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SENATE

{ REPORT  
{ 108-279

## THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004

JUNE 7, 2004.—Ordered to be printed

Mr. COCHRAN, from the Committee on Agriculture, Nutrition, and  
Forestry, submitted the following

### R E P O R T

[To accompany S. 2507]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, Nutrition, and Forestry, having considered the bill S. 2507 to amend the Richard B. Russel, National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to reauthorize child nutrition programs, and for other purposes, reports favorably thereon and recommends that the bill do pass.

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#### I. PURPOSE AND NEED FOR LEGISLATION

Certain child nutrition programs are due to be reauthorized. Some of the programs that must be reauthorized include: (1) the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); (2) the Summer Food Service Program; (3) the State Administrative Expense program; and (4) the WIC Farmers' Market Nutrition Program. This legislation, the Child Nutrition

and WIC Reauthorization Act of 2004, reauthorizes programs contained in the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 through fiscal year 2008. The legislation amends the Commodity Distribution Reform Act and WIC Amendments of 1987 to reform certain commodity provisions as they relate to federal child nutrition programs, and amends the Food Stamp Act of 1977 to establish agreements between School Food Authorities and State Food Stamp Agencies to streamline applications for school meal program benefits. The Committee bill strengthens the anti-fraud and abuse provisions in the National School Lunch and Breakfast programs, and is designed to maximize the enrollment of eligible children in the underlying programs while protecting program integrity. The bill expands the Fresh Fruit and Vegetable program, expands the Summer Food Service Program, provides training and technical assistance to assist schools in program administration, targets benefits to low-income children and, over the five-year reauthorization period, maintains federal spending at the levels predicted if existing law were continued.

## II. BACKGROUND OF LEGISLATION

The federal government, through the U.S. Department of Agriculture, administers fifteen child nutrition programs that reach over 37 million children each year. Total spending for fiscal year 2004 is estimated to be \$16.4 billion.

The National School Lunch and School Breakfast Programs provide cash subsidies to participating schools and residential child care institutions for all lunches and breakfasts served that meet federal nutrition guidelines. Larger subsidies are granted for free and reduced-price meals served to lower income children. The Child and Adult Care Food Program subsidizes meals and snacks served by day care centers and family day care homes. In centers, higher subsidies are given for free and reduced price meals/snacks served to lower-income children. In day care homes, subsidies generally are not varied by individual children's family income, but are larger for homes located in lower-income areas or operated by lower-income providers. The Summer Food Service Program subsidizes food service operations by public and private nonprofit sponsors in lower-income areas during the summer months: all meals/snacks they serve are subsidized, generally without regard to individual children's family income. The Special Milk Program operates in schools and residential child care institutions without a lunch program and subsidizes all milk they serve. All of these subsidies are inflation-indexed and are paid only where meals/snacks meet federal nutrition standards. In addition to cash aid, providers in the school lunch and the child and adult care food program receive food commodities from the Agriculture Department at a set value per meal. Grants also are made to help cover state administrative expenses. The Special Supplemental Nutrition Program for Women, Infants and Children (the WIC program) provides nutrition services and tailored food packages to lower-income pregnant, breast-feeding, and postpartum women, and infants and children who are judged to be at nutritional risk. Other federal programs/activities include: the Nutrition Education and Training Program, a Homeless Children Nutrition Program, a commodity supplemental food

program, a WIC Farmers' Market Nutrition Program and a Food Service Management Institute.

The programs are administered by the Agriculture Department's Food and Nutrition Service, which also provides technical assistance and cooperates with State agencies in overseeing providers' adherence to federal standards. They are operated, under State oversight, by more than 300,000 local providers (e.g., schools, child care centers, family day care homes and health clinics). Federal payments do not necessarily cover all program costs, and non-federal financial support is significant.

### III. LEGISLATIVE HISTORY AND COMMITTEE VOTES

The Committee held two hearings to prepare for this legislation. On Tuesday, March 4, 2003, the Committee on Agriculture, Nutrition, and Forestry Committee held a full committee hearing to review the federal government's initiatives regarding the school lunch and breakfast programs.

Gayle Lynn MacDonald testified before the Committee on behalf of the American School Food Service Association. Ms. MacDonald expressed her views on eliminating the reduced-price category in school meals, citing the burden it places on participating families. She also proposed an increase in reimbursement rates for all meal categories. She recommended extending the USDA commodity program to the school breakfast program by contributing 5 cents in commodities for each breakfast served in the program. Ms. MacDonald's next recommendation was that an additional 10 cents per meal be provided to schools to further improve their nutritional quality. She also proposed, at a minimum, an entitlement of one-half cent per meal be allocated to State development of nutrition education. Ms. MacDonald discussed possible verification changes and suggested some possibilities for these changes. One was making school meal applications valid for the full year. A second recommendation was expanding direct certification into the school meals programs of participants in other means tested programs. She also suggested verifying "error-prone" applications, or those that fall within \$100 of the income limitation. Ms. MacDonald included with her testimony a legislative proposal to ensure the development and implementation of food safety systems in all schools participating in the Federal school lunch program.

Robert Greenstein, executive director of the Center on Budget and Policy Priorities, shared his views with the Committee on the issue of increased verification in the school meals programs. Specifically, he spoke of the need to reduce participation in the free and reduced price school meals programs by ineligible children in a way that does not cause eligible children to lose benefits. Mr. Greenstein extensively discussed the varying opinions on the severity of the problem as well as possible solutions that have been discussed in other forums. He stated his opinion that the data just does not exist to show exactly how large the problem is, and therefore, finding a solution becomes that much more difficult. Mr. Greenstein's suggestion was a series of demonstration projects to find the best way to deal with the problem. However, he also listed four ideas to deal with the problem now. First would be requiring schools to implement direct certification of children participating in the food stamp program or the temporary assistance for needy fam-

ilies program (TANF). Second, he recommended targeting the “error-prone” applications when verifying applications. Third, Mr. Greenstein suggested a reform of the verification procedures to reduce non-response rates among eligible families. Finally, he suggested that children who are certified should remain eligible for one year. Mr. Greenstein’s written testimony covered one other issue as well, which is the need to continue the competitive bidding requirement for the purchase of infant formula in the WIC program.

Susan T. Borra testified on behalf of the American Dietetic Association. Ms. Borra’s testimony focused on childhood overweight and obesity and the variety of factors influencing these issues. She stated that genetic, physiological, psychological, metabolic, and environmental factors all contribute to the imbalance of caloric consumption and energy expenditure, which lead to obesity.

Robert J. Kemmery, Jr., Executive Director of Student Support Services of Baltimore County Public Schools, testified regarding the school lunch and breakfast programs. His main focus was on the importance of schools entering into partnerships with businesses. Mr. Kemmery specifically addressed partnerships with beverage companies and spoke of their benefits when managed appropriately. He expressed his feelings that the decision-making power regarding these issues should remain with local educators in consultation with their school community.

Melanie Payne, the child nutrition director of the Opelika City Schools in Alabama, appeared before the Committee to share some information about some initiatives undertaken by her school system. These schools have never allowed vending machines in schools. They receive additional funds from the city, some of which are used for their nutrition program. Ms. Payne stated that the Opelika city schools offer two nutritious meals per day through their child nutrition program, called NuMenus. They also partnered with a local cooperative to obtain many of their fruits and vegetables. Ms. Payne stated the importance of child nutrition programs to balance what is popular versus what is nutritious.

Jerry Kozak, President and CEO of the National Milk Producers Association, testified on behalf of both NMPA and the International Dairy Foods Association. He shared his opinion that additional budgetary resources are needed for child nutrition programs. Mr. Kozak also spoke on the importance of milk in these programs, and the various health benefits associated with drinking milk. He told of the increase in milk consumption among school children after the industry’s attempt to make milk more attractive. Mr. Kozak listed four recommendations to the Committee regarding child nutrition programs. His first recommendation was that Congress promote milk consumption by providing incentives for schools to upgrade the quality of milk served. He also suggested Congress should provide more opportunities for commercially branded milk in more sales venues through schools. Another recommendation made by Mr. Kozak was that Congress reject a tax on milk’s role in the child nutrition programs. Finally, he stated that Congress should assure schools be able to offer milk at any time anywhere on the school premises.

Dennis J. Heiman, a school principal from Muscatine, Iowa, was the final witness of the Committee hearing. He shared his views

on the fresh fruit and vegetable pilot program, of which his school is a participant. He spoke of the nutritional value of the foods offered through the program, as well as other possibly unintended aspects of the program. Mr. Heiman stated that student-teacher relationships had grown, and that many students were educated about fruits and vegetables they may not have previously known.

A second hearing was held on Thursday, April 3, 2003, to review the federal government's initiatives regarding child nutrition programs.

Eric Bost, Under Secretary for Food, Nutrition, and Consumer Services, USDA, testified before the Committee. Mr. Bost cited three guiding principles that were used in developing the Administration's reauthorization proposal. The first was access to program benefits for all eligible children. The second was support for healthy school environments to address the epidemic of overweight and obesity among children. Finally, he cited a commitment to program integrity to ensure the best possible targeting of program benefits to eligible children.

James Weil, president of the Food Research and Action Center, appeared before the Committee. Mr. Weil discussed the importance of child nutrition programs and also the need to address childhood obesity in this current reauthorization of these programs. He also gave his ideas on six changes to be made in these programs. First was making a paperwork reduction pilot project in the Summer Food Service Program, the so-called Lugar Summer Food Rule, apply nationwide to all sponsors. Second was make more areas eligible in the community-based programs. Mr. Weil's third recommendation was to make school breakfasts available to more children. Fourth, he recommended making suppers available at after-school programs in low-income areas. Fifth, he suggested increasing access to the Child and Adult Care Food Program for preschoolers. Sixth, Mr. Weil recommended the ages of the children who can be served subsidized meals in homeless shelters be raised from 12 to 18.

Douglas Besharov of the American Enterprise Institute and professor at the University of Maryland testified before the Committee, expressing his views that federal child nutrition programs have been a factor in the obesity increase among children. He also cited that what is often referred to as hunger is actually food insecurity, and that hunger levels are actually very low in this country. Mr. Besharov stated that the hunger problem in this country has been beaten and we should now turn our focus to fighting obesity.

Jill Leppert, president of the National WIC Association, shared her views and recommendations on the reauthorization of the special supplemental program for women, infants and children (WIC). First, Ms. Leppert suggested expanding the definition of nutrition education to allow for guidance on physical activity, feeding relationships, and child development. She went on to recommend that USDA report to Congress within 6 months of reauthorization on the status of efforts to adopt a new WIC food package, and that USDA publish within 6 months of that report, a proposal to revise the WIC food package. Ms. Leppert also asked that Congress direct USDA to allow States to implement pilot or demonstration projects that would allow for food substitutions. She recommended that the Institute of Medicine reevaluate the WIC food package every 10

years. Ms. Leppert urged that Congress protect the competitive bidding element for infant formula contracts. She recommended that States have the option to convert unspent food funds to nutrition services and administration funds. Finally, she asked that Congress supply additional money for upgrading and maintaining WIC technology systems.

Anne Curry, vice president, legislative and political affairs for the Food Marketing Institute testified before the Committee to discuss the reauthorization of the WIC program on behalf of retail food stores. She identified six areas to be addressed: retailer authorization, retail operations, reimbursement issues, penalties, electronic benefits transfer (EBT), and infant formula theft.

Karen Chapman testified on behalf of the United Fresh Fruit and Vegetable Association. She stated that Congress should develop legislation to make healthfulness and quality equal components of school breakfasts and lunches, to build a healthier school environment, and to launch a smarter start for WIC recipients that could be incorporated into healthy diets after they leave the program. Ms. Chapman also discussed the success of the fruit and vegetable pilot program and suggested the expansion of this program to all States at a pilot level.

Rod Hofstedt, executive director of the Adult and Children's Alliance, testified on behalf of the National Child and Adult Care Food Program (CACFP) Forum. Mr. Hofstedt stated that changes made within CACFP would increase the number of participants in the program. He suggested a reduction in CACFP area eligibility from 50 percent of participants receiving free and reduced price meals to 40 percent receiving free and reduced price meals for qualifying for low-income reimbursement. Mr. Hofstedt also stated there is a need to raise the reimbursement rates to providers to improve the quality of the meals and snacks. His final suggestion was that CACFP sponsoring organizations per home administrative rates need to be increased to improve nutrition education.

Last to testify was Don Wambles, president of the National Association of Farmer's Market Nutrition Programs. Mr. Wambles discussed the two objectives met by the Farmer's Market Nutrition Programs. First, that they provide fresh, locally grown fresh fruits and vegetables to low income women, children, and seniors. These programs also provide additional income for small farmers and vegetable growers. He asked that the state matching requirement, which currently is 30 percent of the Federal grant, be lowered. Mr. Wambles suggested that States only be responsible for matching the administrative portion of the Federal money. His second request was that the current \$20 cap per recipient that has existed since the inception of the program be raised to \$30 due to the rise in other cost factors, such as the increase in food prices over the last ten years.

#### COMMITTEE VOTE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the vote of the Committee in its consideration of the Committee bill.

## MOTION TO REPORT THE BILL

The Committee on Agriculture, Nutrition and Forestry conducted a business meeting at 10:36 a.m. on May 19 in room SD-430 to markup this legislation. Senators present were: Senators Cochran, Fitzgerald, Roberts, Chambliss, Coleman, Crapo, Talent, Harkin, Leahy, Conrad, Daschle, Baucus, Lincoln, Miller, Stabenow, Nelson and Dayton. After opening statements when a quorum of Members was present, Chairman Cochran moved that the bill be reported subject to amendment which passed by a voice vote. Three amendments, two by Senator Fitzgerald and one by Senator Lincoln, were adopted "En Bloc" by a voice vote. Senator Harkin offered an amendment that was not adopted by a roll call vote of 7 yeas (Senators Harkin, Leahy, Conrad, Daschle by proxy, Stabenow, Dayton by proxy, and Fitzgerald) and 12 nays (Senators Baucus, Lincoln, Miller, Nelson, McConnell by proxy, Roberts by proxy, Chambliss, Coleman, Crapo, Talent, Dole by proxy, and Cochran) with Senators Lugar and Grassley not recorded. Unanimous Consent was ordered that the staff have the authority to make technical and conforming changes to the bill being reported. The Committee business meeting adjourned at 11:39 a.m.

## IV. REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the following evaluation is made concerning the regulatory impact of carrying out the changes proposed in the bill:

*Individuals and businesses affected.*—On an average school day in fiscal year 2003, more than half of all school children in America ate a National School Lunch Program (NSLP) lunch. More than 4.7 billion meals were served in the NSLP that fiscal year, an average of 28.4 million lunches per school day. In fiscal year 2003, an average of 8.4 million children participated in the School Breakfast Program every school day. Of those, almost 7 million received their meals free or at a reduced price. More than 98,800 public and non-profit private schools and residential childcare institutions participate in the school lunch program, and 78,000 schools and institutions participate in the breakfast program. The bill will directly or indirectly affect all children and schools participating in the school lunch and breakfast programs.

The Committee believes that, overall, the changes made in the school meal programs will modestly increase the administrative burden for school food authorities. Schools that do not now directly certify children in food stamp households will have to develop procedures for direct certification. The Committee provides \$9 million to cover the cost of the initial implementation of mandatory direct certification. This additional administrative responsibility is deemed appropriate to increase the number of eligible students who participate in the school meal programs.

The requirement that schools verify 3 percent of error-prone applications will minimally increase the administrative burden for schools. Schools will have to classify applications as either error-prone or not and will have to develop procedures to follow-up with families that do not respond to the first attempt at verification. However, this additional administrative burden is appropriate to

reduce the number of children certified for free or reduced price meals in excess of those eligible.

The bill requires school food authorities to implement a school food safety program for the preparation and service of meals that complies with a “hazard analysis and critical control point” system established by the Secretary. The Committee believes that this additional responsibility is appropriate to assure the safety of foods served in the school food programs.

The bill allows school food authorities to substitute a non-dairy beverage that is nutritionally equivalent to fluid milk for students who cannot consume fluid milk because of a medical or other special dietary need. Because each school will determine whether to offer the substitute beverage, the Committee believes that each school food authority will determine whether it is willing to accept any additional administrative burden.

