have a set of characteristics identified under clause (i).

(D)(i) The State shall designate standardized amounts of assistance provided as food assistance under the Project and notify monthly each participating family of such designated amount.

(ii) The amount of food assistance so designated shall be at least the value of benefits such family could have received under the supplemental nutrition assistance program if the Project had not been implemented. The provisions of this subparagraph shall not require that the State make individual determinations as to the amount of assistance under the Project designated as food assistance.

(iii) The State shall periodically allow participating families the option to receive such food assistance in the form of benefits.

(E)(i) Individuals ineligible for the Project who are members of a household including a participating family shall have their eligibility for the supplemental nutrition assistance program determined and have their benefits calculated and issued following the standards established under the supplemental nutrition assistance program, except as provided differently in this subparagraph.

(ii) The State agency shall determine such individuals' eligibility for benefits under the supplemental nutrition assistance program and the amount of such benefits without regard to the participating family.

(iii) In computing such individuals' income for purposes of determining eligibility (under section 5(c)(1)) and benefits, the State agency shall apply the maximum excess shelter expense deduction specified under section 5(e).

(iv) Such individuals' monthly allotment shall be the higher of \$10 or 75 percent of the amount calculated following the standards of the supplemental nutrition assistance program and the foregoing requirements of this subparagraph, rounded to the nearest lower whole dollar.

(4) The Project shall include education, employment, and training services equivalent to those offered under the employment and training program described in section 6(d)(4) to families similar to participating families elsewhere in the State.

(5) The State may select families for participation in the Project through submission and approval of an application for participation in the Project or by assigning to the Project families that are determined eligible for or are participating in the program authorized by part A of title IV of the Social Security Act or the supplemental nutrition assistance program.

(6) Whenever selection for participation in the Project is accomplished through submission and approval of an application for the Project—

(A) the State shall promptly determine eligibility for the Project, and issue assistance to eligible families, retroactive to the date of application, not later than thirty days following the family's filing of an application;

(B) in the case of families determined ineligible for the Project upon application, the application for the Project shall be deemed an application for the supplemental nutrition assistance program, and benefits under the supplemental nutrition assistance program shall be issued to those found eligible following the standards established under the supplemental nutrition assistance program;

(C) expedited benefits shall be provided under terms no more restrictive than under paragraph (9) of section 11(e) and the laws of Minnesota and shall include expedited issuance of designated food assistance provided through the Project or expedited benefits through the supplemental nutrition assistance program;

(D) each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to receive financial assistance shall receive and shall be permitted to file an application form on the same day such contact is first made;

(E) provision shall be made for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly individuals, physically or mentally handicapped individuals, and individuals otherwise unable to appear in person solely because of transportation difficulties and similar hardships;

(F) a family may be represented by another person if the other person has clearly been designated as the representative of such family for that purpose and the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

(i) restrict the number of families who may be represented by such person; and

(ii) otherwise establish criteria and verification standards for representation under this subparagraph; and

(G) the State shall provide a method for reviewing applications to participation in the Project submitted by, and distributing assistance under the Project to, families that do not reside in permanent dwellings or who have no fixed mailing address.

(7) Whenever selection for participation in the Project is accomplished by assigning families that are determined eligible for or participating in the program authorized by part A of title IV of the Social Security Act or the supplemental nutrition assistance program—

(A) the State shall provide eligible families assistance under the Project no later than benefits would have been

provided following the standards established under the supplemental nutrition assistance program; and

(B) the State shall ensure that assistance under the Project is provided so that there is no interruption in benefits for families participating in the program under part A of title IV of the Social Security Act or the supplemental nutrition assistance program.

(8) Paragraphs (1)(B) and (8) of section 11(e) shall apply with respect to applicants and participating families in the same manner as such paragraphs apply with respect to applicants and participants in the supplemental nutrition assistance program.

(9) Assistance provided under the Project shall be reduced to reflect the pro rata value of any benefits received under the supplemental nutrition assistance program for the same period.

(10)(A) The State shall provide each family or family member whose participation in the Project ends and each family whose participation is terminated with notice of the existence of the supplemental nutrition assistance program and the person or agency to contact for more information.

