

Appendix B: Legal Authority: Section 5(e)(6) of the Food and Nutrition Act of 2008

(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, subject to clause (iv), 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 supplemental 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 and cooling costs, the standard utility allowance shall be made available to households that received a payment, or on behalf of which a payment was 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 in the current month or in the immediately preceding 12 months, the household either received such a payment, or such a payment was made on behalf of the household, that was greater than \$20 annually, as determined by the Secretary.

(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.—The State agency shall allow a deduction of \$143 a month for households—

(I) in which all members are homeless individuals;

(II) that are not receiving free shelter throughout the month; and

(III) that do not opt to claim an excess shelter expense deduction under subparagraph (A).

(ii) ADJUSTMENT.—For fiscal year 2019 and each subsequent fiscal year the amount of the homeless shelter deduction specified in clause (i) shall be 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.

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