The bill waives the requirement that school food authorities must use “weighted averages” for their nutrient analysis of their school meal programs. This provision will reduce the administrative burden on school food authorities.

In fiscal year 2003, 2.9 million children and adults participated in the Child and Adult Care Food Program. Almost 700 million meals were served in family day care homes, and more than one billion meals were served in day care centers. The Committee bill includes several provisions designed to reduce the administrative and regulatory burden associated with the Child and Adult Care Food Program. The bill also requires the Department of Agriculture to establish a paperwork reduction task force in order to further reduce regulatory and administrative duties while still maintaining program integrity.

More than 2 million children participated in the Summer Food Service Program at nearly 30,000 sites. The Committee believes that the provision to allow public sponsors of the Summer Food Service Program in pilot States to receive the maximum summer program reimbursement rates without providing documentation of costs will reduce the administrative burden on the public sponsors, will improve management and increase access for eligible children.

The WIC program served an average 7.6 million women, infants and children each month in fiscal year 2003. The Committee bill requires State agencies to maintain a list of food wholesalers, distributors, and retailers licensed in the State and infant formula manufacturers registered with the Food and Drug Administration. It also requires WIC vendors to purchase infant formula from the State agency list. The Committee believes that this additional regulatory responsibility is necessary to ensure the quality and source of infant formula provided through the program. The bill also requires State WIC agencies to implement vendor cost containment provisions including a vendor peer group system and competitive price criteria. The Committee believes that the bill’s additional requirements for State WIC agencies is appropriate to better control program costs. The bill allows State agencies to certify breastfeeding women for up to one year and to waive the requirement that infants under 8 weeks be physically present.

*Economic impact of regulation on individuals, consumers, and businesses.*—The Committee believes that children in food stamp households who do not currently participate in school meal pro-

grams will benefit economically and nutritionally from the bill. Those families selected for verification and that are unable or unwilling to verify household income will be disadvantaged by the bill. The Committee expects that most of these households would not be eligible for free or reduced-price meals, if the required documentation were provided. However, some of the affected households will lose benefits even though the household would meet income guidelines. The Committee believes that the bill contains appropriate incentives to encourage school food authorities to work with families to obtain the proper documentation to allow eligible children to continue to receive free or reduced-price meals.

Over 130,000 elementary and secondary students will have access to free fruits and vegetables when the current fruit and vegetable pilot program is expanded to four more states and two additional Indian Tribal Organizations.

Children from low-income households will benefit from the provision to exempt military housing benefits from income for purposes of determining eligibility for free or reduced price meals.

*Impact on personal privacy.*—The Committee bill will have minimal impact on personal privacy.

*Amount of additional paperwork.*—The Committee believes that provisions to require household applications and to make eligibility for free or reduced-price school meals valid for one year will reduce the paperwork burden for school food authorities and for families.

## V. COST ESTIMATE

### BUDGETARY IMPACT OF THE BILL

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office regarding the budgetary impact of the bill:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 4, 2004.*

Hon. THAD COCHRAN,  
*Chairman, Committee on Agriculture, Nutrition, and Forestry,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: CBO has prepared the enclosed estimate of the direct spending effects of the Child Nutrition and WIC Reauthorization Act of 2004. (The enclosed estimate also describes the bill's potential effects on discretionary spending, but CBO has not completed an analysis of those effects on spending subject to appropriation.)

If you would like additional details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Fitzgerald.

Sincerely,

ELIZABETH ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

*S. 2507—Child Nutrition and WIC Reauthorization Act of 2004*

Summary: The bill would amend and reauthorize child nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). CBO estimates that enacting the bill would increase direct spending by \$232 million over the 2004–2009 period, and by \$487 million over the 2004–2014 period. Enacting the bill would not affect revenues.

Implementing this legislation also would affect spending subject to appropriation action. Those effects would be significant, but CBO has not completed an estimate of the bill’s potential impact on discretionary spending. The bill would extend an existing (but expiring) authorization of appropriations for the WIC program. In addition, the bill would authorize appropriations—mostly of “such sums as necessary”—for a variety of demonstration projects related to child nutrition; initiatives in training, administration, and promotion of nutrition programs; and studies of best practices and potential improvements in such programs.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Because states and schools have flexibility in how they implement the child nutrition program and because they would receive new financial assistance, the new requirements of this legislation would not be intergovernmental mandates.

Estimated cost to the Federal Government: The estimated budgetary impact of the bill’s effects on direct spending is shown in Table 1. The changes in direct spending fall within budget function 600 (income security).

TABLE 1.—SUMMARY OF EFFECTS ON DIRECT SPENDING OF THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
	CHANGES IN DIRECT SPENDING <sup>1</sup>										
Estimated Budget Authority .....	7	69	43	35	40	46	50	51	51	52	52
Estimated Outlays .....	6	58	43	39	41	45	50	51	51	52	52

<sup>1</sup> Implementing the bill also would affect spending subject to appropriation, but CBO has not completed an estimate of those effects.  
 Note.—Components may not sum to totals because of rounding.

Basis of estimate: The following description and Table 2 detail those provisions that have significant budgetary effects. For this estimate, CBO assumes that the bill will be enacted by July 1, 2004.

*Direct Certification and Household Applications*

Sections 104 and 105 would alter the application process for school meals and would modify the procedures used to verify the income of participants. Section 104 would require the direct certification of children in Food Stamp households for free meals. This new requirement would be phased in over three years beginning on July 1, 2005. Section 105 would make changes to the verification requirements for free and reduced-price meal applications; and those changes would lead to savings because increased verification would likely result in the loss or reduction of meal benefits for some students.



TABLE 2.—ESTIMATED DIRECT SPENDING EFFECTS, BY PROVISION—Continued

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1
Administrative Error Reduction:											
Estimated Budget Authority .....	0	9	8	6	6	3	3	3	3	3	3
Estimated Outlays	0	7	8	6	6	3	3	3	3	3	3
Information Clearinghouse:											
Estimated Budget Authority .....	*	*	*	*	*	0	0	0	0	0	0
Estimated Outlays	*	*	*	*	*	*	0	0	0	0	0
Gleaning of Fresh Fruit and Vegetables:											
Estimated Budget Authority .....	0	*	*	*	*	0	0	0	0	0	0
Estimated Outlays	0	*	*	*	*	0	0	0	0	0	0
Title II, Amendments to Child Nutrition Act of 1966											
Severe Need Assistance:											
Estimated Budget Authority .....	*	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	*	1	1	1	1	1	1	1	1	1	1
Total Changes in Direct Spending											
Estimated Budget Authority .....	7	69	43	35	40	46	50	51	51	52	52
Estimated Outlays .....	6	58	43	39	41	45	50	51	51	52	52

Notes.—Components may not sum to totals because of rounding. \* = less than \$500,000.

**Direct Certification.** Current regulations give school food authorities the option to directly certify children for free meals by obtaining documentation from the state or local Food Stamp, Temporary Assistance to Needy Families (TANF), or Food Distribution Program on Indian Reservations (FDPIR) agency. Students who are directly certified for free meals do not have to complete an application and are not subject to the income verification process. According to a recent report from the U.S. Department of Agriculture's (USDA's) Economic Research Service (ERS), 68 percent of all students were enrolled in a district that used direct certification during the 2001–2002 school year.

Section 104 would require state agencies to enter into direct certification agreements with the state Food Stamp agency and would require schools to directly certify eligible children. This requirement would be phased in over three years based on district size, starting with the largest school districts.

The overwhelming majority of students who would be directly certified under the bill are students who are already receiving free meals because they have submitted a paper application. Research from ERS indicates that direct certification leads to a small increase in participation among students eligible for free meals. CBO estimates that once direct certification is fully implemented, annual costs will increase by about \$340, on average, for roughly 50,000 students.

This provision also would provide \$9 million to assist states in implementing the new direct certification requirement. In total, the direct certification provision would increase spending by \$37 million through 2009 and by \$129 million through 2014.

Income Verification. Section 105 would expand the requirements for verifying the eligibility of a sample of free and reduced-price applications. Under current regulations, local school food authorities are required to verify either:

- (1) 3 percent or 3,000 free and reduced-price meal applications drawn at random from all applications; or
- (2) The lesser of 1 percent or 1,000 of total applications selected from non-Food Stamp households with monthly incomes within \$100 of the monthly income eligibility limit for free or reduced-price meals plus the lesser of 0.5 percent or 500 applications from households that provide a Food Stamp, TANF, or FDPIR case number.

Section 105 would change the verification requirements for local education agencies with high nonresponse rates in their verification procedures. A nonresponse rate is the percentage of applications chosen for verification for which the local education agency is not able to get the required documentation from the household. Districts that cannot verify at least 80 percent of applications chosen for verification or districts with 20,000 or more students certified by application for free and reduced-price meals that do not decrease their nonresponse rate by at least 10 percent from their rate two years earlier would be required to comply with the new verification procedures. These districts would be required to verify the lesser of 3,000 or 3 percent of all applications selected from households that report monthly incomes within \$100 of the monthly income eligibility limit.

In addition, this provision would make two additions to the verification procedures for all school food authorities. First, prior to verifying an application, an individual other than the one who made the initial eligibility determination, must review the applications to ensure that the correct determination was made. If there is an error, the school food authority would make any necessary adjustments to the student's status. This could lead to an increase in savings. According to a report from the USDA's Food and Nutrition Service (FNS), the majority of administrative errors in eligibility determinations lead to a student being certified for greater benefits than they should be eligible to receive. Second, all school food authorities would be required to follow up at least once with households that do not respond to requests for verification. When a household fails to respond to a verification request, the student loses his or her free or reduced-price certification. An additional follow-up with these households could slightly reduce the nonresponse rate and reduce the amount of savings from income verification.

Based on data from FNS about the nonresponse rates of school districts, CBO estimates that about 85 percent of free and reduced-price students are in districts that will be subject to the new sample-size procedures for income verification. Under the new procedures, a slightly greater share of applications will be verified nationwide and a greater share of them will be error-prone (within \$100 of the monthly income limit). The increased verification procedures will increase savings by uncovering more errors in reporting of household income. In many cases, when the verification process uncovers underreporting of household income, the student's meal eligibility status is reduced. In addition, some students will lose meal benefits because they fail to provide the necessary documents

for verification. In a few cases, however, households may have over-reported income, and the verification process would lead to an increase in meal benefits.

Section 105 would also provide \$2 million in FY 2006 to fund an evaluation of the effectiveness of directly verifying applications.

*Interaction Effects.* Taken alone, CBO estimates that the new verification procedures in section 105 would decrease spending by \$163 million over the 2006–2009 period and \$420 million through 2014. However, these estimated savings would decrease after taking into account the direct certification proposal in section 104. Students who are directly certified are not subject to the verification process. With the increase in direct certifications required by section 104, the pool of applications eligible for verification is smaller, thus reducing the potential savings.

With the direct certification provisions, CBO estimates that by 2010 an additional 100,000 students annually—about 40,000 fewer than without such direct certification—would have meal benefits reduced by an average of \$365 as a result of increased verification procedures. As a result, the gross savings cited above would be lowered by \$13 million over the 2006–2009 period and by \$72 million through 2014. This estimate is based on data from FNS on the results of the verification process for both random and error-prone samples of applications.

#### *Exclusion of Military Housing Allowances*

Section 108 would make permanent a provision requiring that the housing allowance of military personnel living in privatized housing units not be counted toward income when determining the eligibility of children for free and reduced-price school meals. This provision was set to expire on September 30, 2003, but has been extended several times, the latest extension is to June 30, 2004, by Public Law 108–211. Based on the income, housing, and family size data for enlisted military personnel, CBO estimates that benefits for about 7,000 children will increase in 2005 as a result of this provision, eventually rising to 16,000 as more privatized units become available. This provision would take effect upon enactment of the bill. CBO estimates that the increase in direct spending will not be significant (less than \$500,000) for the remainder of fiscal year 2004. In 2005, CBO estimates that it would cost \$1 million, rising to an average of about \$4 million a year thereafter.

#### *Summer Food Service Program for Children*

Section 115 would reauthorize the Summer Food Service Program (SFSP), expand and make permanent the current Summer Food Pilot Project (renamed as the Simplified Summer Food Program), and authorize a demonstration to lower the area eligibility requirements for the SFSP in the rural areas of one state for two years. CBO estimates that, taken together, these changes would cost between \$2 million and \$3 million a year over the 2005–2014 period.

In the SFSP, sponsors are reimbursed for actual costs incurred for providing meals, up to the maximum reimbursement rate. In the current Summer Food Pilot Project, SFSP sites in 13 states and Puerto Rico (other than those run by private, nonprofit sponsors) automatically receive the maximum reimbursement per meal. This

provision would extend the program to six additional states and would allow private, nonprofit sponsors to participate in the program. CBO estimates that this expansion would result in serving about 400,00 additional meals, for an incremental cost of about \$1 million a year. When fully implemented in 2007, CBO estimates that the costs of roughly 12 million meals in the SFSP will be reimbursed at an average of 13 cents more per meal than under current law.

Under current law, organizations are eligible to participate in the SFSP if they are located in a neighborhood where at least 50 percent of the children are eligible for free or reduced-price school meals or if at least 50 percent of the children enrolled in the program meet those income requirements. In this demonstration, the requirement would be lowered to 40 percent for two years in the rural areas of one state chosen by the Secretary. Based on data on rural schools and SFSP participation rates in rural areas, CBO estimates that by 2006, about 35 new sites would participate in the SFSP, increasing costs by less than \$500,000 a year. This provision also would provide \$400,000 in 2005 for an evaluation of the demonstration's impact on participation of both students and sponsoring organizations in the SFSP.

#### *Child and Adult Care Food Program*

Section 117 would expand eligibility for participation in the Child and Adult Care Food Program (CACFP), authorize a demonstration to lower the area eligibility requirements for day care homes in the CACFP in the rural areas of one state for two years, and reauthorize a management improvement initiative. CBO estimates that enacting this section would increase direct spending by about \$230 million from 2004 through 2009, and by about \$490 million over the 2004–2014 period.

Section 117(a) would make permanent a provision to allow for-profit child care centers to participate in the CACFP if at least 25 percent of the children served by a center are income-eligible for free and reduced-price school meals. Under current law, the authority expires June 30, 2004. Based on the estimated growth in the number of for-profit centers that have participated in CACFP under this provision since it was instituted, CBO anticipates that about 2,000 for-profit centers would participate in CACFP if this provision were made permanent. Each center would receive about \$21,000 on average in annual reimbursements from CACFP. CBO estimates that this expansion would cost \$473 million over the 2004–2014 period.

Section 117(e) would authorize a demonstration to lower the area eligibility requirements for two years for day care homes in the rural areas of one state chosen by the Secretary. Under current law, day care homes in the CACFP are eligible for the “Tier I” reimbursement rate if they are located in a neighborhood where at least 50 percent of the children are eligible for free or reduced-price school meals or if the provider's own household income is at or below 185 percent of the federal poverty guidelines. All other day care homes are classified as “Tier II” and reimbursed at a rate that is, on average, about half that of the Tier I rates. In this demonstration, the requirement would be lowered to 40 percent for two years in one state chosen by the Secretary.

Based on data on rural schools and CACFP homes, CBO estimates that by 2007, about 500,000 additional meals would be reimbursed at the Tier I rate. Most of these meals would be in day care homes that are currently participating in the CACFP under the Tier II reimbursement and would become newly eligible for the Tier I rate. CBO assumes only a small increase in new homes participating in the CACFP as a result of the demonstration. This provision also would provide \$400,000 in 2006 for an evaluation. CBO estimates that this demonstration would cost about \$1 million over the two years.

Section 117(f) would reauthorize mandatory sending for the CACFP management support for 2005 and 2006 at \$1 million a year. Under this provision, the Secretary provides management training and technical assistance to state CACFP agencies.

Section 117(g) would increase the age limit for children served in emergency shelters participating in the CACFP from 12 to 18. CBO estimates that about 1,500 additional homeless youth would be served through the increase in the age limit and a small increase in providers participating in the CACFP. This estimate is based on data from the National Survey of Homeless Assistance Providers and Clients on the number and age of homeless youth in emergency shelters. CBO estimates that this change would cost \$14 million through 2014.

