

In the Supreme Court of the United States

BROOKE ROLLINS, SECRETARY OF AGRICULTURE, ET AL., APPLICANTS

v.

RHODE ISLAND STATE COUNCIL OF CHURCHES, ET AL.

**APPLICATION TO STAY THE ORDERS
ISSUED BY THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND
AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY BY 9:30PM**

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TABLE OF CONTENTS

Statement.....	4
Argument	9
Conclusion.....	22

PARTIES TO THE PROCEEDING

Applicants (defendants-appellants) are Brooke Rollins, Secretary of the United States Department of Agriculture; the United States Department of Agriculture; Russell Vought, Director of the United States Office of Management and Budget; Scott Bessent, Secretary of the United States Department of the Treasury; the United States Department of the Treasury; and the United States of America.

Respondents (plaintiffs-appellees) are Rhode Island Council of Churches; National Council of Nonprofits; Service Employees International Union; Main Street Alliance; City of Central Falls; City of Pawtucket; City of Providence; City of Albuquerque; City of Baltimore; City of Columbus; City of Durham; City of New Haven; Amos House; Dr. Martin Luther King, Jr. Community Center; East Bay Community Action Program; Federal Hill House Association; The Milagros Project; United Way of Rhode Island; New York Legal Assistance Group; and Black Sheep Market.

RELATED PROCEEDINGS

United States District Court (D.R.I.):

Rhode Island State Council of Churches, et al. v. Rollins et al., No. 1:25-cv-569 (Oct. 31, 2025) (granting first motion for temporary restraining order)

Rhode Island State Council of Churches, et al. v. Rollins et al., No. 1:25-cv-569 (Nov. 6, 2025) (granting second motion for temporary restraining order)

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No. 25A_____

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Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Solicitor General, on behalf of Brooke Rollins, Secretary of Agriculture, et al., respectfully files this application to stay the orders issued by the United States District Court for the District of Rhode Island (App., *infra*, 1a-34a), pending the disposition of the government's appeal to the United States Court of Appeals for the First Circuit and, if the court of appeals affirms those orders, pending the timely filing and disposition of a petition for a writ of certiorari in this Court. Given the imminent, irreparable harms posed by these orders, which require the government to transfer an estimated \$4 billion by tonight, the Solicitor General respectfully requests an immediate administrative stay of the orders pending the resolution of this application by no later than 9:30pm this evening.

Congress has failed to appropriate funds to pay for Supplemental Nutritional Assistance Program (SNAP) benefits for this fiscal year. The Executive Branch has

since exhausted the entirety of its SNAP contingency reserve, which amounted to over \$5 billion. But that will be only enough to cover partial payments for the month of November. Such a funding lapse is a crisis. But it is a crisis occasioned by congressional failure and one that can only be solved through congressional action.

Instead, a single district judge has imposed a different solution: after 5 p.m. last night, he ordered the Department of Agriculture (USDA) to cover the SNAP shortfall by transferring billions of dollars that were appropriated for different, critical food-security programs—such as the National School Lunch Program—within a single business day (*i.e.*, by tonight). That unprecedented injunction makes a mockery of the separation of powers. The core power of Congress is that of the purse, while the Executive is tasked with allocating limited resources across competing priorities. But here, the court below took the current shutdown as effective license to declare a federal bankruptcy and appoint itself the trustee, charged with picking winners and losers among those seeking some part of the limited pool of remaining federal funds.

The district court's ruling is untenable at every turn. The court demanded that USDA find some, any, way to fund SNAP, treating the program essentially as a mandatory entitlement. But the SNAP statute is explicit that SNAP benefits are subject to available appropriations, and it states plainly that SNAP payments shall not exceed the funds appropriated for the program. Indeed, the statute and governing regulations specifically contemplate that, in the event of a shortfall in funding, USDA will direct States to reduce their benefits—which is exactly what USDA did this week.