(B)(i) Following the standards specified in subparagraph (C), the State shall ensure that benefits under the supplemental nutrition assistance program are provided to participating families in case the Project is terminated or to participating families or family members that are determined ineligible for the Project because of income, resources, or change in household composition, if such families or individuals are determined eligible for the supplemental nutrition assistance program. Food benefits<sup>22-1</sup> shall be issued to eligible families and individuals described in this clause retroactive to the date of termination from the Project; and

(ii) If sections 256.031 through 256.036 of the Minnesota Statutes, 1989 Supplement, or Minnesota Laws 1989, chapter 282, article 5, section 130, are amended to reduce or eliminate benefits provided under those sections or restrict the rights of Project applicants or participating families, the State shall exclude from the Project applicants or participating families or individuals affected by such amendments and follow the standards specified in subparagraph (C), except that the State shall continue to pay from State funds an amount equal to the food assistance portion to such families and individuals until the State determines eligibility or ineligibility for the supplemental nutrition assistance program or the family or individual has failed to supply the needed additional information within ten days. Food benefits<sup>22-1</sup> shall be provided to families and individuals excluded from the Project under this clause who are determined eligible for the supplemental nutrition assistance

<sup>22-1</sup> Sec. 4115(b)(15)(A) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1870) amended this section by striking "food coupons" each place it appears and inserting "benefits". Section 4115(b)(15)(B) amended this section by striking "coupons" each place it appears and inserting "benefits". The term "Food coupons" appears in the section twice. The first amendment could not be executed due to capitalization. The second amendment resulted in the term reading "Food benefits".

program retroactive to the date of the determination of eligibility. The Secretary shall pay to the State the value of the benefits for which such families and individuals would have been eligible in the absence of food assistance payments under this clause from the date of termination from the Project to the date benefits are provided.

(C) Each family whose Project participation is terminated shall be screened for potential eligibility for the supplemental nutrition assistance program and if the screening indicates potential eligibility, the family or family member shall be given a specific request to supply all additional information needed to determine such eligibility and assistance in completing a signed supplemental nutrition assistance program application including provision of any relevant information obtained by the State for purpose of the Project. If the family or family member supplies such additional information within ten days after receiving the request, the State shall, within five days after the State receives such information, determine whether the family or family member is eligible for the supplemental nutrition assistance program. Each family or family member who is determined through the screening or otherwise to be ineligible for the supplemental nutrition assistance program shall be notified of that determination.

(11) Section 11(e)(10) shall apply with respect to applicant and participating families in the same manner as such paragraph applies with respect to applicants and participants in the supplemental nutrition assistance program, except that families shall be given notice of any action for which a hearing is available in a manner consistent with the notice requirements of the regulations implementing sections 402(a)(4) and 482(h) of the Social Security Act.

(12) For each fiscal year, the Secretary shall not be liable for any costs related to carrying out the Project in excess of those that the Secretary would have been liable for had the Project not been implemented, except for costs for evaluating the Project, but shall adjust for the full amount of the federal share of increases or decreases in costs that result from changes in economic, demographic, and other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by this Act or changes in amounts of Federal funds available to States and localities under the supplemental nutrition assistance program.

(13) The State shall carry out the supplemental nutrition assistance program throughout the State while the State carries out the Project.

(14)(A) Except as provided in subparagraph (B), the State will carry out the Project during a five-year period beginning on the date the first family receives assistance under the Project.

(B) The Project may be terminated—

(i) by the State one hundred and eighty days after the State gives notice to the Secretary that it intends to terminate the Project;

(ii) by the Secretary one hundred and eighty days after the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section; or

(iii) whenever the State and the Secretary jointly agree to terminate the Project.

(15) Not more than six thousand families may participate in the Project simultaneously.