#### *Fresh Fruit and Vegetable Program*

Section 118 would permanently authorize and provide \$9 million a year for a program to provide free fruits and vegetables to children in 25 schools in each of eight states and three Indian reservations.

#### *Summer Food Service Rural Transportation Demonstration*

Section 119 would provide \$2 million in fiscal year 2006 and \$1 million in 2007 and in 2008 for a demonstration to provide grants to not more than 60 eligible service institutions in five states to provide transportation for children to SFSP sites in rural areas.

#### *Summer Food Service Residential Camp Demonstration*

Section 120 would authorize a two-year demonstration to allow two nonprofit, residential summer camps to be reimbursed for meals under the SFSP. Under current law, a camp can participate in the SFSP if it is located in a neighborhood where at least half of the children are income-eligible for free or reduced-price meals. This pilot would allow two residential camps that serve children without charge from area-eligible neighborhoods, but are not necessarily located in the neighborhood itself, to participate in the SFSP. This provision would become effective on July 1, 2004. Based on data on the number of children and average lengths of stay in a residential camp, CBO estimates that this provision would increase spending by less than \$500,000 in 2004 and about \$1 million in 2005.

#### *Year-Round Services for Eligible Entities*

Section 126 would make \$1 million available in 2005 to allow one service institution in California to be reimbursed year-round for

meals under the SFSP. Under current law, SFSP sites can only be reimbursed for meals served during a school vacation period.

*Training, Technical Assistance, and Food Service Management Institute*

Section 128 would increase mandatory funding for the Food Service Management Institute by \$1 million a year. CBO estimates that this provision would increase spending by \$5 million over the 2005–2009 period.

*Administrative Error Reduction*

Section 129 would provide funds for training and technical assistance to reduce administrative errors in school meal programs, as well as increase the number of administrative reviews of certain local education agencies' meals programs. Section 129(a) would provide \$5 million in each of 2005 and 2006 and \$3 million a year in each of 2007 and 2008 for federal training and technical assistance to state and local agencies on best management and administrative practices.

Section 129(b) would require an additional review for a local education agency that the Secretary of Agriculture determines to be at high risk for administrative error. Under current regulations, school food authorities (SFA) are required to have an administrative review at least once every five years and a follow-up review if it fails to meet review standards. If the audit reveals that an SFA has received payments in error, FNS recovers those overpayments. For example, if a student is found to have been incorrectly certified as eligible for free meals when he or she is only eligible for reduced-price meals, FNS recoups those overpayments.

This provision also would extend the maximum period of time for which overpayments can be collected if a school food authority fails both an initial and a follow-up review for both the current review system and the additional review added by this provision. Overpayments could be collected for up to 60 days for a failed follow-up review or 90 days in subsequent follow-up reviews. Based on data on the amount of money recouped from the current administrative review procedure, CBO estimates that the additional review and the extended period of collection will result in savings of \$1 million to \$2 million annually over the 2005–2014 period.

Section 129(c) would require each state to provide annual training on administrative practices to local school food authority personnel. This provision would provide \$4 million a year, beginning in fiscal year 2005, to the Secretary to assist states in providing training and conducting additional administrative reviews.

CBO estimates that all of these provisions would increase direct spending by \$43 million over the 2005–2014 period.

*Information Clearinghouse*

Section 131 would reauthorize the Information Clearinghouse and increase the funding to \$250,000 a year through 2008. The Information Clearinghouse provides information on food assistance program to organizations that work with low-income individuals. CBO estimates that this provision would increase direct spending by about \$1 million over the 2004–2009 period.

*Gleaning of Fresh Fruits and Vegetables*

Section 133 would provide \$100,000 annually in fiscal years 2005 through 2008 for grants to a nongovernmental organization to establish and maintain a field gleaning operation to encourage the consumption of fresh fruits and vegetables. CBO estimates that this provision would increase direct spending by less than \$1 million dollars over the 2005–2009 period.

*Severe Need Assistance*

Section 210 would eliminate cost accounting for breakfasts served in schools classified as “severe need” schools (defined below) and eliminate the waiting period for new schools to receive the severe need rate. CBO estimates that this provision would increase direct spending by \$1 million annually.

Currently, a school participating in the School Breakfast Program (SBP) is classified as a “severe need” school and eligible for a higher reimbursement for free and reduced-price breakfasts if at least 40 percent of the lunches served in the school in the second preceding year were free or reduced-price. Severe need schools are reimbursed for their actual costs incurred in providing breakfast, up to the maximum severe need rate. Based on discussions with the Food and Nutrition Service, there are some schools that are eligible for the severe need rate but do not receive it because of the paperwork entailed in accounting for per-meal costs. This provision would allow these schools to automatically receive the maximum severe need rate for each breakfast served. Based on data on the number of schools that would meet the severe need eligibility requirements and the number reported to be receiving the higher rate, CBO estimates that about 200 schools would begin receiving the severe need rate under this provision, increasing payments by about \$1,800 per school on average.

In addition, this provision would allow new schools to automatically receive the severe need rate if the Secretary determines that a school would have otherwise met the requirements. Based on the number of schools that enter the National School Lunch Program (NSLP) each year and the participation rate in SBP, CBO estimates that each year, about 150 additional schools would start receiving the severe need rate earlier than they would have under current law, increasing payments by about \$1,800 per school on average.

*Spending Subject to Appropriation*

The bill has several provisions that would affect spending subject to appropriations. CBO has not completed an estimate of these potential effects on discretionary spending. Unless otherwise noted, the bill’s authorizations of appropriations generally would take effect beginning with fiscal year 2005. The following is a description of the provisions of the bill that would affect discretionary spending.

Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Section 204 would extend the authorization of appropriations of such sums as are necessary for the WIC program through fiscal year 2008. In 2004, \$4.6 billion was appropriated for WIC. The WIC program provides food and other support to low-income pregnant, post-partum, and breast-feeding women; and to in-

fants and children up to age five. The bill would also make several changes to the underlying authorization of the program including changes in the certification procedures for participants, certification and contracts with vendors, the bidding process for infant formula contracts and rebates, and the funding for breast-feeding promotion and information systems.

Demonstrations. The bill would authorize several demonstration projects:

- *Healthy school nutrition environment demonstrations.* Section 121 would authorize the appropriation of such sums as are necessary to conduct demonstrations in elementary and secondary schools to create healthy school nutrition environments and evaluate the impact on the health and well-being of the students.

- *Food service program personnel professional standards demonstration.* Section 122 would authorize the appropriation of such sums as are necessary for a demonstration to assist states in providing training for food service professionals to obtain certain credentials or certificates. In addition, the demonstration would include an assessment of food service professional certifications and credentials.

- *School garden grant demonstration.* Section 123 would authorize the appropriation of \$15 million for a demonstration to provide grants to states, schools or nonprofit organizations to support school gardens.

- *Childhood obesity prevention demonstration.* Section 125 would authorize the appropriation of \$250,000 for each of fiscal years 2005 through 2008 for a grant to a national organization to obesity prevention activities for children with limited English proficiency in child care centers.

- *Free lunch and breakfast expansion demonstration.* Section 127 would authorize the appropriation of such sums as are necessary for a demonstration in five states to raise the income eligibility limit for free lunches and breakfasts from 130 percent of poverty to 185 percent of poverty.

Training, administration, and education promotion. The bill would authorize appropriations for several initiatives related to training for, administration of, and promotion of nutrition programs:

- *Nutrition promotion.* Section 101 would authorize such sums as are necessary for the Secretary to make annual payments to states, using a formula based on a state's proportion of meals served under the Richard B. Russell School Lunch Act, to promote nutrition in food service programs.

- *Purchases of locally produced foods.* Section 111 would extend the authorization of appropriation of \$400,000 for one year to 2008 to provide start-up grants to institutions participating in the NSLP and SBP to purchase locally produced foods.

- *Access to local foods.* Section 124 would authorize such sums as are necessary to provide competitive matching grants to schools and nonprofits for projects that improve access to local foods for schools and institutions participating in federal meal programs and support nutrition education programs.

- *Procurement training.* Section 114 would authorize the appropriation of \$1 million annually for 2005 through 2008 to provide

training and technical assistance to states on procurement of goods and services for federal meal programs.

- *Training, technical assistance, and food service management institute.* Section 128 would authorize the appropriation of \$1 million annually for training and technical assistance activities.

- *Food employment empowerment and development program.* Section 401 would authorize \$20 million a year for 2005 through 2008 to make grants to organizations to combat hunger at the community level.

- *Team nutrition network.* Section 205 would authorize such sums as are necessary for grants to states for nutrition education activities for children, and for training and technical assistance to states, schools, and community nutrition programs.

- *Compliance and Accountability.* Section 130 would reauthorize the appropriation of funds for accountability systems in federal meal programs. This provision also would increase the authorization of appropriation from \$3 million a year to \$6 million a year for 2004 through 2008.

- *State Administrative Expenses.* Section 202 would authorize the appropriation of such sums as are necessary for grants to states to improve school technology and information systems.

Evaluations. Finally, the bill would authorize appropriations for various studies and program evaluations:

- *Review of best practices in the breakfast program.* Section 206 would authorize the appropriation of such sums as are necessary to conduct a review of the best practices to assist school food authorities in expanding the School Breakfast Program.

- *Program evaluation.* Section 132 would authorize the appropriation of \$5 million annually for national performance assessments of meal programs and such sums as are necessary for a study of the feasibility of improving the certification process for the school lunch program.

- *Fresh fruit and vegetable program.* Section 118 would authorize such sums as are necessary to expand the fresh fruit and vegetable program.

- *World Food Prize.* Section 203 would authorize such sums as are necessary to provide assistance to the World Food Prize Foundation for activities including acquisition or improvement of property and research and outreach.

Estimated impact on state, local, and tribal governments: For large entitlement programs like the child nutrition program, the Unfunded Mandates Reform Act defines an increase in the stringency of conditions or a cap on federal funding as an intergovernmental mandate if the affected governments lack authority to offset those costs while continuing to provide required services. This bill would alter, and in some cases increase, some of the conditions for receiving assistance under the child nutrition program. However, the bill also would increase federal reimbursements for administrative expenses and would provide funding for some of the requirements. In other cases, schools and school food authorities currently have sufficient flexibility in the program to enable them to comply with the changes and still provide the required services. Consequently, the legislation contains no intergovernmental mandates as defined in UMRA.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in UMRA.

Previous CBO estimate: On March 23, 2004, CBO transmitted a cost estimate for H.R. 3873, the Child Nutrition Improvement and Integrity Act, as ordered reported by the House Committee on Education and the Workforce on March 10, 2004. H.R. 3873 contains several child nutrition proposals, including a provision to expand direct certification and increase the requirements for income verification. CBO estimated that H.R. 3873 would increase direct spending by \$550 million over the 2004–2014 period.

The estimate for the Senate bill differs from the estimate for H.R. 3873 largely because the Senate bill has different requirements for income verification, because the Senate bill would provide a gradual phase-in of direct certification, and because it would provide mandatory funding for additional projects.

Estimate prepared by: Federal Costs: Kathleen FitzGerald. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Samuel Kina.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## VI. SECTION-BY-SECTION ANALYSIS

### TITLE I. AMENDMENTS TO THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

#### *Section 101. Nutrition Promotion*

Current law: No provisions.

Section 101: Subject to the availability of funds, this section requires the Secretary to make payments to State agencies to promote nutrition in child nutrition food service programs.

For each fiscal year, the total amount made available may not be more than  $\frac{1}{2}$  cent times the number of lunches reimbursed (subsidized) through the school lunch program, the child and adult care food program, and the summer food service program. At current lunch service rates, this would total approximately \$34 million.

Each State agency would be allocated either a uniform base amount set by the Secretary, or if higher, an amount based on its proportion of the total number of lunches reimbursed through the school lunch program, the child and adult care food program, and the summer food service program. However, the Secretary would be required to reduce proportional allocations to State agencies to the extent necessary to ensure that the total allocated is not greater than the amount appropriated for the nutrition promotion program.

Most funding received by State agencies would be disbursed to school food authorities and other child nutrition food service institutions to disseminate and use nutrition messages and materials developed by the Secretary. But State agencies would be allowed to (1) reserve up to 5% of their allocation (or, in the case of small State agencies, a higher percentage set by the Secretary) to support dissemination and use of nutrition messages and materials developed by the Secretary and (2) retain an additional portion of their allocation (set by the Secretary) and use the funds to disseminate and use nutrition messages and materials developed by the Secretary through the summer food service program.

Documentation of State agency activities would be required, and the Secretary would be permitted to reallocate unused funds.

Appropriations for the nutrition promotion program are authorized at "such sums as necessary" to carry out the program, to remain available until expended.

*Section 102. Nutrition Requirements*

Current law: Lunches served by schools participating in the school lunch program must offer:

- Fluid milk; and
- A variety of fluid milk consistent with prior year preferences, unless the prior year preference for any particular variety of fluid milk is less than 1% of the total milk consumed at the school.

[Sec. 9(a)(2) of the Richard B. Russell National School Lunch Act (NSLA)]

Notes: By regulation, substitutes for fluid milk may be offered by schools. But they are only considered part of a reimbursable (subsidized) school meal if they are provided under the following rules. Schools must make substitutions in response to a request from a licensed physician for students with a "disability" that restricts their diet. Schools may make substitutions for students with "medical or other special dietary needs" when requested by a recognized medical authority. Under the terms of section 4(e) of the Child Nutrition Act of 1966, the milk and milk substitute rules of the school lunch program also apply to the school breakfast program. By policy, they also apply to other child nutrition food service programs.

Section 102: This section replaces current law provisions and establishes rules that, in most matters, track current law and regulations. It stipulates that lunches served by schools participating in the school lunch program:

- Must offer fluid milk in a variety of fat contents;
- May offer flavored and unflavored fluid milk and lactose-free fluid milk; and
- Must provide a fluid milk substitute for students whose "disability" restricts their diet on the receipt of a written statement from a licensed physician that identifies the "disability" and specifies the substitute.

In addition, schools may substitute a non-dairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards established by the Secretary for students who cannot consume fluid milk because of a "medical or other special dietary need" (other than a "disability"). The standards (among other requirements set by the Secretary) must include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.

The permissive substitutions noted immediately above may be made if (1) the school notifies the State agency that the school is implementing a permitted variation and (2) the substitution is requested by written statement of a medical authority or the student's parent or legal guardian that identifies the "medical or other special dietary need" that restricts the student's diet. A school is not required to provide non-dairy beverages other than those the school has identified as acceptable substitutes. Expenses incurred in providing substitutions for fluid milk that are in excess of ex-

penses covered by program reimbursements must be paid by the school district.

Finally, this section bars schools and institutions participating in the school lunch program from restricting, directly or indirectly, the sale or marketing of “fluid milk products” by the school (or a person approved by the school) at any time or place on school premises or at any school-sponsored event.

The Committee recognizes the important role that fluid milk and other low-fat dairy products play in the National School Lunch Program to help foster children’s healthy growth and development. Section 102 continues current policy encouraging all children to consume cow’s milk, yet gives schools the option to offer an acceptable non-dairy substitute to children who cannot drink cow’s milk for medical or other special dietary reasons. Section 102 is intended to reduce the barriers for schools that participate in the National School Lunch and Breakfast Program and who want to allow greater accessibility to a fluid milk substitute for children with a medical or other special dietary need.

The Committee recognizes that schools may make substitutions, at their discretion, for individual children who do not have a disability, but who have special medical or dietary needs. Such determinations are only made on a case-by-case basis. This provision covers those children who have milk intolerances or allergies but do not have life threatening reactions (anaphylactic reactions) when exposed to milk. Each such request currently must include a statement from a recognized medical authority that identifies the medical or other dietary condition which restricts the child’s diet, foods to be omitted and foods to be substituted. Section 102 permits a statement from a parent to substitute for the statement from the medical authority.

Section 102 amends Section 9(a)(2) of the Richard B. Russell National School Lunch Act by legislating certain regulatory provisions governing meal substitutions that are found in 7 CFR 210.10(g)(1). Section 102 modifies these provisions in only one significant aspect to permit a statement from a student’s parent or legal guardian identifying a medical or other special dietary need that restricts a student’s diet in order to allow a substitution.