The district court focused on the fact that Congress gave USDA certain power to reallocate a portion of its appropriations across different programs. But from that premise, the court held that it was arbitrary and capricious under the Administrative Procedure Act (APA) for USDA to refuse to use this authority to drain *\$4 billion* from *Child Nutrition Programs* to fully (rather than partially) fund November SNAP payments. That is as wrong as it sounds. As USDA explained, pulling billions of dollars from the Child Nutrition Programs would jeopardize those programs' ability to fully operate this year—putting at risk critical food-assistance initiatives relied upon by millions of children every day, and raiding a program that Congress *did* fund to instead extend one that Congress has *not* funded. The district court discounted this concern by speculating that Congress would surely *later* appropriate money to pay back any multi-billion-dollar transfer from Child Nutrition Programs. But it obviously was not unlawful for the agency to see things differently—and refuse to starve Peter to feed Paul, by gambling school lunches tomorrow in exchange for more SNAP money today. Indeed, that sort of hard tradeoff is precisely the sort of decision that Congress committed to agency discretion and placed beyond the reach of judges.

If allowed to stand, this decision will metastasize and sow further shutdown chaos. Every beneficiary of a federal program could run into court, point to an agency's general discretion to prioritize funding, and claim that failing to prioritize their chosen program was arbitrary and capricious. Courts would issue unworkable and potentially conflicting injunctions, as different judges order different allocations of limited pools of money. District courts' seizure of the power to allocate federal

agency funds as they see fit would also invite a run on the bank by way of judicial fiat during this shutdown, as litigants race to courthouse to obtain their guarantee of federal funds before it is too late. Indeed, that is already happening in this very case, which explains why, at a minimum, an immediate administrative stay is urgently needed. Just hours after the decision below and its new TRO, before the government could even seek appellate relief or begin complying with the new TRO, some States preemptively requested 100% of SNAP benefits from processors—trying to seize what they could of the agency’s finite set of remaining funds, before any appeal could even be filed, and to the detriment of other States’ allotments. See p.9, *infra*. All of this also usurps Congress’s role in bringing about an end to the shutdown and risks upending the political branches’ progress.

This Court’s intervention is urgently needed. To comply with yesterday’s abrupt TRO, the government must transfer billions of dollars to SNAP and send that money to the States by tonight. Once those billions are out the door, there is no ready mechanism for the government to recover those funds—to the significant detriment of those other critical social programs whose budgets the district court ordered the government to raid. In the immediate term, an administrative stay is warranted so this Court can review this application, before it is too late to fix the errors below.

STATEMENT

A. Legal Background

1. The Supplemental Nutritional Assistance Program (SNAP) is a federal nutrition assistance program administered by USDA at the federal level and implemented by state agencies at the local level. See 7 U.S.C. 2020. Under the Food and

Nutrition Act (FNA), SNAP benefits “shall be furnished to all eligible households” that apply, 7 U.S.C. 2014(a)—but, crucially, “[s]ubject to the availability” of appropriations by Congress, 7 U.S.C. 2013(a). Eligible households receive their SNAP benefits on electronic benefit transfer (EBT) cards, 7 U.S.C. 2020, which may be used to purchase food from authorized retailers, 7 U.S.C. 2013(a). States are responsible for determining household eligibility and benefit amount and for loading benefits to EBT cards. 7 U.S.C. 2020. States receive partial reimbursements for the costs of operating their SNAP programs, while the Federal Government pays for the entire cost of the benefits. 7 U.S.C. 2025(a); 7 C.F.R. § 277.4(b). The process by which money moves from the Federal Government, to the States, to beneficiaries, to the processors, and last to the retailers is complex. App., *infra*, 35a-37a, 39a-41a.

2. Congress appropriates federal funds for SNAP during the annual appropriations process. See 7 U.S.C. 2013(a). Although Congress fully funded the program through the end of the 2025 Fiscal Year, it has not provided an appropriation to specifically fund the SNAP account for the 2026 Fiscal Year. Congress has provided, however, emergency reserves for SNAP funding through a multi-year fund. See Pub. L. No. 118-42, § 6, 138 Stat. 25, 93-94 (2024); Pub. L. No. 119-4, § 1101(a), 139 Stat. 9, 10 (2025). These funds are to “be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations.” *Ibid*. Prior to this litigation, the long-term emergency fund stood at \$5.25 billion and had traditionally been used to combat disasters through programs like D-SNAP. App., *infra*, 37a-38a. SNAP benefits amount to nearly \$9 billion per month. *Id.* at 43a. Consequently, even if depleted, the reserves could not fully fund November SNAP

benefits.

The statute authorizing SNAP addresses potential shortfalls in appropriations. Among other things, Congress directed that “[i]n 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*.” 7 U.S.C. 2027(b) (emphasis added). In the event of a shortfall of appropriated funds, the Secretary may issue a reduction, and “[n]otwithstanding any other provision of this chapter,” Congress specified that “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.” *Id.* USDA regulations dictate how the reduction of benefits should be calculated and conveyed to the States. 7 C.F.R. § 271.7(a)-(h).