(c) ADDITIONAL TERMS AND CONDITIONS OF THE PROJECT.—The Project shall be subject to the following additional terms and conditions:

(1) The State may require any parent in a participating family to participate in education, employment, or training requirements unless the individual is a parent in a family with one parent who—

(A) is ill, incapacitated, or sixty years of age or older;

(B) is needed in the home because of the illness or incapacity of another family member;

(C) is the parent of a child under one year of age and is personally providing care for the child;

(D) is the parent of a child under six years of age and is employed or participating in education or employment and training services for twenty or more hours a week;

(E) works thirty or more hours a week or, if the number of hours worked cannot be verified, earns at least the Federal minimum hourly wage rate multiplied by thirty per week; or

(F) is in the second or third trimester of pregnancy.

(2) The State shall not require any parent of a child under six years of age in a participating family with only one parent to be employed or participate in education or employment and training services for more than twenty hours a week.

(3) For any period during which an individual required to participate in education, employment, or training requirements fails to comply without good cause with a requirement imposed by the State under paragraph (1), the amount of assistance to the family under the Project may be reduced by an amount not more than 10 percent of the assistance the family would be eligible for with no income other than that from the Project.

(d) FUNDING.—

(1) If an application submitted under subsection (a) complies with the requirements specified in subsection (b), then the Secretary shall—

(A) approve such application; and

(B) subject to subsection (b)(12) from the funds appropriated under this Act provide grant awards and pay the State each calendar quarter for—

(i) the cost of food assistance provided under the Project equal to the amount that would have otherwise been issued in the form of benefits under the supplemental nutrition assistance program had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and

(ii) the administrative costs incurred by the State to provide food assistance under the Project that are authorized under subsections (a), (g), (h)(2), and (h)(3) of section 16 equal to the amount that otherwise would have been paid under such subsections had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State: *Provided*, That payments made under subsection (g) of section 16 shall equal payments that would have been made if the Project had not been implemented.

(2) The Secretary shall periodically adjust payments made to the State under paragraph (1) to reflect—

(A) the cost of benefits issued to individuals ineligible for the Project specified in subsection (b)(3)(E) in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and

(B) the cost of benefits issued to families exercising the option specified in subsection (b)(3)(D)(iii) in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State.

(3) Payments under paragraph (1)(B) shall include adjustments, as estimated under a methodology satisfactory to the Secretary after negotiations with the State, for increases or decreases in the costs of providing food assistance and associated administrative costs that result from changes in economic, demographic, or other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by this Act and changes in or additional amounts of Federal funds available to States and localities under the supplemental nutrition assistance program.

(e) WAIVER.—With respect to the Project, the Secretary shall waive compliance with any requirement contained in this Act (other than this section) that, if applied, would prevent the State from carrying out the Project or effectively achieving its purpose.

(f) PROJECT AUDITS.—The Comptroller General of the United States shall—

(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (d); and

(2) submit to the Secretary, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

(g) CONSTRUCTION.—(1) For purposes of any Federal, State, or local law other than part A of title IV of the Social Security Act or this Act—

(A) cash assistance provided under the Project that is designated as food assistance by the State shall be treated in the

same manner as benefits allotments under the supplemental nutrition assistance program are treated; and

(B) participating families shall be treated in the same manner as participants in the supplemental nutrition assistance program are treated.

(2) Nothing in this section shall—

(A) allow payments made to the State under the Project to be less than the amounts the State and eligible households within the State would have received if the Project had not been implemented; or

(B) require the Secretary to incur costs as a result of the Project in excess of costs that would have been incurred if the Project had not been implemented, except for costs for evaluation.

(h) **QUALITY CONTROL.**—Participating families shall be excluded from any sample taken for purposes of making any determination under section 16(c). For purposes of establishing the total value of allotments under section 16(c)(1), benefits and the amount of federal liability for food assistance provided under the Project as limited by subsection (b)(12) of this section shall be treated as allotments issued under the supplemental nutrition assistance program.

(i) **EVALUATION.**—(1) The State shall develop and implement a plan for an independent evaluation designed to provide reliable information on Project impacts and implementation. The evaluation will include treatment and control groups and will include random assignment of families to treatment and control groups in an urban setting. The evaluation plan shall satisfy the evaluation concerns of the Secretary of Agriculture such as effects on benefits to participants, costs of the Project, payment accuracy, administrative consequences, any reduction in welfare dependency, any reduction in total assistance payments, and the consequences of cash payments on household expenditures, and food consumption. The evaluation plan shall take into consideration the evaluation requirements and administrative obligations of the State. The evaluation will measure the effects of the Project in regard to goals of increasing family income, prevention of long-term dependency, movement toward self-support, and simplification of the welfare system.