Section 102 maintains current regulations requiring a statement from a licensed physician in cases of a medical disability. The term “disability” as defined by the Americans with Disabilities Act includes severe food allergies (food anaphylaxis) or other special food needs of children with disabilities. Department of Agriculture regulations (7 CFR 15b) require substitutions or modifications for children whose disabilities restrict their diet. The term “medical or other special dietary need” does not include children with disabilities and schools may, but are not required, to provide dietary substitutions. The Committee encourages local educational agencies and school food service personnel to consult regulations and guidance published by the Food and Nutrition Service to understand definitions established for the terms “medical need” and “special dietary needs.”

As noted above, this section largely codifies 7 CFR 210.10(g)(1) as it relates to beverages, with one significant change. Section 102 does not affect 7 CFR 210.10(g)(2) which allows schools to provide alternatives for ethnic, religious, or economic reasons. Thus,

schools may provide alternative beverages under the authority provided in 7 CFR 210.10(g)(2).

In implementing the substitution provisions of Section 102, the Committee intends that the privacy rights of students and parents will be safeguarded. Further, the Committee expects that the Department of Agriculture will establish nutritional requirements for all non-dairy substitutions to assure they are nutritionally equivalent to milk.

This provision will ensure consistency among substitute beverages so that children will receive recommended nutrients. This amendment, while requiring that substitutes be of equivalent nutritional value, does not provide authority for the Secretary to ensure the nutrient content of such beverages. The Secretary is encouraged to make available to schools a list of substitutions for fluid milk determined to meet established requirements for nutritional equivalence. However, the Committee does not intend to require the Secretary to approve specific products. Schools wishing to make available substitutions for fluid milk not identified by the Secretary as nutritionally acceptable are responsible for making a determination in accordance with regulations issued by the Secretary.

The Committee does not intend for Section 102 to create any additional paperwork or administrative burdens for parents or schools, but it assumes that the Secretary of Agriculture will provide schools maximum flexibility in fulfilling notification requirements under this Section. Furthermore, the Committee encourages schools to identify ways to make parental notification simple. For example, a written request from a parent or a legal guardian for a non-dairy substitute may be included in eligibility forms for a free or reduced price meal, provided the parent or legal guardian specifies what substitute is requested and the medical and other special dietary needs, as indicated in 7 CFR 210.10(g)(1). Moreover, the Committee recommends that schools permit requests for substitutions to remain in effect until the medical authority or student's parent or legal guardian revokes such request in writing.

Section 102 requires schools that make available to students a non-dairy substitute to notify the state agency that substitute beverages are being made available. If this information is contained in an existing report, this requirement will be considered as met.

### *Section 103. Provision of Information*

Current law: No provisions.

Section 103: This section requires the Secretary to ensure that States and school food authorities administer school nutrition programs in a manner that reflects food consumption recommendations (1) specified in the Dietary Guidelines for Americans and (2) at the Secretary's option, based on other recent scientifically valid information.

In implementing Section 103, the Committee strongly encourages the Secretary, for the school year beginning in July 2004, to take action to encourage schools to offer foods that reflect consumption recommendations made by the Dietary Guidelines for Americans. As an example, the 2000 revision of Dietary Guidelines for Americans included a separate guideline for grains, directing Americans to "choose a variety of grains daily, especially whole grains." The

Dietary Guidelines specifically recommend, “Aim for at least 6 servings of grain products per day—more if you are an older child or teenager, an adult man, or an active woman—and include several serving of whole grains.”

Section 103 also allows the Secretary to encourage the consumption in schools of foods that are recommended by scientifically valid information. As an example, there is a growing scientific consensus on the value of omega-3 fatty acids. The American Heart Association has stated “Omega-3 fatty acids have been shown in epidemiological and clinical trials to reduce the incidence of cardiovascular disease.” Accordingly, the recent revision of the American Heart Association’s dietary guidelines recognizes this evidence by recommending consuming fish, which is high in omega-3 fatty acids, at least twice weekly to reduce the risk of heart disease.

*Section 104. Direct Certification*

*Applications and descriptive materials*

Current law: Applications for free and reduced-price school meals and descriptive materials about school meal programs must be distributed to parents and guardians.

[Sec. 9(b) of the NSLA]

Section 104: This section requires that descriptive materials distributed to parents and guardians contain a notification that (1) participants in the special supplemental nutrition program for women, infants, and children (the WIC program), the food stamp program, the food distribution program on Indian reservations, and State TANF programs may be eligible for free or reduced-price school meals and (2) documentation may be requested for verification of eligibility for free or reduced-price meals.

*“Direct certification”*

Current law: A school food authority may “directly certify” any child as eligible for free or reduced-price school meals, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the child’s status as a member of a food stamp household or a family receiving TANF.

[Sec. 9(b)(2)(C)(ii) of the NSLA]

Section 104: This section requires school food authorities to “directly certify” as eligible for free school meals, without further application, any child who is a member of a food stamp household. In order to carry out this rule, it also requires each State agency to enter into an agreement with the State food stamp agency to establish procedures under which children who are members of food stamp households will be “directly certified” and amends the Food Stamp Act to require State food stamp agencies to enter into the required agreements and cooperate in carrying out “direct certification.”

The “direct certification” requirements are phased in. For school year 2006–2007, they apply to school districts with an enrollment of 25,000 students or more in the preceding year. For school year 2007–2008, they apply to school districts with an enrollment of

10,000 students or more in the preceding year. For subsequent school years, they apply nationwide. Until mandatory “direct certification” for children in food stamp households is fully implemented, the existing permissive authority is retained.

In addition, this section adds (to existing authority with regard to children in TANF families) permissive authority for school food authorities to “directly certify” homeless children, children served by programs under the Runaway and Homeless Youth Act, and migrant children.

These provisions are intended to improve certification accuracy and reduce the paperwork burden placed on school food authorities and families. When implementing these provisions, the Committee expects the Secretary and State agencies to encourage school food authorities to disregard the paper meal applications of students that have already been directly certified.

#### *Funding*

Current law: No provisions.

Section 104: This section also provides the Secretary mandatory funding (\$9 million to be available October 1, 2005 and remain available until spent) to assist States in carrying out the provisions of this section (as to applications and descriptive materials and “direct certification”) and verification activities (see section 105).

#### *Communications*

Current law: No provisions.

Section 104: This section requires that any communications with households for verification or eligibility determination purposes be in an understandable and uniform format and, to the extent practicable, in a language that parents and guardians can understand. It also explicitly permits applications and descriptive material to be made available electronically via the Internet.

#### *Miscellaneous and conforming provisions*

Section 104 further (1) limits information that may be provided to third-party contractors used in verification “follow-up” activities (see section 105), (2) allows the disclosure of information to State Medicaid agencies for “direct verification” purposes (see section 105), (3) requires State food stamp agencies to cooperate in verification activities (see section 105), and (4) makes various conforming amendments to the NSLA.

#### *Section 105. Household Applications*

##### *Eligibility determinations*

Current law: Eligibility determinations for free or reduced-price school meals (other than cases where “direct certification” is used) are to be made on the basis of a complete application executed by an adult member of the household.

[Sec. 9(b)(2)(C) of the NSLA]

Note: School food authorities may request separate applications for each child in a household. By policy, school food authorities may assist in completing an application.

Section 105: This section requires that eligibility determinations for free or reduced-price school meals (other than cases where “direct certification” is used) are to be made on the basis of a complete application executed by an adult member of the household or in accordance with guidance issued by the Secretary. It also stipulates that the household application must identify the names of each child in the household for whom free or reduced-price meal benefits are being requested and bars State agencies and school food authorities from requesting separate applications for each child in cases where the children attend schools under the same school food authority. It further explicitly permits applications with electronic signatures if the application is submitted electronically and the application filing system meets confidentiality standards set by the Secretary.

*Verification of a sample of applications*

Current law: By regulation, local school food authorities (SFAs) must verify the eligibility of children in a sample of approved free and reduced-price school meal applications. The sample size selected must be either (1) the lesser of 3% of, or 3,000, approved applications selected at random or (2) the lesser of 1% of all applications selected from “error-prone” applications or 1,000 “error-prone” applications, plus the lesser of ½ of 1% of, or 500, approved applications that provided a case number (in lieu of income information) showing participation in the food stamp program, a State TANF program, or the food distribution program on Indian reservations. “Error-prone” applications are those that indicate monthly income within \$100 (or annual income within \$1,200) of the income eligibility limits for free or reduced-price school meals.

[Regulations under Sec. 9(b) of the NSLA]

Section 105: Effective July 2005, this section requires in law that SFAs verify the eligibility of children in a sample of approved free and reduced-price school meal applications.

The basic sample size would be the lesser of 3% of all approved applications selected from “error-prone” applications or 3,000 approved error-prone applications. “Error-prone” applications would be those defined as such under current regulations or, alternately, under criteria set by the Secretary.

However, SFAs could choose 1 of 2 alternate sample sizes (effectively the options established in current regulations, noted above) if:

—Their “nonresponse rate” for the preceding school year is less than 20%, or

—They are an SFA with more than 20,000 children approved by application as eligible for free or reduced-price school meals as of October 1, and their “nonresponse rate” for the preceding school year is at least 10% below the “nonresponse rate” for the second preceding school year.

A “nonresponse rate” is the percentage of approved household applications for which verification information has not been obtained by an SFA.

Note: Second-preceding-school-year “nonresponse rates” may not be available for all schools for the 2005–2006 school year. As a result, this section also provides that, for the 2005–2006 school year,

large SFAs (20,000+ approved students) also could qualify to use one 1 of the 2 alternate sample sizes (the options in current regulations) if they attempt to verify all approved household applications through the use of “direct verification”—i.e., use of public agency records from at least 2 programs (see later description of “direct verification”).

The Committee expects that in implementing these new verification requirements, the Secretary or State agencies will notify school food authorities that are likely to have more than 20,000 children approved by application, before the start of each school year, of the verification nonresponse rate they would need to achieve in order to be subject to the alternate sampling requirements specified in Section 9(b)(3)(D)(iv) of the Richard B. Russell National School Lunch Act for the following school year.

In cases in which there are not enough “error-prone” applications to comply with the options, SFAs would be required to randomly select additional applications to fulfill the percentage or number requirement.

*Preliminary reviews of approved applications*

Current law: No provisions.

Section 105: Prior to conducting any other verification activity for approved applications, this section requires SFAs to ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial determination (unless otherwise determined by the Secretary).

If the initial determination is found to be incorrect, the SFA must (1) correct the household’s eligibility status, (2) notify the household of the change, (3) if the review indicates the household is not eligible for either free or reduced-price school meals, notify the household of the reason and that the household may reapply with income documentation, and (4) if the review indicates that the household is eligible, proceed to verify the application.

*“Direct verification”*

Current law: No provisions.

Section 105: When verifying eligibility for free or reduced-price school meals, this section permits SFAs to first use “direct verification”—i.e., obtain and use income and program participation information from public agencies administering certain programs, in accordance with criteria established by the Secretary.

The programs are: the food stamp program, the food distribution program on Indian reservations, State TANF programs, State Medicaid programs, or similar income-tested programs (or other sources of information) as determined by the Secretary.

For purposes of directly verifying school meal applications, the Committee expects the Secretary to use program participation data in programs with income levels comparable to the National School Lunch Program. When verifying eligibility using data from other income-tested programs where the income limits are different than the school lunch limits, the Committee expects the Secretary to use income information.

This section also requires the Secretary to evaluate (1) the effectiveness of “direct verification” in decreasing the portion of the verification sample that must be verified by contacting the household, while ensuring that adequate verification information is obtained, and (2) the feasibility of “direct verification.” If the Secretary finds that “direct verification” significantly decreases the portion of the sample that must be verified by means of directly communicating with families, while ensuring that adequate information is obtained, and that it can be conducted by most State agencies and SFAs, the Secretary may require a State agency or SFA to implement “direct verification” through 1 or more of the programs noted above—unless the State agency or SFA demonstrates that it lacks the capacity to conduct “direct verification” or is unable to implement it.

This section further provides mandatory funding (\$2 million to be available October 1, 2005 and remain available until spent) for the evaluation of “direct verification.”

*Individual household verification, “follow-up” activities*

Current law: No provisions.

Section 105: If an approved household application is not verified through “direct verification,” this section requires SFAs to provide the household a written notice that its application has been selected for verification and that it is required to submit information to confirm eligibility for free or reduced-price school meals. The notice is to include a toll-free phone number that parents or legal guardians may use for assistance in the verification process.

If the household does not respond to a verification request for information, the SFA is required to make at least 1 additional attempt to obtain the necessary verification from the household.

This section also permits SFAs to contract with a third party to assist the SFA in carrying out “follow-up” activities to make additional attempts to obtain necessary verification—under standards established by the Secretary.

*Verification deadline*

Current law: By regulation, verification activities must be completed by December 15th of each school year.

Section 105: This section requires SFAs to complete all verification activities (including “follow-up” activities) by November 15 of each school year. It also requires SFAs to make appropriate modifications to eligibility determinations based on verification activities.

*Changing the verification sample*

Current law: No provisions.

Section 105: This section allows the Secretary to alter required verification sample sizes, sample selection criteria, and the November 15 verification activity deadline—in the case of a natural disaster, civil disorder, strike, or other local condition. On individual case review, it also allows SFAs to decline to verify up to 5% of the verification sample and replace the declined applications with other approved applications.

*Feasibility study of the use of computer technology*

Current law: No provisions.

Section 105: This section requires the Secretary to conduct a study of the feasibility of using computer technology (including “data mining”) to reduce: overcertification errors; waste, fraud, and abuse in the application process; and errors, waste, fraud, and abuse in other nutrition programs. A report, including a plan that spells out how using computer technology could be implemented, is due not later than 180 days after enactment.

*Section 106. Duration of Eligibility for Free or Reduced Price Meals*

Current law: No provisions. Note: Current policies direct that, when a family’s income changes in such a way as to make them ineligible for free or reduced-price school meals, they are to report the change, and the local school food authority is to adjust their status.

Section 106: This section effectively directs that eligibility for free or reduced-price school meals remain valid for 1 year for most students. Eligibility would remain in effect beginning with approval for the current school year and ending on a date during the subsequent school year determined by the Secretary. An exception is included for cases where verification activities indicate ineligibility.

*Section 107. Runaway, Homeless, and Migrant Youth**Categorical (automatic) eligibility*

Current law: By administrative guidance, homeless children generally are automatically eligible for free school meals. There are no explicit eligibility provisions for runaway youth or migrant children. Also by administrative guidance, school officials may, for purposes of granting eligibility for free school meals, accept documentation that children are homeless from the local educational liaison for the homeless or directors of homeless shelters where the children reside.

Section 107: This section establishes in law the automatic eligibility of homeless children for free school meals. It also makes youth served by grant programs under the Runaway and Homeless Youth Act and migrant children automatically eligible for free school meals. For purposes of granting automatic eligibility to homeless children, runaway youth, and migrant children, this section also requires documentation that they are homeless, served by a runaway youth program, or a migrant child.

*Section 108. Exclusion of Military Housing Allowances*

Current law: In cases where military families live in “privatized” housing, their housing allowances are not counted as income when determining eligibility for free or reduced-price school meals. This rule is effective through June 30, 2004.

[Sec. 9(b)(7) of the NSLA]

Section 108: This section makes permanent the current rule dis-regarding housing allowances for “privatized” housing.

*Section 109. Waiver of Requirement for Weighted Averages for Nutrient Analysis*

Current law: School food authorities must use “weighted averages” for their nutrient analysis of their school meal programs. Under this method, the nutrient content of school meals is measured (“weighted”) according to food items chosen by students. Compliance with this requirement was waived until September 30, 2003.

[Sec. 9(f)(5) of the NSLA]

Section 109: This section re-instates the waiver of the requirement to use “weighted averages” for nutrient analysis—through September 30, 2008.

*Section 110. School Food Safety Programs*

Current law: Schools participating in the school lunch and breakfast programs must, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections. Schools are not required to comply with this requirement if a food safety inspection of the school is required by a State or local governmental agency responsible for inspections.

[Sec. 9(h) of the NSLA]

Section 110: This section adds a requirement that school food authorities implement a school food safety program for the preparation and service of meals that complies with a “hazard analysis and critical control point” system established by the Secretary (see section 128, Food Service Management Institute).