B. Factual Background

1. At the end of September, the FY2025 appropriation for SNAP lapsed as part of the ongoing government shutdown. As the shutdown continued and the lapse in appropriations remained, USDA informed States that SNAP benefits may be at risk. On October 10, USDA explained that “if the current lapse in appropriations continues, there will be insufficient funds to pay full November SNAP benefits for approximately 42 million individuals across the Nation.” U.S. Dep’t of Agric., *Supplemental Nutrition Assistance Program (SNAP) Benefit and Administrative Expense Update for November 2025* (Oct. 10, 2025). That remains true today.

On October 24, USDA formally “suspend[ed] all November 2025 benefit allotments until such time as sufficient federal funding is provided, or until FNS [USDA’s Food and Nutrition Service] directs State agencies otherwise.” D. Ct. Doc. 1, at 19 (Oct. 30, 2025). On October 30, 2025, plaintiffs, a coalition of municipalities and non-

profit organizations, filed suit. As relevant, plaintiffs brought claims under the APA challenging the suspension of November benefits. They sought to “hold unlawful and set aside” the “suspension of November SNAP benefits” as contrary to law or arbitrary and capricious. *Id.* at 31-33. They asked the court to compel the agency to fund the allotments by depleting the SNAP contingency funds and by drawing on any other available sources for federal funds.

2. On October 31, 2025, the district court issued an oral ruling granting a temporary restraining order that instructed the agency to “distribute contingency funds” for SNAP. D. Ct. Minute Entry (Oct. 31, 2025). The next day the district court issued a written order, explaining that the government must use whatever was available in its contingency fund to pay for benefits. App., *infra*, 4a. But the court recognized those funds would not be enough to cover full payments for the month. So the court put the government to the choice of (1) diverting funds from other sources to make full payments; or (2) making prompt partial payments from the contingency fund. *Id.* at 4a-6a. The court added that “[i]f the Government chooses to make the full payment, then it must do so by the end of the day [November 3],” and “[i]f the Government does [not] want to use its discretion to use funds available to make a full payment of SNAP benefits for November, then it must expeditiously resolve the administrative and clerical burdens it described in its papers” and make partial payments by November 5. *Id.* at 5a-6a. Defendants have appealed that TRO and yesterday’s just-issued one.

On November 3, Defendants filed a status report and declaration laying out that USDA had complied with the order by authorizing full use of the SNAP contingency funds to pay partial benefits for November. D. Ct. Doc. 21 (Nov. 3, 2025); App., *infra*, 45a-52a. USDA implemented this option by issuing a memorandum to States

and providing the tables required to calculate the reduced benefits available for each eligible household. D. Ct. Doc. 24, at 2 (Nov. 4, 2025). That action completed USDA's direct, immediate steps necessary to deplete the SNAP contingency fund. 7 C.F.R. 271.7(d)(1). USDA also explained, in its declaration, why it had declined to transfer billions of dollars from other food security programs, citing, among many other reasons, the financial hazards to those programs that would follow. App., *infra*, at 49a.

3. Nonetheless, after 5 p.m. on November 6 (yesterday), the district court directed USDA to pay the full November allotment by November 7 (today). The court declared the administrative delays inherent to partial payments were intolerable. App., *infra*, 25a-26a. So the court concluded that USDA must go with its first offered option—full payments—and must cover the SNAP shortfall by transferring funds appropriated by Section 32 of the Agricultural Adjustment Act Amendment of 1935, 7 U.S.C. § 612c *et seq.*, which establishes a permanent appropriation that stems from 30% of customs receipts on all imports from the prior calendar year. See *id.*; Cong. Rsch. Serv., IF12193, Farm and Food Support Under USDA's Section 32 Account (last updated Aug. 5, 2025). The vast majority of Section 32 funding is designated for Child Nutrition Programs.

USDA has general discretionary authority to transfer up to “7 per centum of the amounts appropriated for any fiscal year” under 7 U.S.C. § 2257. The court reasoned that it was arbitrary and capricious for USDA to decline to transfer billions of dollars from the Child Nutrition Programs to SNAP based on that transfer authority. App. *infra*, 30a-33a. USDA had explained that such a transfer would leave the Child Nutrition Programs at an untenable deficit, but the court insisted that USDA must solve the short-term crisis and leave the long-term worries for another day. The court ordered full payment of the funds by today, Friday, November 7.