(2) The State shall pay 50 percent of the cost of developing and implementing such plan and the Federal Government shall pay the remainder.

(j) **DEFINITIONS.**—For purposes of this section, the following definitions apply:

(1) The term “family” means the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver. Family also includes a pregnant woman in the third trimester of pregnancy with no children.

(2) The term “contract” means a plan to help a family pursue self-sufficiency, based on the State’s assessment of the family’s needs and abilities and developed with a parental caregiver.

(3) The term “caregiver” means a minor child’s natural or adoptive parent or parents who live in the home with the

minor child. For purposes of determining eligibility for the Project, “caregiver” also means any of the following individuals who live with and provide care and support to a minor child when the minor child’s natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of “great” or “great-great” or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

(4) The term “State” means the State of Minnesota.

**SEC. 23. [7 U.S.C. 2032] AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEMS.**

(a) **STANDARDS AND PROCEDURES FOR REVIEWS.—**

(1) **INITIAL REVIEWS.—**

(A) **IN GENERAL.—**Not later than 1 year after the date of enactment of this section, the Secretary shall complete a review of regulations and standards (in effect on the date of enactment of this section) for the approval of an automated data processing and information retrieval system maintained by a State (hereinafter in this section referred to as a “system”) to determine the extent to which the regulations and standards contribute to a more effective and efficient program.

(B) **REVISION OF REGULATIONS.—**The Secretary shall revise regulations (in effect on the date of enactment of this Act) to take into account the findings of the review conducted under subparagraph (A).

(C) **INCORPORATION OF EXISTING SYSTEMS.—**The regulations shall require States to incorporate all or part of systems in use elsewhere, unless a State documents that the design and operation of an alternative system would be less costly. The Secretary shall establish standards to define the extent of modification of the systems for which payments will be made under either section 16(a) or 16(g).

(D) **IMPLEMENTATION.—**Proposed systems shall meet standards established by the Secretary for timely implementation of proper changes.

(E) **COST EFFECTIVENESS.—**Criteria for the approval of a system under section 16(g) shall include the cost effectiveness of the proposed system. On implementation of the approved system, a State shall document the actual cost and benefits of the system.

(2) **OPERATIONAL REVIEWS.—**The Secretary shall conduct such reviews as are necessary to ensure that systems—

(A) comply with conditions of initial funding approvals; and

(B) adequately support program delivery in compliance with this Act and regulations issued under this Act.

(b) **STANDARDS FOR APPROVAL OF SYSTEMS.—**

(1) **IN GENERAL.—**After conducting the review required under subsection (a), the Secretary shall establish standards for approval of systems.

(2) IMPLEMENTATION.—A State shall implement the standards established by the Secretary within a reasonable period of time, as determined by the Secretary.

(3) PERIODIC COMPLIANCE REVIEWS.—The Secretary shall conduct appropriate periodic reviews of systems to ensure compliance with the standards established by the Secretary.

(c) REPORT.—Not later than October 1, 1993, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which State agencies have developed and are operating effective systems that support supplemental nutrition assistance program delivery in compliance with this Act and regulations issued under this Act.

**[SEC. 24. [7 U.S.C. 2033] TERRITORY OF AMERICAN SAMOA.]**<sup>24-1</sup>

**SEC. 25. [7 U.S.C. 2034] ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

(a) DEFINITIONS.—In this section:

(1) COMMUNITY FOOD PROJECT.—In this section, the term “community food project” means a community-based project that—

(A) requires a 1-time contribution of Federal assistance to become self-sustaining; and

(B) is designed—

(i)(I) to meet the food needs of low-income individuals;

(II) to increase the self-reliance of communities in providing for the food needs of the communities; and

(III) to promote comprehensive responses to local food, farm, and nutrition issues; or

(ii) to meet specific State, local, or neighborhood food and agricultural needs, including needs relating to—

(I) infrastructure improvement and development;

(II) planning for long-term solutions; or

(III) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

(2) CENTER.—The term “Center” means the healthy urban food enterprise development center established under subsection (h).