*Section 111. Purchases of Locally Produced Foods*

Current law: Subject to the availability of appropriations, the Secretary is required to encourage institutions participating in the school lunch and school breakfast programs to purchase, in addition to other food purchases, locally produced foods—to the maximum extent practicable and appropriate. The Secretary also is required to provide startup grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities (and similar costs) incurred in carrying out this policy. Annual appropriations of \$400,000 are authorized through fiscal year 2007.

[Sec. 9(j) of the NSLA]

Section 111: This section extends the authorization of appropriations through fiscal year 2008.

*Section 112. Special Assistance*

Current law: Under “Provision 2” and “Provision 3,” schools with high proportions of children eligible for free and reduced-price school meals may elect to serve all meals free (i.e., avoid annual individual eligibility determinations and separate meal counting procedures for free and reduced-price meals), if they pay the extra subsidy cost of doing so. The Federal government is held harmless through formulas for estimating what costs would have been without a totally free meal system.

[Sec. 11(a)(1) of the NSLA]

Section 112: This section allows school districts to claim “Provision 2” or “Provision 3” status.

*Section 113. Food and Nutrition Projects Integrated with Elementary School Curricula*

Current law: Subject to the availability of appropriations, the Secretary is required to award grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula. The authorization of appropriations for these grants (\$100,000—\$200,000 a year) expired at the end of fiscal year 2003.

[Sec. 12(m) of the NSLA]

Section 113: This section deletes provisions for grants for food and nutrition projects integrated with elementary school curricula.

*Section 114. Procurement Training*

Current law: No provisions.

Section 114: Subject to the availability of appropriations, this section requires the Secretary to provide technical assistance and training to States, State agencies, schools, and school food authorities in the procurement of goods and services for child nutrition meal service programs—including technical assistance and training to ensure compliance with “Buy American” requirements. Annual appropriations are authorized at \$1 million a year for each of fiscal years 2005 through 2008, to remain available until spent.

*Section 115. Summer Food Service Program for Children*

*“Seamless summer option”*

Current law: No provision. Note: By administrative policy, school food authorities may be granted “seamless summer waivers” under which they may administer summer food service programs under provisions of law that normally apply to school meal programs, including school meal reimbursement (subsidy) rates. These waivers may be obtained to operate programs during traditional summer vacation periods and, for year-round schools, long school vacation periods (generally exceeding 2–3 weeks).

Section 115: This section specifies in law provisions that closely track the current “seamless summer waiver” policy. Under this “seamless summer option,” school food authorities may administer summer or school vacation food service under the provisions of the school meal programs, including school meal reimbursement (subsidy) rates—except as otherwise determined by the Secretary.

*Rural Area Eligibility Demonstration for Summer Food Service*

Current law: No provisions. Note: Under section 13(a)(1) of the NSLA, summer food service programs in “areas in which poor economic conditions exist” operate as “open-site” programs in which all participating children are served free meals. “Areas in which poor economic conditions exist” are defined as those in which more

than 50% of the children are eligible for free or reduced-price school meals.

Section 115: This section requires the Secretary to carry out a demonstration in rural areas of 1 State (selected by the Secretary) under which the threshold for “open-site” programs is 40%—for each of calendar years 2005 and 2006.

This section also requires the Secretary to conduct an evaluation of the rural area eligibility summer food service demonstration. A report is due not later than January 1, 2008, and mandatory funding (a total of \$400,000) is provided to carry out the evaluation, to be available until spent.

*Appropriations authorization for the summer food service program*

Current law: Appropriations for the summer food service program are authorized through June 30, 2004.

[Sec. 13(q) of the NSLA]

Section 115: This section extends the appropriations authorization September 30, 2008.

*Simplified summer food programs*

Current law: The “Lugar” pilot project allows public sponsors of summer food service programs (e.g. schools, local governments) to receive the maximum summer program reimbursement (subsidy) rates without providing documentation of costs. The project operates in 13 States and 1 commonwealth: Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Puerto Rico, Texas, and Wyoming. It is authorized through June 30, 2004.

[Sec. 18(f) of the NSLA]

Section 115: This section makes the “Lugar” pilot project permanent as the “simplified summer food program,” continues it for those States already participating, requires an evaluation report by April 30, 2007, and expands it in 2 ways:

—Effective January 2005, it adds 6 States (Colorado, Louisiana, Michigan, Mississippi, Ohio, and Oregon) based on the proportion of children receiving summer meals compared to the national average; and

—Effective January 2005, it extends coverage of the “Lugar” pilot project to all sponsors in all covered States (i.e., includes private nonprofit sponsors).

*Section 116. Commodity Distribution Program*

Current law: The Secretary is required to use “Section 32” and Commodity Credit Corporation funds to maintain the “annually programmed level of commodity assistance” for child nutrition and Older Americans Act programs (i.e., supplement appropriated funds in order to ensure that the covered programs receive the value of commodities they are “entitled” to receive). This requirement expires June 30, 2004.

[Sec. 14(a) of the NSLA]

Section 116: This section makes the requirement for the Secretary to use “Section 32” and Commodity Credit Corporation funds to maintain the “annually programmed level of commodity assistance” permanent.

*Section 117. Child and Adult Care Food Program*

*For-profit day care centers*

Current law: For-profit day care centers may participate in the child and adult care food program if at least 25% of the children they serve meet the eligibility criteria for free or reduced-price school meals. In addition, they may participate if they receive compensation from amounts granted under Title XX of the Social Security Act (the social services block grant program) for at least 25% of the children enrolled or their licensed capacity, whichever is less. The first of these rules (25% of children served meeting the eligibility criteria for free or reduced-price school meals) expires June 30, 2004.

[Sec. 17(a)(2)(B) of the NSLA]

Note: Separately, section 17(p) of the NSLA permanently authorizes a 3-State “pilot” project under which for-profit child care centers can qualify under the first rule noted above (25% of children served meeting the eligibility criteria for free or reduced-price school meals) in Delaware, Iowa, and Kentucky.

Section 117: This section makes permanent (and nationally applicable) for-profit child care centers’ ability to qualify if at least 25% of the children they serve are eligible for free or reduced-price school meals (i.e., the first rule noted above). Note: It also ends the 3-State “pilot” project expanding eligibility of for-profit child care centers since the rule they operate under is made nationwide.

*“Tier I” family day care homes: duration of determination*

Current law: “Tier I” family day care homes are located in low-income areas or have low-income providers. They qualify for the higher of the 2 day care home reimbursement (subsidy) rates offered under the child and adult care food program. A determination that a day care home is located in a low-income area (typically based on the proportion of children who are eligible for free or reduced-price school meals) generally is effective for 3 years—unless the State agency determines that the area no longer qualifies.

[Sec. 17(f)(3)(E)(iii) of the NSLA]

Section 117: This section increases the length of “Tier I” determinations to 5 years—unless the State agency determines that the area no longer qualifies.

*Disregarded overpayments*

Current law: No provisions.

Section 117: When conducting management evaluations, reviews, or audits, this section allows the Secretary or a State agency to disregard overpayments to participating institutions (typically, child care centers and sponsors of family day care homes) if the total

overpayment for the fiscal year does not exceed an amount—consistent with the disregards allowed under other child nutrition programs—that recognizes the cost of collecting small claims. Disregards would not be allowed for overpayments for which there is evidence of a violation of law. Note: By regulation, the comparable disregard in school meal programs is \$600.

*Family day care homes: duration of agreements*

Current law: The Secretary is authorized to issue regulations directing States to develop and provide for the use of a standard agreement form between family day care homes and their sponsoring organizations. These agreements specify the rights and responsibilities of each party.

[Sec. 17(j) of the NSLA]

Section 117: This section specifies that standard form agreements between day care homes and their sponsors are to remain in effect until terminated by either party.

*Rural area eligibility demonstration for day care homes*

Current law: No provisions. Note: Under section 17(f)(3)(A) of the NSLA, family or group day care homes qualify as “Tier I” day care homes (i.e., eligible for higher reimbursement/subsidy rates) if they are located in areas in which more than 50% of the children are eligible for free or reduced-price school meals.

Section 117: This section requires the Secretary to carry out a demonstration in rural areas of 1 State (selected by the Secretary) under which the threshold for “Tier I” day care homes is 40%—for each of fiscal years 2006 and 2007.

This section also requires the Secretary to conduct an evaluation of the rural area eligibility day care home demonstration. A report is due not later than March 31, 2008, and mandatory funding (a total of \$400,000) is provided to carry out the evaluation, available until spent.

*Management support initiative*

Current law: The Secretary is required to provide training and technical assistance in order to assist State agencies in improving their management and oversight of the child and adult care food program. Mandatory funding for this initiative (\$1 million a year) expired at the end of FY2003.

[Sec. 17(q) of the NSLA]

Section 117: This section provides mandatory funding for the management improvement initiative for fiscal years 2005 and 2006—at \$1 million a year.

*Age limits*

Current law: Emergency homeless shelters may participate in the child and adult care food program. Subsidies are paid for free meals and snacks served to (1) children not more than 12 years old, (2) children of migrant workers who are not more than 15 years old, and (3) children with disabilities (no age limit).

[Sec. 17(t) of the NSLA]

Section 117: This section allows subsidies to be paid for free meals and snacks served by emergency homeless shelters to (1) all children not more than 18 years old and (2) children with disabilities (no age limit).

*Paperwork reduction and technical amendments*

Current law: No provisions.

Section 117: This section also makes technical amendments to the section 17 of the NSLA and requires the Secretary (in conjunction with the States and participating child care food service institutions) to examine the feasibility of reducing paperwork resulting from regulations and recordkeeping requirements for State agencies, day care homes, child care centers, and sponsors under the child and adult care food program.

*Section 118. Fruit and Vegetable Program*

Current law: A pilot project under which students in 25 elementary or secondary schools in each of 4 States (and elementary or secondary schools on 1 Indian reservation) have made available to them free fresh and dried fruits and fresh vegetables expires at the end of the 2003–2004 school year. The project operates in Indiana, Iowa, Ohio, Michigan, and the Zuni Reservation and was funded with a total of \$6 million.

[Sec. 18(g) of the NSLA]

Section 118: Beginning with the 2004–2005 school year, this section requires the Secretary to operate a permanent program under which free fresh fruits and vegetables are made available to the maximum extent practicable to students in:

- 25 elementary or secondary schools in each of the States and the Indian reservation in the existing project;
- 25 elementary or secondary schools in a separate existing project in Mississippi; and
- 25 elementary or secondary schools in each of 3 additional States and 2 Indian reservations (as selected by the Secretary).

In selecting schools to participate in the 3 additional States and 2 Indian reservations, the Secretary must, to the maximum extent practicable, ensure that the majority of schools are those in which at least 50% of students are eligible for free or reduced-price school meals.

This section also requires the Secretary to submit annual interim reports on the project, along with a final report (due by December 31, 2008).

This section further (1) provides that any remaining funding for the existing project may be used for the expanded program, (2) provides new mandatory funding for the program (\$9 million a year), and (3) authorizes appropriation of “such sums as are necessary” to expand the pilot project.

*Section 119. Summer Food Service Rural Transportation Demonstration*

Current law: No provisions.

Section 119: This section requires the Secretary to carry out a demonstration providing grants to increase participation in the summer food service program through innovative approaches to limited transportation in rural areas. The grants would be provided through not more than 5 State agencies to not more than 60 eligible service institutions—selected by the Secretary. Eligible service institutions would be required to conduct a project for 3 successive fiscal years, and mandatory funding is provided (\$2 million for fiscal year 2006, and \$1 million a year for fiscal years 2007 and 2008, available until spent). Also required are an interim report and a final report (due by January 1, 2009).

*Section 120. Summer Food Service Residential Camp Demonstration*

Current law: No provisions. Note: Residential summer camps may participate in the summer food service program, but must differentiate between children eligible for free and reduced-price meals and others in their meal service and collect income information. They may not operate as an “open-site” summer program (where all meals are served free to all children).

Section 120: During the summers of 2004 and 2005, this section requires the Secretary to carry out a demonstration to identify and evaluate alternative methods of determining the eligibility of residential private nonprofit camps to participate in the summer food service program. The demonstration would be carried out at 1 private nonprofit residential camp in each of 2 States. Eligible camps may not charge fees to any children in residence, must serve children from areas in which at least 50% of the children are eligible for free or reduced-price school meals, and would receive reimbursements (subsidies) for all meals served to participating children at the free-meal summer food service reimbursement/subsidy rate (effectively allowing them to operate as an “open-site” program). An evaluation report would be due by March 31, 2006.

*Section 121. Healthy School Nutrition Environment Demonstrations*

Current law: No provisions.

Section 121: Subject to the availability of funds, this section requires the Secretary to conduct demonstrations in selected elementary and secondary schools to create healthy school nutrition environments and to assess the effect of these environments on the health and well-being of the children enrolled in the schools.

The Secretary would be required to select schools in a manner that (1) provides for an equitable distribution among urban, suburban, and rural areas, and schools with varying family income levels, and (2) permits evaluation of the demonstrations.

In the first year, selected schools would receive grants to assist them in assessing their nutritional environment and meeting “certification criteria.” For subsequent years, schools meeting “certification criteria” would receive grants to assist them in providing meal services and other approved activities consistent with a healthy school environment. “Certification criteria” would be established by the Secretary and include at least (1) providing meals that meet nutritional standards, (2) offering healthy food choices outside regular meal service, (3) promoting the consumption of fruits and vegetables, and (4) providing nutrition education to staff

and to students in an understandable and uniform format and, to the extent practicable, in a language students can understand.

The Secretary would be required to evaluate and report on demonstration schools—measuring, at a minimum, effects on (1) overweight children and obesity, (2) dietary intake, (3) nutrition education and behavior, (4) the adequacy of time to eat, (5) physical activities, (6) parental and student attitudes and participation, and (7) costs.

Appropriations are authorized at “such sums as are necessary,” to remain available until spent.

As part of the Committee’s efforts to address the growing number of children at risk for overweight or obesity, the Committee authorizes pilot projects, subject to the availability of funds, to create healthy school nutrition environments. The Committee believes schools can play an important role in developing opportunities for students to develop healthy lifestyles by encouraging physical education and activity and providing school children with nutrition information so that they can make informed choices from the broad variety of foods and beverages available to them on school grounds.

The Committee believes schools should encourage vendors to provide healthy choices in vending machines, canteens, and school stores as an option for students. This section is not meant to direct bans or restrictions beyond the current USDA regulations governing the sale of competitive foods.

*Section 122. Food Service Program Personnel Professional Standards Demonstration*

Current law: No provisions.

Section 122: Subject to the availability of funds, this section requires the Secretary to carry out a pilot project to (1) assess issues pertaining to professional certification of school food service program personnel and (2) provide States, school districts, and schools with assistance in improving professional standards, and obtaining appropriate program certification, related to food service and dietary management.

In carrying out the demonstration, the Secretary must (1) assist States in providing training and professional development classes and provide assistance to pay the costs of attending classes and obtaining certificates/credentials, (2) assess which certifications/credentials are appropriate, (3) assess the degree to which senior food service personnel are required to attain certificates/credentials, (4) assess the effect that employing certified/credentialed administrators has on program quality, and (5) assess the costs of including requirements for certifications/credentials.

A report on the demonstration is required on its completion and “such sums as are necessary” to carry out the pilot project are authorized, to remain available until spent.

*Section 123. School Garden Grant Demonstration*

Current law: No provisions.

Section 123: Subject to the availability of funds, this section permits the Secretary to make grants to State or local educational agencies and nonprofit organizations to support “school garden programs” that allow children to learn about the importance of “specialty crops” to a healthy diet. The Secretary must develop and

carry out the grant program in consultation with State departments of agriculture and other appropriate institutions.

This section also authorizes \$15 million for the project, to remain available until spent.

*Section 124. Access to Local Foods*

Current law: No provisions. Note: Section 9(j) of the NSLA requires the Secretary to encourage the purchase of locally produced foods (see section 111 above).