4. Hours after the district court issued its temporary restraining order last night, and before the government could even seek appellate relief, Wisconsin—one of the plaintiff States—immediately updated their issuance file to demand 100% of SNAP benefits. The USDA system rejected the file because the government had not yet had an opportunity to comply with the just-issued TRO. But the processor moved forward, resulting in Wisconsin currently overdrawing its letter of credit by \$20 million. Press Release, *Gov. Evers Announces Evers Administration Immediately Moves to Ensure Nearly 700,000 Wisconsinites Receive November FoodShare Payments in Full*, <https://content.govdelivery.com/accounts/WIGOV/bulletins/3fa64f4> (Nov. 6, 2025). Kansas “issued full November benefits” today this same way. SNAP Benefits, <https://www.dcf.ks.gov/Agency/Pages/2025-Federal-Government-Shutdown.aspx> (last visited Nov. 7, 2025). And at least some California recipients have received full November benefits. *Californians Are Beginning to See Cash on Their SNAP cards*, <https://www.gov.ca.gov/2025/11/06/californians-are-beginning-to-see-cash-on-their-snap-cards-following-major-win-against-the-trump-administration/> (last visited Nov. 7, 2025). That run on the funds prevents States that have not yet requested their 65% allotments under the prior TRO to receive them.

5. The government filed an emergency stay motion as soon as it was possible to file in the U.S. Court of Appeals for the First Circuit, which was this morning, and requested a ruling by 4 p.m. The First Circuit requested a response due by noon, but as of now, has not yet ruled on the government’s motion. In light of the extraordinary circumstances presented, and to allow this Court time to consider the issues this application raises before the order’s compliance deadline of today elapses, the government is filing this application now. See Sup. Ct. R. 23.3.

ARGUMENT

To obtain a stay pending appellate proceedings, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining certiorari, and a likelihood of irreparable harm. See *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam). In “close cases,” “the Court will balance the equities and weigh the relative harms.” *Ibid.* Those factors overwhelmingly support a stay in this matter.

I. THE GOVERNMENT IS LIKELY TO SUCCEED ON THE MERITS

1. a. The district courts’ orders are plainly appealable. See 28 U.S.C. 1292(a); see also 28 U.S.C. 1252(1). Similar to prior orders reviewed by this Court, the orders below carry all of the “hallmarks of a preliminary injunction.” *Department of Education v. California*, 604 U.S. 650, 651 (2025). Far from maintaining the status quo, the district court commanded the government to transfer billions of dollars from one federal program to another and then immediately expend them, all in an effort to change the consequences of the current shutdown gripping the government. Once those funds are disbursed to the States and spent, the government has no available means for getting them back. By every measure, that has the “practical effect” of an injunction, conferring “appellate jurisdiction.” *Abbott v. Perez*, 585 U.S. 579, 594 (2018). That is especially true here, where “an adversary proceeding has been held, and the court’s basis for issuing the order [is] strongly challenged.” *Sampson v. Murray*, 415 U.S. 61, 87 (1974).

Put simply, the district courts’ orders are not short-term emergency measures keeping existing affairs in place. They are a single judge’s attempt to commandeer billions of dollars in federal funds to address the consequences of the government shutdown as he sees fit, and to do so in a way that would force the transfer and expenditure of billions of dollars that would otherwise go towards other worthy ends,

on a timetable guaranteed thwart meaningful appellate review. Such judicial edicts are appealable. *E.g., California*, 604 U.S. at 651.

b. Below, respondents suggested that the government could not challenge the district court’s second order, because the government decided to pick one of the two “options” laid out in the district court’s first order. C.A. Doc. 13, at 11-12, 16-17 (Nov. 7, 2025). That makes no sense. To start, the government appealed both orders; the government’s compliance with the first one in the meantime reflects good faith, not grounds for some perverse inference of waiver. Moreover, in selecting one of the options—partial payments—the government surely did not lose the ability to challenge the district court’s subsequent decision to command the *other* option—based on the district court’s proclamation that it would not tolerate the inevitable, eminently foreseeable bureaucratic hurdles that came with (its own proposed solution of) partial payments. See App., *infra*, 25a-26a. The government has every right to object to the district court’s moving of the goalposts by suddenly demanding that USDA fully fund November SNAP payments by shifting critical, limited funds from the Child Nutrition Programs.