(3) UNDERSERVED COMMUNITY.—The term “underserved community” means a community (including an urban or rural community or an Indian tribe) that, as determined by the Secretary, has—

(A) limited access to affordable, healthy foods, including fresh fruits and vegetables;

(B) a high incidence of a diet-related disease (including obesity) as compared to the national average;

(C) a high rate of hunger or food insecurity; or

(D) severe or persistent poverty.

<sup>24-1</sup>Sec. 4124(b) of P.L. 107-171 (116 Stat. 325) repealed sec. 24.

- (b) **AUTHORITY TO PROVIDE ASSISTANCE.**—
- (1) **IN GENERAL.**—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.
- (2) **LIMITATION ON GRANTS.**—The total amount of funds provided as grants under this section may not exceed—
- (A) \$1,000,000 for fiscal year 1996; and
- (B) \$5,000,000 for fiscal year 2008 and each fiscal year thereafter.
- (c) **ELIGIBLE ENTITIES.**—To be eligible for a grant under subsection (b), a private nonprofit entity must—
- (1) have experience in the area of—
- (A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or
- (B) job training and business development activities for food-related activities in low-income communities;
- (2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and
- (3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.
- (d) **PREFERENCE FOR CERTAIN PROJECTS.**—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—
- (1) develop linkages between 2 or more sectors of the food system;
- (2) support the development of entrepreneurial projects;
- (3) develop innovative linkages between the for-profit and nonprofit food sectors; or
- (4) encourage long-term planning activities, and multi-system, interagency approaches with multistakeholder collaborations, that build the long-term capacity of communities to address the food and agricultural problems of the communities, such as food policy councils and food planning associations.
- (e) **MATCHING FUNDS REQUIREMENTS.**—
- (1) **REQUIREMENTS.**—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.
- (2) **CALCULATION.**—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.
- (3) **SOURCES.**—An entity may provide for the non-Federal share through State government, local government, or private sources.
- (f) **TERM OF GRANT.**—
- (1) **SINGLE GRANT.**—A community food project may be supported by only a single grant under subsection (b).

(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

(2) SHARING INFORMATION.—

(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

(h) HEALTHY URBAN FOOD ENTERPRISE DEVELOPMENT CENTER.—

(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term “eligible entity” means—

(A) a nonprofit organization;

(B) a cooperative;

(C) a commercial entity;

(D) an agricultural producer;

(E) an academic institution;

(F) an individual; and

(G) such other entities as the Secretary may designate.

(2) ESTABLISHMENT.—The Secretary shall offer to provide a grant to a nonprofit organization to establish and support a healthy urban food enterprise development center to carry out the purpose described in paragraph (3).

(3) PURPOSE.—The purpose of the Center is to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities.

(4) ACTIVITIES.—

(A) TECHNICAL ASSISTANCE AND INFORMATION.—The Center shall collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing, processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.

(B) AUTHORITY TO SUBGRANT.—The Center may provide subgrants to eligible entities—

(i) to carry out feasibility studies to establish businesses for the purpose described in paragraph (3); and

(ii) to establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.

(5) PRIORITY.—In providing technical assistance and grants under paragraph (4), the Center shall give priority to applications that include projects—

(A) to benefit underserved communities; and

(B) to develop market opportunities for small and mid-sized farm and ranch operations.

(6) REPORT.—For each fiscal year for which the nonprofit organization described in paragraph (2) receives funds, the organization shall submit to the Secretary a report describing the activities carried out in the preceding fiscal year, including—

(A) a description of technical assistance provided by the Center;

(B) the total number and a description of the subgrants provided under paragraph (4)(B);

(C) a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low-income communities; and

(D) a determination of whether the activities identified in subparagraph (C) are sustained during the years following the initial provision of technical assistance and subgrants under this section.