Section 124: This section authorizes the Secretary to provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities that:

- Improve access to local foods in child nutrition food service schools and institutions through “farm-to-cafeteria” activities (assistance may include the acquisition of food and appropriate equipment and training and education);

- Design activities that procure local foods from small- and medium-sized farms;

- Support nutrition education activities incorporating the participation of schoolchildren in farm and agricultural education activities;

- Develop a sustained commitment to “farm-to-cafeteria” projects in the community;

- Require \$100,000 or less in Federal contributions and a Federal contribution of not more than 75%;

- Provide cash or in-kind matching contributions; and

- Cooperate in an evaluation carried out by the Secretary.

“Such sums as are necessary” are authorized to be appropriated to carry out this grant program—for fiscal years 2004 through 2008.

*Section 125. Childhood Obesity Prevention Demonstration*

Current law: No provisions.

Section 125: Subject to the availability of funds, this section requires the Secretary to award a grant to carry out a pilot project to enhance obesity prevention activities for child care centers (and their sponsoring organizations) providing services to limited-English-proficient individuals through the child and adult care food program. The grant would be made to a national organization with expertise in designing and implementing health education programs for limited-English-proficient individuals, would run for a period of 4 years, and would be carried out in 4 States that have experienced a growth in their limited-English-proficient population of at least 100% between 1990 and 2000.

Activities under the grant would include:

- Developing a “tool kit” for use by lay educators;

- Conducting training and providing technical assistance to lay health educators; and

- Collaborating with child care centers and sponsoring organizations to identify limited-English-proficient children and families and to enhance their capacity to use appropriate obesity-prevention strategies;

An independent evaluation would be required, and appropriations of \$250,000 a year for fiscal years 2005 through 2008 are authorized.

*Section 126. Year Round Services for Eligible Entities*

Current law: No provisions.

Section 126: This section permits local governments and private nonprofit organizations in California to receive subsidies for up to 3 meals and 2 snacks for any day on which they offer services. They would operate generally using summer food service program rules, including summer food service reimbursement (subsidy) rates. The Secretary is required to provide \$1 million in fiscal year 2005 to cover additional reimbursement (subsidy) costs, to remain available until spent.

*Section 127. Free Lunch and Breakfast Expansion Demonstration*

Current law: No provisions. Note: Eligibility for free lunches and breakfasts generally is limited to children from families with income below 130% of the federal poverty income guidelines.

Section 127: Subject to the availability of funds, this section requires the Secretary to carry out a demonstration under which the income eligibility limit for free lunches and breakfasts is raised to 185% of the federal poverty income guidelines (the limit for reduced-price school meals)—in all or part of 5 States selected by the Secretary (including a largely rural State with a significant Native American population).

This section also requires an evaluation of the demonstration to assess (1) its effect on children in households with family income below 130% of the poverty guidelines and on children with family income between 130% and 185% of the guidelines, (2) its effect on certification and participation rates, (3) its effect on rates of lunch/breakfast-skipping, (4) its effect on academic achievement, (5) its effect on costs, and (6) other factors determined by the Secretary.

A report on the demonstration is required on its completion, and “such sums as are necessary” to carry out the demonstration are authorized to be appropriated, to remain available until spent.

*Section 128. Training, Technical Assistance, and Food Service Management Institute*

*Technology and information management systems*

Current law: No provisions. Note: Section 21(a)(1) of the NSLA authorizes training and technical assistance activities to improve skills of individuals employed in child nutrition food service programs. Appropriations are authorized at \$1 million a year.

Section 128: This section adds 2 new uses for the current training and technical assistance funding:

—Providing assistance (on a competitive basis) for the purpose of aiding schools and school food authorities in meeting the cost of acquiring or upgrading technology and information management systems for use in child nutrition food service programs (particularly to schools/school food authorities with at least 50% of enrolled children certified eligible to receive free or reduced-price school meals); and

—Providing assistance (on a competitive basis) to State agencies with low proportions of schools/students participating in the school breakfast program that demonstrate the greatest need for aid in meeting costs associated with initiating or expanding a school breakfast program.

*Food Service Management Institute*

Current law: The Food Service Management Institute (FSMI) is required to (1) conduct research to assist schools and other child nutrition food service organizations in providing high quality, nutritious, and cost-effective meal service to children, (2) provide training and technical assistance relating to a number of food service matters, (3) establish a national network of professionals to present training programs and workshops for food service personnel, (4) develop training materials for the programs/workshops, (5) act as a clearinghouse for research on the operation of food service programs, (6) train food service personnel, (7) prepare informational material, and (8) assist State educational agencies in providing additional nutrition and health instructions and instructors.

[Sec. 21(c) of the NSLA]

Section 128: This section adds to the matters for which the FSMI is required to provide training and technical assistance—"hazard analysis and critical control point" plan implementation (see section 110), emergency readiness, responding to a food recall, and food bio-security training.

*Funding*

Current law: For training and technical assistance activities, \$1 million a year is authorized to be appropriated through fiscal year 2003. For the FSMI, mandatory funding of \$3 million a year is provided.

[Sec. 21(e) of the NSLA]

Section 128: This section extends the \$1 million-a-year appropriations authorization for training and technical assistance activities through fiscal year 2008. It also increases mandatory funding for the FSMI to \$4 million a year, beginning with fiscal year 2005.

*Section 129. Administrative Error Reduction*

*Administrative training and technical assistance materials*

Current law: No provisions.

Section 129: This section requires the Secretary—in collaboration with State educational agencies, school food authorities, and local educational agencies—to develop and distribute training and technical assistance materials related to the administration of school meal programs that are representative of the best management and administrative practices.

The Committee expects the Secretary to implement these provisions in a manner that addresses the needs of school food authorities of varying sizes and characteristics, including the development of different training and technical assistance materials as needed.

*Federal administrative support*

Current law: No provisions.

Section 129: This section provides mandatory funding to the Secretary that the Secretary may use to (1) provide training and technical assistance and materials related to improving program integrity and administrative accuracy in school meal programs and (2)

assist State educational agencies in reviewing the administrative practices of school food authorities. It provides \$5 million a year for fiscal years 2005 and 2006, and \$3 million a year for fiscal years 2007 and 2008.

The Committee expects the Secretary to use these funds for activities including producing and distributing training materials, hiring new employees, and contracting with third parties.

*Additional administrative review requirements*

Current law: No provisions. Note: School food authorities are subject to periodic comprehensive reviews of their food service programs—covering all aspects (e.g., meal quality, administrative matters). Improperly paid funds may be recovered and returned to the Secretary.

Section 129: In addition to any review carried out under current law, this section requires State educational agencies to conduct administrative reviews of school food authorities that have demonstrated a high level of, or a high risk for, administrative error (as determined by the Secretary). These additional reviews would review only the administrative processes of the selected school food authorities—including application, certification, verification, meal counting, and meal claiming procedures.

If, based on the administrative review, the State agency determines that a school food authority fails to meet performance criteria established by the Secretary, the State agency must require the school food authority to develop and carry out an approved corrective action plan, provide technical assistance in carrying out the plan, and conduct a follow-up review.

If a school food authority fails to meet administrative performance criteria set by the Secretary in both an initial and follow-up review (under the new administrative review rules or current law reviews), this section allows the Secretary to require the State educational agency to retain funds otherwise payable, under procedures determined by the Secretary. These retained funds may be returned to the Secretary or retained by the State agency. Specific rules are provided for calculating the overpayment amount to be retained.

Funds returned to the Secretary may be credited to the child nutrition appropriation account or be used to (1) provide training and technical assistance related to administrative practices, (2) assist State agencies in reviewing the administrative practices of school food authorities, and (3) develop and distribute training and technical assistance materials. Funds retained by the State agency (not more than 25% of the total retained) may be used to carry out school meal program integrity initiatives (under an approved State plan) that assist school food authorities that have repeatedly failed to meet administrative performance criteria.

*State plan requirements*

Current law: No provisions.

Section 129: This section stipulates that each State plan submitted for State administrative expense funding must include a description of how technology and information management systems will be used to improve program integrity by: (1) monitoring the

nutrient content of meals, (2) training schools and school food authorities in how to use technology and information management systems, and (3) using electronic data to establish benchmarks to monitor program integrity, participation, and financial data.

This section also stipulates that each State plan submitted for State administrative expense funding must include descriptions of the manner in which the State intends to administer (1) additional administrative review requirements (see above) and (2) state training requirements (see below).

#### *State training requirements*

Current law: No provisions.

Section 129: This section requires each State to provide training in administrative practices to school food authority administrative personnel and other appropriate personnel and mandates that school food authorities and local educational agencies ensure that individuals conducting or overseeing administrative procedures receive training at least annually (unless the Secretary determines otherwise). It also requires the Secretary to provide training and technical assistance to States in support of State training initiatives or, at the Secretary's option, to directly provide training and technical assistance to school food authority administrative personnel and other appropriate personnel.

#### *Funding for training and administrative reviews*

Current law: No provisions.

Section 129: For each fiscal year beginning with fiscal year 2005, this section makes available to the Secretary \$4 million to assist States in carrying out training and additional administrative review requirements (see above)—except that the Secretary may retain a portion of this funding to cover costs of activities the Secretary carries out in lieu of States. Funding sent to the States must be allocated based on the number of local agencies that have demonstrated a high level of, or a high risk for, administrative error, and unused funding may be reallocated.

#### *Section 130. Compliance and Accountability*

Current law: Appropriations of \$3 million a year are authorized for compliance and accountability activities—through fiscal year 2003. Note: Actual appropriations have typically been higher than the authorized amount (e.g., \$5.2 million for fiscal year 2004).

[Sec. 22(d) of the NSLA]

Section 130: This section extends the appropriations authorization for compliance and accountability activities through fiscal year 2008 and raises it to \$6 million a year.

#### *Section 131. Information Clearinghouse*

Current law: The Secretary is required to enter into a contract with a nongovernmental organization for a clearinghouse that provides information to nongovernmental groups that assist low-income individuals and communities with food assistance, self-help activities, and other activities that empower low-income individuals or communities to improve their lives and reduce reliance on Fed-

eral, State, or local government agencies for food and other assistance. Appropriations of \$166,000 a year are authorized—through fiscal year 2003.

[Sec. 26(d) of the NSLA]

Section 131: This section extends the appropriations authorization for an information clearinghouse through fiscal year 2008 and raises it to \$250,000 a year.

The Committee urges the nongovernmental organization described in this section to operate and maintain a national hunger hotline to assist low-income individuals in obtaining emergency food assistance in their communities. Further the Committee expects the nongovernmental organization to utilize the national hunger hotline to connect low-income individuals to local assistance programs that promote self-reliance as described in this section.

*Section 132. Program Evaluation*

Current law: No provisions.

Section 132: Subject to the availability of funds, this section permits the Secretary to conduct annual national performance assessments of child nutrition meal service programs that assess the cost of producing meals and snacks, the nutrient profile of meals, and the status of menu planning activities. For this purpose, it authorizes appropriations of \$5 million a year.

Subject to the availability of funds, this section also requires the Secretary to conduct a study of the feasibility of improving the eligibility certification process for the school lunch program and allows the Secretary to conduct pilot projects to improve the certification process. For this purpose, it authorizes “such sums as are necessary.”

*Section 133. Gleaning of Fresh Fruits and Vegetables*

Current law: No provisions.

Section 133: This section requires the Secretary to make a grant to a nonprofit nongovernmental organization to establish and maintain a field gleaning operation in 1 State in order to encourage the consumption of fresh fruits and vegetables. The organization must be experienced in providing fresh fruits and vegetables that would otherwise go to waste to needy individuals and in establishing and maintaining a “field gleaning network,” and must agree to provide information about field gleaning operations to related organizations.

This section also mandates funding for a field gleaning grant—\$100,000 a year for fiscal years 2005 through 2008 (up to 25% of which may be expended in the following fiscal year).

TITLE II. AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

*Section 201. Severe Need Assistance*

Current law: In order to receive higher “severe need” school breakfast program reimbursements (subsidies), schools must document their costs. They receive the lesser of their documented costs or the severe need subsidy rate.

In order to receive higher “severe need” school breakfast reimbursements (subsidies), schools must have served 40%+ of their lunches free or at a reduced price in the 2nd preceding year.

[Sec. 4(d) of the Child Nutrition Act (CNA)]

Section 201: This section removes the requirement to document costs in order to receive severe need reimbursements (subsidies). Schools would receive the severe need subsidy rate, so long as they meet the “40%+” eligibility requirement noted above.

This section also allows eligibility for severe need subsidies to schools in which no lunches were served in the 2nd preceding year if the Secretary determines that the requirement that they have served 40%+ of their lunches free would have been met—i.e., allows new schools to meet the “40%+” requirement without a 2nd preceding year history.

*Section 202. State Administrative Expenses*

*Minimum state grants*

Current law: State administrative expense grants are calculated as 1.5% of total Federal spending on a list of child nutrition programs typically administered by State educational agencies—including school meal programs and the child and adult care food program. Separate provision is made for grants tied to spending on the summer food service program. Spending on after-school snack programs operated by schools and commodity assistance is not included in the dollar base that the 1.5% calculation is applied to.

Minimum State grants are set at \$100,000 a year.

[Sec. 7(a) of the CNA]

Section 202: This section increases the minimum State grant for administrative expenses to \$200,000 a year (indexed after fiscal year 2008) and requires that—for fiscal years 2005 through 2007—no State will receive less than its fiscal year 2004 allocation.

*Technology infrastructure improvement*

Current law: No provisions.

Section 202: This section requires States to submit, for the Secretary’s approval, an amendment to their plan as to how they will use their State administrative expense grant for information management systems that improve program integrity by—(1) monitoring the nutrient content of meals, (2) training schools and school food authorities in how to use technology and information management systems for menu planning, collecting “point-of-sale” data, processing applications for free and reduced-price meals, and verifying eligibility, and (3) using electronic data to establish benchmarks to monitor program integrity, program participation, and financial data across schools and school food authorities.

Subject to the availability of funds, this section also requires the Secretary to provide funds to States, on a competitive basis, to give grants to schools and school food authorities to defray the cost of purchasing/upgrading technology and information systems. Appropriations of “such sums as are necessary” are authorized for fiscal years 2005 through 2008, to remain available until spent.

The Committee has amended Section 7 of the Child Nutrition Act of 1966 to allow school food authorities to use grant money to upgrade or purchase technology and information management systems. At the option of an individual school food authority, the Secretary should allow State agencies to spend funds on their behalf, as this would help ensure that such systems are purchased or upgraded in a cost-effective and efficient manner.

*Appropriations authorization*

Current law: “Such sums as may be necessary” are authorized to be appropriated for State administrative expense grants—through fiscal year 2003.

[Sec. 7(g) of the CNA]

Section 202: This section extends the appropriations authorization for State administrative expense grants through fiscal year 2008.

*Section 203. World Food Prize*

Current law: No provisions.

Section 203: Subject to the availability of funds, this section requires the Secretary to provide assistance for activities of the World Food Prize Foundation. Assistance could be used to acquire or improve headquarters property, support research and outreach for improving the quality, quantity, and availability of food throughout the world, and promote educational opportunities for students through the World Food Prize Youth Institute. Appropriations of “such sums as are necessary” are authorized.

*Section 204. Special Supplemental Nutrition Program for Women, Infants, and Children (The WIC Program)*

*Definition of “nutrition education”*

Current law: In the WIC context, “nutrition education” means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual’s personal, cultural, and socioeconomic preferences.

[Sec. 17(b)(7) of the CNA]

Section 204: This section revises the definition of “nutrition education” to read: individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

*Definition of “supplemental foods”*

Current law: In the WIC context, “supplemental foods” means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Sec-

retary. State agencies may substitute nutritionally equivalent foods to allow for cultural eating patterns.

[Sec. 17(b)(14) of the CNA]

Section 204: This section revises the definition of “supplemental foods” to: those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary.

*Certification of breastfeeding women*

Current law: Through regulations, breastfeeding women are certified at intervals of approximately 6 months, ending with the breastfed infant’s first birthday.

[Regulations under sec. 17(d)(3)(A) of the CNA]

Section 204: This section allows State agencies to certify breastfeeding women for up to 1 year postpartum, or until a woman stops breastfeeding, whichever is earlier.

In extending the certification period for breastfeeding women, the intent of the Committee is to diminish the administrative duties associated with shorter certification periods. Accordingly, in extending certification periods for breastfeeding women, the Committee expects the Secretary to ensure that there will be no decrease in the health and nutrition education services that the participants in the Special Supplemental Nutrition Program for Women, Infants and Children would otherwise have received during a shorter certification period and that participants will continue to receive the full benefit of supportive services available through the program.

