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FOOD AND NUTRITION ACT OF 2008

Sec. 28

(E) for fiscal year 2019 and each subsequent fiscal year, the total dollar amount of commodities specified in subparagraph (D)(iv) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) to reflect changes between June 30, 2017, and June 30 of the immediately preceding fiscal year.

(3) FUNDS AVAILABILITY.—For purposes of the funds described in this subsection, the Secretary shall—

(A) make the funds available for 2 fiscal years; and

(B) allow States to carry over unexpended balances to the next fiscal year pursuant to such terms and conditions as are determined by the Secretary.

(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.

(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 and physical activity 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 strengthen 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 edu-

cation 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;

(B) for fiscal year 2012, \$388,000,000;

(C) for fiscal year 2013, \$285,000,000;

(D) for fiscal year 2014, \$401,000,000;

(E) for fiscal year 2015, \$407,000,000; and

(F) for fiscal year 2016 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.