(7) COMPETITIVE AWARD PROCESS.—The Secretary shall use a competitive process to award funds to establish the Center.

(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the total amount allocated for this subsection in a given fiscal year may be used for administrative expenses.

(9) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$1,000,000 for each of fiscal years 2009 through 2011.

(B) ADDITIONAL FUNDING.—There is authorized to be appropriated \$2,000,000 to carry out this subsection for fiscal year 2012.

(i) INNOVATIVE PROGRAMS FOR ADDRESSING COMMON COMMUNITY PROBLEMS.—

(1) IN GENERAL.—The Secretary shall offer to enter into a contract with, or make a grant to, 1 nongovernmental organization that meets the requirements of paragraph (2) to coordinate with Federal agencies, States, political subdivisions, and nongovernmental organizations (collectively referred to in this subsection as “targeted entities”) to gather information, and recommend to the targeted entities, innovative programs for addressing common community problems, including—

(A) loss of farms and ranches;

(B) rural poverty;

(C) welfare dependency;

(D) hunger;

(E) the need for job training; and

(F) the need for self-sufficiency by individuals and communities.

(2) **NONGOVERNMENTAL ORGANIZATION.**—The nongovernmental organization referred to in paragraph (1) shall—

(A) be selected by the Secretary on a competitive basis;

(B) be experienced in working with other targeted entities and in organizing workshops that demonstrate programs to other targeted entities;

(C) be experienced in identifying programs that effectively address community problems described in paragraph (1) that can be implemented by other targeted entities;

(D) be experienced in, and capable of, receiving information from and communicating with other targeted entities throughout the United States;

(E) be experienced in operating a national information clearinghouse that addresses 1 or more of the community problems described in paragraph (1); and

(F) as a condition of entering into the contract or receiving the grant referred to in paragraph (1), agree—

(i) to contribute in-kind resources toward implementation of the contract or grant;

(ii) to provide to other targeted entities information and guidance on the innovative programs referred to in paragraph (1); and

(iii) to operate a national information clearinghouse on innovative means for addressing community problems described in paragraph (1) that—

(I) is easily usable by—

(aa) Federal, State, and local government agencies;

(bb) local community leaders;

(cc) nongovernmental organizations; and

(dd) the public; and

(II) includes information on approved community food projects.

(3) **AUDITS; EFFECTIVE USE OF FUNDS.**—The Secretary shall establish auditing procedures and otherwise ensure the effective use of funds made available to carry out this subsection.

(4) **FUNDING.**—Not later than 90 days after the date of enactment of this paragraph, and on October 1 of each fiscal year thereafter, the Secretary shall allocate to carry out this subsection \$200,000 of the funds made available under subsection (b), to remain available until expended.

**SEC. 26. [7 U.S.C. 2035] SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.**

(a) **DEFINITION OF FEDERAL COSTS.**—In this section, the term “Federal costs” does not include any Federal costs incurred under section 17.

(b) **ELECTION.**—Subject to subsection (d), a State may elect to carry out a simplified supplemental nutrition assistance program<sup>26-1</sup> (referred to in this section as a “Program”), statewide or

<sup>26-1</sup>Sec. 4002(a)(12)(B) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1857) amended this subsection by striking “simplified food stamp program” and inserting

in a political subdivision of the State, in accordance with this section.

(c) OPERATION OF PROGRAM.—If a State elects to carry out a Program, within the State or a political subdivision of the State—

(1) a household in which no members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may not participate in the Program;

(2) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program;

(3) if approved by the Secretary, a household in which 1 or more members but not all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be eligible to participate in the Program; and

(4) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) the supplemental nutrition assistance program; or

(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the supplemental nutrition assistance program.

(d) APPROVAL OF PROGRAM.—

(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

(A) complies with this section; and

(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

(e) INCREASED FEDERAL COSTS.—

(1) DETERMINATION.—

(A) IN GENERAL.—The Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act.

(B) NO EXCLUDED HOUSEHOLDS.—In making a determination under subparagraph (A), the Secretary shall not require the State agency to collect or report any information on households not included in the Program.