*Physical presence requirement*

Current law: Each individual seeking certification or recertification must be physically present to determine program eligibility, unless exempt under the terms of the Americans with Disabilities Act.

Local WIC agencies may waive the physical presence requirement if they determine it would present an unreasonable participation barrier. This waiver authority may be exercised only for infants and children who were present at their initial certification and (1) are receiving ongoing health care from a provider other than the local WIC agency or (2) were physically present within 1 year of a certification/recertification and have working parents.

[Sec. 17(d)(3)(C) of the CNA]

Section 204: This section extends the physical presence waiver authority under current law to cover infants under 8 weeks of age (1) who cannot be present at certification for a reason determined appropriate by the local WIC agency and (2) for whom all necessary certification information is provided.

The Committee recognizes that many working families, especially mothers, find it difficult to access WIC services due to the fact that their work schedules preclude them from visiting WIC offices during normal office hours. The Committee encourages state and local WIC agencies to take such steps as are necessary to ensure that working families and families with irregular schedules can access the WIC program. Such steps might include, extending office hours into the evening and weekends, out-stationing staff at temporary locations, and utilizing mobile WIC sites.

The Committee also recognizes that working families with children are often in need of other family support services such as the Head Start Program, health insurance provided through the Medicaid and SCHIP programs, employment and career assistance, and other federal, state and local assistance. The Committee therefore encourages the Department to work with state and local WIC agencies and other relevant stakeholders to encourage the co-location of such support services so that working families can utilize such services as easily as possible.

*Use of WIC benefits at any authorized retail store*

Current law: No provisions.

Section 204: Through a State plan requirement, this section effectively requires State WIC agencies to allow WIC recipients to transact WIC vouchers at any authorized retail store in the State.

*Accelerated approval of WIC vendors*

Current law: No provisions.

Section 204: Through a State plan requirement, this section effectively requires that State WIC agencies have procedures for accepting and processing vendor applications outside of the established time-frames, if the State agency determines there will be inadequate access to the program—such as in the case in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership.

*Use of funds recovered from local WIC agencies*

Current law: State WIC agencies may use funds recovered from vendors and participants as the result of a claim to carry out the WIC program in the fiscal year in which the claim arises, the fiscal year in which the funds are collected, and the fiscal year following the year in which the funds are collected.

[Sec. 17(f)(21) of the CNA]

Section 204: In addition to current law provisions as to the use of funds recovered from vendors and participants, this section allows State WIC agencies to use funds recovered from local WIC agencies as the result of a claim under the same terms.

*“Rounding up” infant formula benefits*

Current law: Regulations set a limit on the number of ounces of infant formula that may be provided to a participant each month. Note: If can sizes provided by infant formula manufacturers do not

add up to the regulatory limit, an extra can (going above the limit) may not be provided.

Section 204: This section allows State WIC agencies to “round up” to the next whole can of infant formula to allow all infants to receive the “full-authorized” nutritional benefit specified by regulation.

This new authority applies to infant formula provided under a contract resulting from a bid solicitation issued on or after October 1, 2004.

*Notification of WIC vendor violations*

Current law: No provisions. Note: State WIC agencies approve and disqualify WIC vendors. Section 17(f)(24) of the CNA requires each State WIC agency to identify vendors that have a high probability of program abuse and conduct compliance investigations of the vendors.

Section 204: If a State WIC agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a penalty/sanction, this section requires the agency to notify the vendor of the initial violation in writing (prior to documentation of another violation)—unless the agency determines that notification would compromise an investigation.

*Authorization of appropriations*

Current law: “Such sums as may be necessary” are authorized to carry out the WIC program—through fiscal year 2003.

[Sec. 17(g) of the CNA]

Section 204: This section extends the appropriations authorization for the WIC program through fiscal year 2008.

*Nutrition services and administration allocations*

Current law: The Secretary is required to allocate to each State WIC agency an amount for costs of nutrition services and administration (NSA) on the basis of a formula set by the Secretary. This requirement was effective through fiscal year 2003.

[Sec. 17(h)(2)(A) of the CNA]

Section 204: This section makes the requirement that the Secretary allocate amounts for NSA costs permanent.

*“Healthy People 2010” initiative*

Current law: No provisions.

Section 204: This section requires the Secretary to “partner” with communities, State and local agencies, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the WIC program—in order to support the breastfeeding goals of the “Healthy People 2010” initiative.

*Size of State alliances*

Current law: No provisions. Note: State WIC agencies have formed a number of “alliances” through which they join together to solicit bids from infant formula manufacturers.

Section 204: This section defines “State alliance” as 2 or more State agencies that join together for the purpose of procuring infant formula by soliciting competitive bids.

This section also limits the size of State alliances. No State alliance may exist among States whose infant participation exceeds 100,000 as of October 1, 2003 (or a subsequent date determined by the Secretary for which data are available).

However—

(1) Alliances existing on the date of enactment may continue and expand to include more than 100,000 infants, so long as they do not expand to include any additional States;

(2) Any State alliance may expand to include any State agency that served fewer than 5,000 infants as of October 1, 2003 (or a subsequent date set by the Secretary) or any Indian Tribal Organization; and

(3) The Secretary may waive the State alliance limits after submitting a report that describes the cost-containment and competitive benefits of the waiver to the Committee on Education and the Workforce and the Committee on Agriculture, Nutrition, and Forestry—and waiting at least 30 days.

*Primary contract infant formula*

Current law: No provisions.

Section 204: This section requires State WIC agencies to use the “primary contract infant formula” as the first choice of issuance (by formula type)—with all other infant formulas issued as an alternative. It also defines “primary contract formula” to mean the specific infant formula for which manufacturers submit a bid and are awarded a rebate contract.

This requirement applies to contracts resulting from bid solicitations issued on or after October 1, 2004.

Infant formula manufacturers historically have produced one milk-based infant formula that was suitable for the routine issuance to the majority of generally healthy, full-term infants. Until recently, manufacturers submitted bids for this single formula in response to bid solicitations for infant formula rebate contracts, and State agencies issued such formula to infants as the formula of first choice, since other options generally were not available. Manufacturers now produce more than one milk-based infant formula that is eligible to be bid on in response to a solicitation and that could be issued to the majority of generally healthy, full-term infants.

In response to the increased variety of milk-based infant formula, the Committee believes that manufacturers, State agencies, and participants should have a common understanding of the infant formula product that will serve as the primary contract infant formula in each state. To ensure that the competitive bidding process can be effectively carried out, the Committee believes that the infant formula bid in response to a solicitation should be the primary contract infant formula issued to infants.

Each State agency shall issue, as the primary contract infant formula, the infant formula for which the winning bidder submitted its bid in response to the state's bid solicitation. Other infant formula will be considered an alternative to the primary contract infant formula.

The Committee believes, however, that WIC participants should have access to the winning bidder's full line of infant formula and should be issued the formula that best meets each infant's individual nutritional needs. State agencies should work closely with parents and/or caregivers and medical professionals to determine and issue the most appropriate infant formula that best meets an infant's nutritional needs.

*Counting units for infant formula rebates (rebate invoices)*

Current law: No provisions.

Section 204: This section requires each State WIC agency to have a system to ensure that invoices for infant formula rebates from manufacturers (paid under competitive bidding/cost containment contracts) provide a reasonable estimate or an actual count of the number of infant formula units "sold" to WIC participants.

*Uncoupling milk-based and soy-based infant formula bids*

Current law: No provisions.

Section 204: This section requires that large State WIC agencies/alliances solicit bids from infant formula manufacturers using procedures under which bids/discounts are solicited separately for milk-based and soy-based infant formulas. Large State agencies/alliances are those that served a monthly average of more than 100,000 infants during the 12-month period preceding the bid solicitation.

This requirement applies to bid solicitations issued on or after October 1, 2004.

*Cent-for-cent adjustments to infant formula rebates*

Current law: No provisions. Note: By regulation, infant formula WIC agency bid solicitations must require the manufacturer to adjust for price changes subsequent to the opening of the bidding process. This "inflation" provision may require a cent-for-cent increase in rebate amounts whenever there is any change in the lowest national wholesale price for a full truckload of the particular infant formula.

Section 204: This section mandates that bid solicitations for infant formula require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires:

—A cent-for-cent increase in rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular formula; and

—A cent-for-cent decrease in rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular formula.

This mandate is effective for bid solicitations issued on or after October 1, 2004.

*Lists of infant formula providers*

Current law: No provisions.

Section 204: This section requires State WIC agencies to maintain a list of infant formula food wholesalers, distributors, and retailers licensed in the State and infant formula manufacturers registered with the Food and Drug Administration. It also requires WIC vendors to purchase infant formula from the State agency list.

The Committee continues to encourage efforts to contain food costs under the WIC Program so that the maximum number of potentially eligible women, infants and children may be served. In approving supplemental foods for use within their jurisdictions, the Committee urges State agencies to approve private label or store branded products that are nutritionally equivalent to national brands as a cost-containment measure.

State agencies should establish minimum inventory requirements to ensure that authorized vendors have sufficient quantities of supplemental foods available to meet the needs of WIC participants. To the extent possible, State agencies should allow vendors the flexibility to obtain exempt infant formula or medical foods for participants within a reasonable time period, such as 24 to 48 hours, depending on manufacturer availability, rather than requiring the vendor to stock these items continually.

The Committee recognizes the benefits of maintaining a process of ongoing dialogue and collaboration between State agencies, authorized WIC vendors, representatives of retailer associations, and other entities interested in vendor management activities. A number of State agencies have established vendor advisory panels or boards as a means of obtaining input into the development and implementation of effective vendor management policies and procedures. The Committee encourages broader use of this approach and, therefore, strongly urges the Department to require State agencies to establish vendor advisory panels as a mechanism for strengthening ongoing communication and collaboration between State agencies and the retail vendor community that provides supplemental foods.

*Earmarked funding*

Current law: Through fiscal year 2003, the Secretary is required to use \$10 million a year or the amount of WIC funding for the prior fiscal year that has not been obligated, whichever is less for:

- Development of program infrastructure, including management information systems;
- Special State projects of regional or national significance to improve program services; and
- Special breastfeeding support and promotion projects (including projects to assess the effectiveness of particular breastfeeding promotion strategies and projects to develop State or local agency capability or facilities to provide quality breastfeeding services)

[Sec. 17(h)(10) of the CNA]

Section 204: For fiscal years 2006 through 2008, this section requires the Secretary to use \$64 million or the amount of WIC fund-

ing for the prior year that has not been obligated, whichever is less, for:

—Program infrastructure, special projects to promote breastfeeding (including projects to assess the effectiveness of particular breastfeeding promotion strategies), and special State projects of regional or national significance to improve program services (\$14 million);

—Establishing, improving, or administering management information systems, including changes necessary to meet new legislative or regulatory requirements (\$30 million); and

—Special nutrition education, such as breastfeeding peer counselors or other related activities (\$20 million).

If less than \$64 million is available, the Secretary must distribute the funding proportional to the above-noted distribution.

#### *Vendor cost containment*

Current law: In selecting vendors for participation, State WIC agencies are required to take into consideration the prices charged by the vendor for WIC food items as compared to the prices charged by other vendors. State agencies also must establish procedures to ensure that selected vendors do not raise prices to levels that would otherwise make them ineligible to participate. Note: By regulation, State agencies must approve an appropriate number and distribution of vendors to ensure adequate participant access and may establish criteria to limit the number of vendors they approve. They may evaluate applicant vendors based on their shelf prices or on prices they bid (which may not exceed shelf prices) and must establish price limitations (allowable reimbursement levels) on the amount that they will pay vendors. They also may establish different “competitive price requirements and price limitations for different vendor peer groups” (which may include a factor to reflect fluctuations in wholesale prices) and may except pharmacy vendors that supply only infant formula or “medical foods.”

[Sec. 17(h)(11) of the CNA]

Section 204: This section strikes existing law and replaces it with the following vendor cost containment rules.

State WIC agencies must establish a “vendor peer group system,” as well as competitive price criteria and allowable reimbursement levels for each “vendor peer group.” State agencies may exempt certain vendors—pharmacy vendors that supply only infant formula or “medical foods” and certain nonprofit vendors.

Competitive price criteria for the selection of vendors for participation in the WIC program must (1) ensure that the retail prices vendors charge are competitive with prices charged by other vendors, (2) take into account vendors’ shelf prices or the prices they bid (which may not exceed shelf prices), and not result in inadequate access to benefits for program participants. State WIC agencies must establish procedures to ensure that selected vendors do not raise prices to levels that would otherwise make them ineligible to participate.

Allowable reimbursement levels (vendor price limitations) must ensure that (1) payments to vendors in a peer group reflect “competitive retail prices” and (2) the State agency does not reimburse a vendor for WIC supplemental foods at a level that would other-

wise make the vendor ineligible. Allowable reimbursement levels may include a factor to reflect fluctuations in wholesale prices, and the State agency must ensure that allowable reimbursement levels do not result in inadequate access to benefits for program participants.

State WIC agencies must demonstrate to the Secretary (and the Secretary must certify) that the competitive price criteria and allowable reimbursement levels they establish for vendors that derive more than 50% of their annual revenue from the sale of food items obtained with WIC vouchers (food instruments) do not result in higher food costs than if program participants redeemed their vouchers at other vendors. New applicant vendors would be judged to meet the 50% threshold under criteria set by the Secretary.

State WIC agencies must comply with the above-noted cost-containment rules not later than 18 months after enactment.

This provision is designed to respond to a new type of store in the WIC program, so-called WIC-only stores. As the name suggests, WIC-only stores are retail stores that predominantly serve WIC participants and in which the vast majority of, if not all, store revenue comes from the redemption of WIC vouchers for WIC food items.

Available evidence suggests that WIC-only stores, on average, tend to charge much higher prices for WIC food items than do regular grocery stores, resulting in significantly higher costs to the federal government and creating long-term cost-containment problems in the WIC program. Over the past few years, WIC-only stores have redeemed a growing share of WIC vouchers; in fiscal year 2002, WIC-only stores accounted for 9 percent of WIC sales nationwide. Given higher costs in and rapid growth of WIC-only stores, the Committee is concerned that the result of these trends may be significantly higher program costs and, consequently, significant barriers to WIC program access for low-income women and children.

The WIC program provides to WIC participants a specific food package that includes a prescribed list of individual food items that can be obtained using WIC vouchers. WIC vouchers list these individual food items and WIC participants receive these items with their vouchers regardless of the shelf prices that retail stores charge for those items. WIC participants themselves are not price-sensitive.

Market forces and competitive pricing have long been the mechanism by which food costs in the WIC program are contained. Regular grocery stores receive only a small amount of their revenue from WIC customers. Thus, in order to attract and maintain all of their other non-WIC customers, these grocery stores must charge prices for WIC food items that are designed to attract the general population, rather than WIC customers. If they fail to price competitively, their regular customers will take their business elsewhere.

WIC-only stores, on the other hand, have no need to attract non-WIC customers and, as a result, have no incentive to set prices that are determined by market forces. Because the same market forces that have long contained costs in the WIC program for price-competitive stores do not apply to WIC-only stores, the WIC program spends considerably more for the same food items when WIC

vouchers are redeemed at WIC-only stores than if those vouchers are redeemed at the average prices charged by competitive grocery stores.

For example, analysis of food prices in California, where over 600 WIC-only stores now operate, indicates that, due to higher food prices charged by WIC-only stores, annual food costs in California are approximately \$33 million higher than they would have been had all WIC vouchers in California been redeemed at the average prices charged by regular grocery stores.

In order to ensure sound stewardship of taxpayer dollars, the Child Nutrition and WIC Reauthorization Act of 2004 includes several provisions designed to ensure that the WIC program continues to rely on market forces to contain food costs and that WIC-only stores do not charge higher prices than other stores leading to waste of federal funds. These provisions also respond to the directive of the Senate Budget Committee to ensure appropriate expenditure of taxpayer dollars and are consistent with past bipartisan efforts by the Senate Agriculture Committee to maintain program integrity in all of the food assistance programs within the jurisdiction of the Committee.