2. To comply with the district court’s original injunction, the government depleted the multi-year contingency fund available for SNAP so that SNAP recipients could receive at least partial payments for the month of November. See App., *infra*, 46a. But the government declined to transfer billions of dollars from other food-security programs—namely, the Child Nutrition Programs—because that would result in an untenable budget “shortfall” in those programs, and create an “unacceptable risk” the government would be unable fund those programs for the duration of the fiscal year. *Id.* at 50a. That sort of tradeoff is the precise sort of discretionary decision that is committed to the Executive Branch, and not judicially reviewable at all under the

APA. But in all events, the government’s decision not to handicap one program to backstop another was eminently reasonable, not arbitrary and capricious.

a. The government’s budgetary decision here is a classic example of an agency action “committed to agency discretion by law,” for which the APA does not provide an avenue for review. 5 U.S.C. 701(a)(2). This Court has made clear that an agency’s determination of how to allot appropriated funds among competing priorities is a classic discretionary decision beyond the ambit of arbitrary-and-capricious review. *E.g., Lincoln v. Vigil*, 508 U.S. 182, 193 (1993). That describes this case exactly.

Federal law gives USDA the power to help alleviate a budget shortfall in the SNAP program, but does not compel the agency to do so—let alone compel it to raid unrelated programs to bridge any gap. Congress directed that SNAP “shall be furnished to all eligible households,” 7 U.S.C. 2014(a), but expressly provided that the Secretary of Agriculture “shall limit those allotments issued to an amount not in excess of the appropriation for such fiscal year,” 7 U.S.C. 2027(b).

Moreover, the SNAP statute expressly contemplates what should happen when ordinary allotments might exceed any annual appropriation. In that event, Congress did not instruct USDA to recklessly pull from all other conceivable sources of funding, regardless of the consequences. To the contrary, it stated 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.” 7 U.S.C. 2027(b). Accordingly, under the SNAP statute, the default rule for when there is a shortfall in SNAP funding is that the Secretary must order a reduction in SNAP benefits. See 7 C.F.R. 271.7 (agency regulations describing how any reduction in SNAP benefits should be calculated and conveyed).

That said, as noted above, Congress has also provided for a multi-year emergency fund reserved for SNAP funding. See p.5, *supra*. USDA may use that contingency fund to help address unexpected emergencies—including a lapse in funding like the one caused by the current shutdown. But shutdowns are far from the only emergencies that fall within the scope of the contingency fund; traditionally, for instance, it has been used to respond to disasters through programs like D-SNAP. See App., *infra*, 37a-38a. Thus, given these competing and uncertain exigencies, Congress afforded the government wide discretion in whether and how to exhaust this contingency fund and chose to broadly task USDA with spending contingency funds as it deemed “necessary to carry out program operations.” Pub. L. No. 118-42, § 6, 138 Stat. 25, 93-94 (2024); see Pub. L. No. 119-4, § 1101(a), 139 Stat. 9, 10 (2025).

Nothing about this careful scheme reflects any statutory obligation on the part of USDA to redirect funds in order to cover shortfalls in SNAP funding. And nothing in Section 2257—the provision that the district court exclusively relied upon, App., *infra*, 29a-30a—does either. That provision generally authorizes USDA to transfer a portion of one appropriation (typically no more than seven percent) and use it for another. But while Congress made such funds “available,” 7 U.S.C. 2257, nowhere did it make such transfers *mandatory* under any circumstances. Indeed, it is unclear whether Section 2257’s general grant is available at all in the context of SNAP, given that program’s specific limitation that all allotments shall “not [be] in excess of the appropriation for [that] fiscal year.” 7 U.S.C. 2027(b). Even if USDA has the power to pull funds from another program to support SNAP benefits in the absence of a particular appropriation, that is a thoroughly *discretionary* authority under law.