(C) ALTERNATIVE ACCOUNTING PERIODS.—The Secretary may approve the request of a State agency to apply alternative accounting periods to determine if Federal costs do not exceed the Federal costs had the State agency not elected to carry out the Program.

“simplified supplemental nutrition assistance program”. Prior text read “Simplified Food Stamp Program”. Amendment executed to reflect probable intent of Congress.

(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

(3) ENFORCEMENT.—

(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

(B) TERMINATION.—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

(f) RULES AND PROCEDURES.—

(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the supplemental nutrition assistance program.

(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

(A) subsections (a) through (f) of section 7;

(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

(C) subsection <sup>26-1</sup>(b) and (d) of section 8;

(D) subsections (a), (c), (d), and (n) of section 11;

(E) paragraphs (8), (12), (15), (17), (18), (22), and (23) of section 11(e);

(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(G) section 16.

(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above

<sup>26-1</sup> So in original. Probably should be “subsections”.

130 percent of the poverty guidelines is not eligible for the program.

**SEC. 27. [7 U.S.C. 2036] AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.**

(a) PURCHASE OF COMMODITIES.—

(1) IN GENERAL.—From amounts made available to carry out this Act, for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2) of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note).<sup>27-1</sup>

(2) AMOUNTS.—The Secretary shall use to carry out paragraph (1)—

(A) for fiscal year 2008, \$190,000,000;

(B) for fiscal year 2009, \$250,000,000; and

(C) for each of fiscal years 2010 through 2012, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30, 2008, and June 30 of the immediately preceding fiscal year.

(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) preferences and needs of States and distributing agencies; and

(3) preferences of recipients.

**SEC. 28. [7 U.S.C. 2036a] NUTRITION EDUCATION AND OBESITY PREVENTION GRANT PROGRAM.**

(a) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term “eligible individual” means an individual who is eligible to receive benefits under a nutrition education and obesity prevention program under this section as a result of being—

(1) an individual eligible for benefits under—

(A) this Act;

(B) sections 9(b)(1)(A) and 17(c)(4) of the Richard B Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A), 1766(c)(4)); or

(C) section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A));

(2) an individual who resides in a community with a significant low-income population, as determined by the Secretary; or

(3) such other low-income individual as is determined to be eligible by the Secretary.

<sup>27-1</sup> So in original. Probably should be “(7 U.S.C. 7515)”, as a result of reclassification.

(b) PROGRAMS.—Consistent with the terms and conditions of grants awarded under this section, State agencies may implement a nutrition education and obesity prevention program for eligible individuals that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

(c) DELIVERY OF NUTRITION EDUCATION AND OBESITY PREVENTION SERVICES.—

(1) IN GENERAL.—State agencies may deliver nutrition education and obesity prevention services under a program described in subsection (b)—

(A) directly to eligible individuals; or

(B) through agreements with other State or local agencies or community organizations.

(2) NUTRITION EDUCATION STATE PLANS.—

(A) IN GENERAL.—A State agency that elects to provide nutrition education and obesity prevention services under this subsection shall submit to the Secretary for approval a nutrition education State plan.

(B) REQUIREMENTS.—Except as provided in subparagraph (C), a nutrition education State plan shall—

(i) identify the uses of the funding for local projects;

(ii) ensure that the interventions are appropriate for eligible individuals who are members of low-income populations by recognizing the constrained resources, and the potential eligibility for Federal food assistance programs, of members of those populations; and

(iii) conform to standards established by the Secretary through regulations, guidance, or grant award documents.

(C) TRANSITION PERIOD.—During each of fiscal years 2011 and 2012, a nutrition education State plan under this section shall be consistent with the requirements of section 11(f) (as that section, other than paragraph (3)(C), existed on the day before the date of enactment of this section).

(3) USE OF FUNDS.—

(A) IN GENERAL.—A State agency may use funds provided under this section for any evidence-based allowable use of funds identified by the Administrator of the Food and Nutrition Service of the Department of Agriculture in consultation with the Director of the Centers for Disease Control and Prevention of the Department of Health and Human Services, including—

(i) individual and group-based nutrition education, health promotion, and intervention strategies;

(ii) comprehensive, multilevel interventions at multiple complementary organizational and institutional levels; and

(iii) community and public health approaches to improve nutrition.