Under this Court’s precedents, how USDA allocates funding within such a discretionary system is unreviewable by way of the APA. In *Lincoln*, this Court ex-

plained that the “allocation of funds from a lump-sum appropriation” is an “administrative decision traditionally regarded as committed to agency discretion,” because the “very point of a lump-sum appropriation is to give the agency the capacity to adapt to changing circumstances and meet its statutory responsibilities in what it sees as the most effective or desirable way.” 508 U.S. at 192. Thus, the Court there held, the Indian Health Service’s decision to discontinue a program it had previously funded and to instead reallocate those funds to other programs was committed to agency discretion by law and unreviewable under the APA. See *id.* at 185-188, 193. The Court explained: “[A]n agency’s allocation of funds from a lump-sum appropriation requires ‘a complicated balancing of a number of factors which are peculiarly within its expertise’: whether its ‘resources are best spent’ on one program or another; whether it ‘is likely to succeed’ in fulfilling its statutory mandate; whether a particular program ‘best fits the agency’s overall policies’; and, ‘indeed, whether the agency has enough resources’ to fund a program ‘at all.’” *Id.* at 193 (quoting *Heckler v. Chaney*, 470 U.S. 821, 831 (1985)). “Of course,” such discretion is not unbounded, because “an agency is not free simply to disregard statutory responsibilities: Congress may always circumscribe agency discretion to allocate resources by putting restrictions in the operative statutes.” *Ibid.* Thus, as long as the agency abides by the relevant statutes, the APA “gives the courts no leave to intrude” through any form of arbitrary-and-capricious review. *Ibid.*; see, e.g., *Milk Train, Inc. v. Veneman*, 310 F.3d 747, 751-752 (D.C. Cir. 2002).

The agency decision here—whether to deplete one program to try and shore up another—ticks every box discussed in *Lincoln*. See App., *infra*, at 39a-43a, 47a-51a (agency declarations discussing policy challenges and tradeoffs). In deciding whether to deplete Child Nutrition funds to finance a shortfall in SNAP funds, USDA must

engage in a complex balancing of competing factors; consider the best use of resources for “one program or another”; understand how best to execute the agency’s “statutory mandate”; and determine “whether the agency has enough resources to fund a program at all.” *Lincoln*, 508 U.S. at 193. Simply put, if depleting one program to bolster one without sufficient resources is *not* committed to agency discretion under *Lincoln*, it is impossible to see how any funding decision would be.

The district court’s contrary drive-by analysis is untenable. The court first observed that the parties disputed “how certain statutory provisions authorize USDA to expend Section 32 funds,” and thereby involved a “question[] of law” that must be resolved by the courts. App., *infra*, 23a (quotation omitted). That is a nonsequitur: Whether USDA has the statutory authority to move funds around is fundamentally distinct from whether the agency is *required* to do so. And so long as that authority is discretionary, it is not subject to judicial review. *Lincoln*, 508 U.S. at 185-188, 193. The district court’s only other point was that courts generally have the power to assess agency actions under arbitrary-and-capricious review. App., *infra*, 23a. But that is so *except* for actions committed to the agency’s discretion—that is the point of 5 U.S.C. 701(a)(2).

For their part, respondents below tried to sweep *Lincoln* aside by characterizing the decision there as discretionary but contending that SNAP’s status as an entitlement changes the calculus. That is incorrect. SNAP is, of course, an entitlement—but it is not an entitlement that must be funded at all costs, from any pots of money within USDA’s domain. Rather, as discussed, Congress provided that SNAP would be funded via annual appropriations, envisioned that shortfalls would be primarily addressed by reducing allotments across the board, and left further, excruciatingly difficult decisions about tradeoffs among benefits programs to USDA’s discretion.

b. Even if the APA allows review, there is no sound argument that USDA's actions were arbitrary and capricious. "The APA's arbitrary-and-capricious standard requires that agency action be reasonable and reasonably explained." *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). "Judicial review under that standard is deferential, and a court may not substitute its own policy judgment for that of the agency." *Ibid.* The USDA's decision not to pull billions of dollars from the Child Nutrition Programs to bridge the gap in SNAP funding readily clears that standard.

For starters, as explained in USDA's declaration below, redirecting \$4 billion from the Child Nutrition Programs would jeopardize the "full operation" of those programs for the full fiscal year. App., *infra*, 47a. That transfer would constitute a "permanent loss" to the general budget of the Child Nutrition Programs, *id.* at 49a, which USDA could not recover absent an additional appropriation from Congress, *id.* at 49a-50a, which may or may not be forthcoming. Losing that sizable sum of money would create an "unprecedented and significant" threat to the viability of the Child Nutrition Programs over the course of the fiscal year, *id.* at 49a, throwing into doubt the government's ability to "provide critical, nutritionally-balanced meals and food assistance benefits to millions of children," including the National School Lunch Program that serves "approximately 29 million children per day," *id.* at 47a-48a. Forgoing immediate funds for SNAP—so that November recipients could receive full rather than partial payments—to avoid the significant risk that *other* food-security programs might be fundamentally compromised over the course of the year is the exact sort of policy judgment that Congress entrusts to federal agencies, not the federal judiciary.

In addition to these harms, the agency also explained that transferring funds out of the Child Nutrition Programs to cover SNAP would undermine agency priori-

ties and USDA's congressional mandates. The agency explained that diverting this money would "ignore" how Congress established a limited contingency fund for the SNAP program (which has now been exhausted), while separately providing the Child Nutrition Programs with sufficient funds to carry out their operations. *Id.* at 50a. The agency was entitled to respect the policy judgment reflected in Congress's enactments, and continue to allocate to the Child Nutrition Programs the funding that Congress allocated to the Child Nutrition Programs. Moreover, while recognizing the toll posed by the shutdown in Congress, the agency was entitled to decline to "shift[] [that] problem to millions of America's low income children that receive their meals at school." *Ibid.*

The district court held that this decision was arbitrary and capricious. That was grievous error at every turn. Foremost, the court maintained that there was no clear indication that Congress would not *later* appropriate new funds to cover any short-term transfer from the Child Nutrition Programs to SNAP; and it was thus unreasonable for the agency to decline to fund an immediate problem (SNAP funding) out of concern for a future one (that Congress would not restore the multi-billion-dollar shortfall in the budget for the Child Nutrition Programs). App., *infra*, 29a. That is not a district court's decision to make. And the fact that this district court would roll the dice with the Child Nutrition Programs does not make USDA's decision not to do so unlawful. It is not arbitrary and capricious for an executive agency to decline to assume that Congress will later appropriate funds in a given manner to compensate for that agency's prior decisions. See U.S. Const. Art. I, § 7, cl. 7. And that reticence is especially warranted in this circumstance, because there is no provision to replenish Child Nutrition Programs in the continuing resolution currently being considered in Congress. At bottom, it was within USDA's discretion to decide

that it would not raid one safety-net program—one to help feed needy children—to support another that Congress has recently declined to fund.

The district court also faulted USDA for opting for partial payments (from the contingency fund) in light of the administrative difficulties and real-world harms that come with doing so. App., *infra*, 26a; see *id.* at 40a-41a (agency declaration explaining delays inherent to partial payments). But the presence of costs on one side of a ledger is the start of the analysis, not the end; policymaking is about tradeoffs between competing costs and competing priorities. And here, USDA reasonably determined that the best course was to combine partial SNAP payments with stable funding for Child Nutrition Programs—versus jeopardize the latter to guarantee full payments with the former. The district court would have done otherwise. But it had no legal basis to “substitute its own policy judgment for that of the agency.” *Prometheus*, 592 U.S. at 422.

Finally, the district court tarred USDA’s decision as pretextual, emphasizing certain recent comments by President Trump that SNAP funding would not continue until the shutdown ended—and attributing to the agency a desire to further partisan goals versus genuine policy ends. App., *infra*, 32a. That is indefensible. The district court’s armchair probing into the President’s personal motivations was both factually baseless and constitutionally suspect, cf. *Trump v. United States*, 603 U.S. 593, 618 (2024), and it provides no plausible basis to invalidate agency action, cf. *Trump v. Hawaii*, 585 U.S. 667 (2018). In any event, the President’s comments simply stated incontrovertible facts: There soon will be no money left in the SNAP reserves, and further SNAP benefits will not (and cannot) be made available until Congress finally opens the government. The court below had no basis to transfer of billions of dollars from school lunches to its preferred program based on its tendentious view of “the

administration’s true motivations.” App., *infra*, 33a.

II. THE OTHER FACTORS SUPPORT RELIEF

Besides the merits, in deciding whether to grant emergency relief, this Court also considers whether the underlying issues warrant review; whether the applicants likely face irreparable harm; and in close cases, the balance of the equities. See *Hollingsworth*, 558 U.S. at 190. Those factors all overwhelmingly support relief here.