(B) CONSULTATION.—In identifying allowable uses of funds under subparagraph (A) and in seeking to strength-

en delivery, oversight, and evaluation of nutrition education, the Administrator of the Food and Nutrition Service shall consult with the Director of the Centers for Disease Control and Prevention and outside stakeholders and experts, including—

- (i) representatives of the academic and research communities;
- (ii) nutrition education practitioners;
- (iii) representatives of State and local governments; and
- (iv) community organizations that serve low-income populations.

(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible individuals under this Act of the availability of nutrition education and obesity prevention services under this section in local communities.

(5) COORDINATION.—Subject to the approval of the Secretary, projects carried out with funds received under this section may be coordinated with other health promotion or nutrition improvement strategies, whether public or privately funded, if the projects carried out with funds received under this section remain under the administrative control of the State agency.

(d) FUNDING.—

(1) IN GENERAL.—Of funds made available each fiscal year under section 18(a)(1), the Secretary shall reserve for allocation to State agencies to carry out the nutrition education and obesity prevention grant program under this section, to remain available for obligation for a period of 2 fiscal years—

(A) for fiscal year 2011, \$375,000,000; and

(B) for fiscal year 2012 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(2) ALLOCATION.—

(A) INITIAL ALLOCATION.—Of the funds set aside under paragraph (1), as determined by the Secretary—

(i) for each of fiscal years 2011 through 2013, 100 percent shall be allocated to State agencies in direct proportion to the amount of funding that the State received for carrying out section 11(f) (as that section existed on the day before the date of enactment of this section) during fiscal year 2009, as reported to the Secretary as of February 2010; and

(ii) subject to a reallocation under subparagraph

(B)—

(I) for fiscal year 2014—

(aa) 90 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 10 percent shall be allocated to State agencies based on the respective share of each

State of the number of individuals participating in the supplemental nutrition assistance program during the 12-month period ending the preceding January 31;

(II) for fiscal year 2015—

(aa) 80 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 20 percent shall be allocated in accordance with subclause (I)(bb);

(III) for fiscal year 2016—

(aa) 70 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 30 percent shall be allocated in accordance with subclause (I)(bb);

(IV) for fiscal year 2017—

(aa) 60 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 40 percent shall be allocated in accordance with subclause (I)(bb); and

(V) for fiscal year 2018 and each fiscal year thereafter—

(aa) 50 percent shall be allocated to State agencies in accordance with clause (i); and

(bb) 50 percent shall be allocated in accordance with subclause (I)(bb).

(B) REALLOCATION.—

(i) IN GENERAL.—If the Secretary determines that a State agency will not expend all of the funds allocated to the State agency for a fiscal year under paragraph (1) or in the case of a State agency that elects not to receive the entire amount of funds allocated to the State agency for a fiscal year, the Secretary shall reallocate the unexpended funds to other States during the fiscal year or the subsequent fiscal year (as determined by the Secretary) that have approved State plans under which the State agencies may expend the reallocated funds.

(ii) EFFECT OF ADDITIONAL FUNDS.—

(I) FUNDS RECEIVED.—Any reallocated funds received by a State agency under clause (i) for a fiscal year shall be considered to be part of the fiscal year 2009 base allocation of funds to the State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

(II) FUNDS SURRENDERED.—Any funds surrendered by a State agency under clause (i) shall not be considered to be part of the fiscal year 2009 base allocation of funds to a State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

(3) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

(A) **IN GENERAL.**—Grants awarded under this section shall be the only source of Federal financial participation under this Act in nutrition education and obesity prevention.

(B) **EXCLUSION.**—Any costs of nutrition education and obesity prevention in excess of the grants authorized under this section shall not be eligible for reimbursement under section 16(a).

(e) **IMPLEMENTATION.**—Not later than January 1, 2012, the Secretary shall publish in the Federal Register a description of the requirements for the receipt of a grant under this section.