1. The issues raised by this case plainly warrant this Court’s review. The district court is commandeering sensitive funding-allocation decisions in the middle of a shutdown, in ways that frustrate efforts to end that shutdown and result in new appropriations for all of these programs. Instead of allowing Congress to do that work, the district court’s order directs USDA to redirect billions of dollars from one program to another, with no means available to recoup those funds once soon spent. This Court has not hesitated to intervene in similar cases where the lower courts have commandeered the Executive’s prerogatives over allocating limited resources. See *National Institute of Health v. American Public Health Association*, 145 S. Ct. 2658 (2025); *California*, 604 U.S. at 652. The same course is proper here.

2. The district court’s stay inflicts serious and irreparable harm on the government and the public, whose interests “merge” here. *Nken v. Holder*, 556 U.S. 418, 435 (2009). As discussed, drawing \$4 billion from the Child Nutrition Programs will create an “unacceptable risk” that this essential program will not be able to operate fully for the course of the year. App., *infra*, 50a. Namely, transferring these funds to “top off” November SNAP allotments would leave the Child Nutrition Programs with “an unprecedented and significant shortfall.” *Id.* at 49a. And the results would be tragic should the Child Nutrition Programs lose funding over the course of their operations. These programs provide “critical, nutritionally-balanced meals and food as-

sistance benefits to millions of children every day.” *Id.* at 47a-48a. If that assistance fell away, the result of the decision below would be simply to shift the problems faced by SNAP recipients to “millions of America’s low income children that receive their meals at school.” *Id.* at 50a. The equities surely do not sanction, let alone compel, USDA to place our most vulnerable children at risk to compensate for the fact that Congress has failed to allocate funding to a separate program, however important.

Critically, if forced to transfer funds to SNAP to make full November allotments, there is no means for the government to recoup those expenditures—which is quintessential irreparable harm. See *NIH*, 145 S. Ct. at 2658. The district court has ordered that the government make “full payments of November SNAP benefits to the states” by today. App., *infra*, 34a. And, on pain of potential contempt sanctions from that court, cf. Order to Enforce Temporary Restraining Order, at 2, *New York v. Trump*, No. 1:25-cv-39 (D.R.I. Feb. 2, 2025), the government will be forced to transfer \$4 billion by today. Once those payments are made, there is every indication that the States will promptly disburse them. And once disbursed, the government will be unable to recover any funds.

Worse, these harms will only compound if the decision below stands. There is every reason to expect that if the shutdown lingers, the court below will not command the government to tap these funds again in December to support SNAP—blowing a bigger hole in the budget for the Child Nutrition Programs. Further, the logic of the decision below lacks any limiting principle, and could be replicated across the federal government. For the duration of the shutdown, district courts could order the government to pull from one source of funding to cover gaps in another, all on the assumption that Congress will later cut a check to pay off any judicially mandated tab. That is a recipe for chaos, with different constituencies rushing to federal district

courts in order to obtain what Congress has failed to provide, begetting conflicting injunctions along the way. Indeed, if the government agreed to hollow out the Child Nutrition Programs to cover SNAP, for instance, there is every reason to expect that an inverse lawsuit would arise branding that risky decision as arbitrary and capricious.

3. On the other side of the ledger, respondents have not established irreparable harm that warrants the extraordinary relief they seek—and certainly no reason to not at least administratively stay the decision below to avoid a further run on SNAP funds and further chaos. There is no doubt that the absence of full SNAP benefits may harm certain Americans who rely upon them. But USDA has worked to mitigate these harms through partial payments in an effort to navigate the difficult circumstances posed by the shutdown. And while respondents have pointed to injuries that may follow from limited SNAP benefits, they have not explained why it is necessary to fully fund SNAP regardless of the costs elsewhere—and why it is necessary or equitable to jeopardize the operational integrity of a safety-net program for children so SNAP could be fully rather than partially funded.

III. AN ADMINISTRATIVE STAY IS WARRANTED

The Solicitor General also respectfully requests this Court grant an immediate administrative stay of the district court's orders by 9:30pm this evening while the Court considers this application. As explained, the government will be forced to make an irretrievable transfer of billions of dollars by the end of today, absent this Court's intervention. And the harms of that decision will vest this evening, regardless of what this Court ultimately does with respect to the flawed decisions below. An administrative stay is badly needed.

CONCLUSION

This Court should stay the district court's orders, and in the meanwhile, issue an immediate administrative stay, pending the Court's resolution of this application.

Respectfully submitted.

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Solicitor General

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