Section 204(e)(10) of the Child Nutrition and WIC Reauthorization Act of 2004 requires state WIC agencies, for the purpose of ensuring cost containment in all retail vendors, to establish appropriate vendor peer groups, to establish competitive price criteria to be used when considering vendors for WIC authorization, and to establish maximum allowable reimbursement levels for WIC voucher redemptions. In so doing, section 204(e)(10) requires state agencies to distinguish between WIC-only and regular grocery stores for the purpose of establishing vendor peer groups. It also requires the state agency to ensure that WIC-only stores are cost neutral to the WIC program by demonstrating that the competitive price criteria and allowable reimbursement levels established for WIC-only stores are designed so as not to result in higher food costs if program participants redeemed their WIC vouchers at WIC-only stores rather than at regular retail vendors.

Section 204(e)(10) also requires the Secretary of Agriculture to certify that the peer grouping and cost containment measures taken by states as required by section 204(e)(10) meet the cost-neutrality criteria established by the Committee.

It has been suggested that the Senate language would actually require lower prices in WIC-only stores than in regular grocery stores. This is because, it is claimed, state WIC directors cannot know in advance what store prices will be and, therefore, to ensure cost neutrality, WIC Directors will be required to demand lower prices from WIC-only stores than from regular retail stores.

This claim lacks merit and is not warranted by a reading of the legislative language drafted by the Committee. The Child Nutrition and WIC Reauthorization Act of 2004 provides states with enormous flexibility to ensure that the participation of WIC-only stores in the WIC program does not result in higher costs. The bill contains no requirement that WIC-only stores charge lower prices on average than other retail stores, nor would WIC Directors be required to demand lower average prices from WIC-only stores than from regular retail stores to comply with this legislative language.

It is not the intent of the Committee to require after-the-fact certification by states or USDA of individual voucher redemptions or individual store pricing. Rather, it is the intent of the Committee to require states in advance to craft and implement peer groups and maximum reimbursement rates that are designed to achieve the broad cost neutrality goals laid out in the Committee legislation. States and USDA should work to ensure in advance that the authorization of WIC-only stores for participation in the WIC-only program does not result in higher program food costs. The Committee does not expect that states or USDA will check every voucher redemption, but instead will put in place such appropriate peer groups, competitive price criteria, and reimbursement limits that widespread after-the-fact price checks will be unnecessary.

Similarly, in requiring USDA to “certify” that states have complied with the cost-neutrality goals established in the Child Nutrition and WIC Reauthorization Act of 2004, it is not the intent of the Committee to require that USDA certify voucher redemption and store prices on an ongoing basis. It is the intent of the Committee that USDA certify that the design of each state’s peer group system and its methodology for establishing competitive price criteria and maximum allowable reimbursement will achieve the cost containment goal specified in Section 17(h)(11)(E) of the Child Nutrition Act of 1966. The Committee is aware that neither USDA nor individual states can know with absolute certainty or ongoing precision what food prices will be. Rather, the Committee expects that USDA will work with states to establish reasonable and flexible standards for the purpose of grouping vendors and setting competitive price criteria and maximum reimbursement levels so that all parties—including WIC-only stores, state WIC directors, and USDA—can work to ensure compliance with the general principle established in the legislation that WIC-only stores “do not result in higher food costs than if program participants redeemed supplemental food vouchers” at regular grocery stores.

One way for USDA to implement these provisions would be to provide states with several different models of peer grouping and methodologies for establishing competitive price criteria and maximum reimbursement levels that states could utilize in order to comply with section 204(e)(10). Under such guidelines recommended by USDA, nothing would preclude states from establishing their own peer group systems, but, in using guidelines recommended by USDA, they could be reasonably assured in advance of certification by USDA that they are in compliance with section 204(e)(10).

It has also been suggested that section 204(e)(10) of the Child Nutrition and WIC Reauthorization Act of 2004 would require WIC-only stores to unfairly compete against so-called superstores and “big-box” stores. Again, this claim is inconsistent with the language of the Child Nutrition and Reauthorization Act of 2004, which does not mandate how WIC-only stores are to be grouped or to which stores they should be compared for the purpose of setting competitive price criteria or maximum allowable reimbursement rates.

It is not the intent of the Committee to predetermine how states comply with the cost neutrality provisions of section 204(e)(10). Such legislative specificity is not necessary for the cost-neutrality

goals of section 204(e)(10) to be met. Rather, section 204(e)(10) provides to states broad latitude in determining appropriate peer groups, competitive price criteria, and maximum reimbursement levels. Because the characteristics of the retail market for both regular grocery stores and WIC-only stores are likely to vary from state to state and even within states, it is not the intent of the Committee to predetermine how states should establish peer groups. There are many factors that states could reasonably consider in establishing peer groups, including geography, operating and overhead costs, and store sales volume, among others. The Child Nutrition and WIC Reauthorization Act does not require states to group WIC-only stores with other stores with lower operating costs. Rather, it provides to states the flexibility to consider all relevant factors for the purposes of establishing peer groups, competitive price criteria, and reimbursement levels and to act accordingly.

The Committee will work with USDA to ensure that this cost-containment provision is implemented as intended. The Committee will also work with the Office of Management and Budget and the Senate Appropriations Committee to ensure that WIC-only stores are not inappropriately resulting in higher food costs to the WIC-program.

Another area of concern to the Committee is the issuance of non-contract infant formula in the WIC program. A recent report from the General Accounting Office (GAO-03-331) found that the use of non-contract formula varies widely from state to state. Three state agencies have prohibited the use of non-contract formula, seven state agencies have established quantitative limits on the provision of non-contract formula, and most others have limited the use of non-contract formula to specific situations.

As a result of the provision of non-contract formula, estimated in some states to be as high as 10.5 percent of all formula provided through the WIC program, GAO estimated that the purchase of non-contract formula costs the WIC program over \$50 million dollars due to the fact that non-contract formulas do not receive rebates under competitive bidding arrangements.

The Committee is concerned about the lost revenue due to the provision of non-contract formula and strongly encourages the Secretary to work with states to ensure that non-contract formula is provided only when its use is medically necessary. In particular, the Committee encourages the Secretary to work with states identified by the General Accounting Office as having the highest non-contract formula usage by percent as well as those states in which the largest amount of revenue is foregone as a total dollar amount.

The Secretary is encouraged to report back to the Committee within one year of passage of this bill on efforts undertaken to work with states to reduce the use of non-contract formula and on the estimated cost savings realized as a result of these efforts.

#### *Imposition of EBT costs on retailers*

Current law: No provisions.

Section 204: This section bars the Secretary from imposing, or allowing a State WIC agency to impose, the costs of any equipment, system, or processing required for electronic benefit transfer (EBT)

systems on any retailer as a condition of participation in the WIC program.

*Universal Product Code (UPC) data base*

Current law: No provisions.

Section 204: This section requires the Secretary to (1) establish a national UPC database for use in carrying out the WIC program and (2) make available funds for support of the database.

*Incentive items*

Current law: No provisions.

Section 204: This section bars State WIC agencies from approving or making payments to vendors that derive more than 50% of their annual revenue from the sale of food items obtained with WIC vouchers (food instruments) and provide "incentive items" or other free merchandise to program participants unless the vendor provides proof that the items/merchandise were obtained at no cost.

Section 204(e)(13) of the Child Nutrition and WIC Reauthorization Act of 2004 prohibits state WIC agencies from authorizing or making payments to WIC-only stores that provide incentive items or provide free merchandise or services to WIC participants unless the vendor provides to the state agency proof that the incentive items or merchandise were obtained at no cost. This provision is intended to bar WIC-only stores from in effect using federal funds to purchase food items and other incentives not authorized in the WIC program.

The Committee has included this provision out of its concern regarding the wide array of incentives that WIC-only stores are offering to WIC participants, including appliances, pots and pans, bicycles, food items such as tortillas, and cash incentives for participants who bring new customers to WIC-only stores. This is of particular concern because, unlike regular grocery stores, where the majority of store revenue comes from other customers, WIC-only stores receive the majority of their store revenue from the redemption of WIC vouchers. As a result, the majority of store revenue is derived from federal dollars and any such incentives offered in WIC-only stores are thus in effect paid for from federal dollars as well.

The broad range of incentives offered through WIC-only stores also appears to be related to the higher prices charged by WIC-only stores for standard WIC food items. By charging higher prices to the WIC program for authorized food items, WIC-only stores are able to obtain higher revenues and then use a portion of the higher revenue that accrues for store incentives that attract growing numbers of WIC participants. These new participants, in turn, purchase authorized foods at higher prices. As a result of this cycle, the average cost of providing WIC foods to each participant is increased and either more funds would need to be appropriated to continue serving the same number of participants or the same appropriation level would serve fewer and fewer WIC participants.

Barring the use of federal dollars make payments to stores that use revenues or profits from the sale of WIC foods to purchase for incentives that are not explicitly recommended by the WIC program is not discriminatory, but is instead an appropriate cost-con-

tainment measure that is consistent with the goals of maintaining program focus on child and infant nutrition and of protecting taxpayer investments in the WIC program.

*“Spend-forward” authority*

Current law: State WIC agencies are authorized to “spend forward” up to 1% of their nutrition services and administration (NSA) funds in the following fiscal year. In addition, they may “spend forward” up to ½% of their NSA funds for the development of management information systems (including electronic benefit transfer systems)—with the prior approval of the Secretary.

[Sec. 17(i)(3)(A)(ii) of the CNA]

Section 204: This section raises the current 1% limit on spending forward NSA funds to 3%.

*Migrant and community health center initiative*

Current law: The Secretary and the Secretary of Health and Human Services are required to establish and carry out an initiative to provide supplemental foods and nutrition education through an increased number of migrant and community health centers. Several notifications to Congress on the progress of this initiative were required.

[Sec. 17(j) of the CNA]

Section 204: This section deletes out-of-date references to notifications to Congress.

*WIC farmers’ market nutrition program*

Current law: By regulation, roadside stands may participate in the WIC farmers’ market nutrition program if approved through the Food and Nutrition Service. By law, States must provide (from State, local, or private funds) 30% of the total cost of the program in the State, and the value of the Federal share of benefits received by any recipient may not be more than \$20 per year. Appropriations for the farmers’ market nutrition program are authorized at “such sums as may be necessary” through fiscal year 2003.

[Sec. 17(m) of the CNA]

Section 204: This section (1) makes roadside stands eligible to participate in the WIC farmers’ market nutrition program at State option, (2) requires that States provide 30% of the administrative cost of the program in the State, and (3) increases the limit on the Federal share of benefits to \$30 per year. It also extends the authorization of appropriations for the program through fiscal year 2008.

*Demonstration project to enroll children in health programs*

Current law: The Secretary was required to establish a 1-State demonstration project to use the WIC program to identify and enroll children in Medicaid and State Children’s Health Insurance programs. The authority for this demonstration project terminated September 30, 2003.

[Sec. 17(r) of the CNA and Sec. 12(p) of the NSLA]

Section 204: This section deletes expired authority for a demonstration project to enroll children in health programs.

*Demonstration project for offering fruits and vegetables to WIC participants*

Current law: No provisions.

Section 204: Subject to the availability of funds, this section requires the Secretary to award grants for demonstration projects to evaluate the feasibility and acceptance of offering fresh, frozen, or canned fruits and vegetables to WIC participants. Grants would be awarded to no more than 5 State WIC agencies and involve no more than 5 local agencies. Fruits and vegetables under this project would be in addition to foods offered to WIC participants through the regular WIC program.

A report on this project would be required, and “such sums as are necessary” are authorized to be appropriated for the project. Authority for the project would terminate September 30, 2005.

*Section 205. Team Nutrition Network*

Current law: Authority to operate a Nutrition Education and Training (NET) program is provided in Section 19 of the CNA. Appropriations have not been provided for this program since FY1998. “Full funding” for the NET program would now equal about \$24 million a year (50 cents per enrolled child). However, funding typically did not exceed \$10 million.

Under the NET program, the Secretary is authorized to formulate a nutrition education and training program through grants to State educational agencies that provide: nutritional training of educational and food service personnel; training school food service personnel in the principles and practices of food service management; nutrition education activities in schools and other institutions serving children; and nutrition education to parents and caregivers.

NET funds may be used to (1) employ nutrition education specialists to coordinate the State’s program, (2) undertake assessments of nutrition education needs, (3) develop a State nutrition education plan, (4) pilot projects, (5) planning, developing, and conducting programs and workshops for food service and educational personnel, (6) coordinating and promoting nutrition education and training activities in local school districts, (7) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction, (8) preparing and testing nutrition education materials, and (9) carrying out other appropriate activities as determined by the State. Each State must have a nutrition education specialist as State coordinator.

[Sec. 19 of the CNA]

Section 204: This section replaces current-law provisions for a NET program with new provisions for a Team Nutrition Network (“a multidisciplinary program to promote healthy eating to children based on scientifically valid information and sound educational, social, and marketing principles”).

Subject to the availability of funds (and in addition to any funds normally made available for “team nutrition” purposes by appropriations laws), the Secretary is authorized to make grants to State agencies to establish team nutrition networks to promote nutrition education through the use of messages and materials developed by the Secretary and the promotion of active lifestyles.

For each fiscal year, the total amount made available may not be more than  $\frac{1}{2}$  cent  $\times$  the number of lunches reimbursed (subsidized) through the school lunch program, the child and adult care food program, and the summer food service program. At current lunch service rates, this would total to approximately \$34 million. This could be supplemented with funds received by the Secretary from nongovernmental sources.

To be eligible to receive team nutrition grants, which may be competitive grants, State agencies must submit plans that include (1) a description of the goals and primary messages of their proposed team nutrition network, (2) an analysis of the means by which the State agency will use and disseminate messages and materials developed by the Secretary, (3) an explanation of the ways the State agency will use grant funds to promote healthy eating and physical activity and fitness in schools, (4) a description of the ways in which messages and materials developed by the Secretary will be used to coordinate nutrition and physical activities at the State level with other health promotion and education activities, (5) an annual summary of team nutrition network activities, (6) a description of the ways in which the total school environment will support healthy eating and physical activity, and (7) a description of how all communications to parents and guardians will be in an understandable and uniform format and, to the extent practicable, in a language that parent and guardians understand.

Each State receiving a grant must appoint a team nutrition network coordinator.

Activities authorized under team nutrition network grants would include: (1) collecting, analyzing, and disseminating data regarding the extent to which children/youth are overweight, physically inactive, or suffering from nutrition-related deficiencies or diseases, (2) identifying programs and services to meet needs identified in the data, (3) implementing model school curricula using team nutrition network messages and materials, (4) implementing pilot projects in schools to promote physical activity and enhance students’ nutritional status, (5) improving access to local foods, (6) implementing State health guidelines and emphasizing regular physical activity during school hours, (6) establishing healthy eating and lifestyle policies in schools, (7) and providing training and technical assistance to teachers and school food service professionals.

Appropriations for the Team Nutrition Network program are authorized at “such sums as are necessary.”

#### *Section 206. Review of Best Practices in the Breakfast Program*

Current law: No provisions.

Section 206: Subject to the availability of funds, authorizes the Secretary to enter into an agreement with a research organization to collect and disseminate a review of “best practices” so as to assist schools in addressing impediments that hinder the growth of the school breakfast program. The review would describe model

breakfast programs and offer recommendations for schools to overcome obstacles such as the length of the school day, bus schedules, and increased costs. The results of the review would be disseminated not later than 1 year after enactment.

The Committee recognizes the value of school breakfast, and encourages elementary schools to offer breakfast in a manner that is accommodating to early school schedules and working parents.

#### TITLE III. COMMODITY DISTRIBUTION PROGRAMS

##### *Section 301. Commodity Distribution Programs*

Current law: The Secretary is permitted to use “Section 32” funds to remove and dispose of unsafe foods donated to child nutrition programs by the Agriculture Department. This authority expired September 30, 2003.

Section 301: This section makes permanent the Secretary’s authority to use “Section 32” funds to remove and dispose of unsafe foods donated to child nutrition programs by the Agriculture Department.

#### TITLE IV. MISCELLANEOUS

##### *Section 401. Food Employment Empowerment and Development Program*

Current law: No provisions.

Section 401: This section authorizes the Secretary to establish a “food employment empowerment and development program.” The Secretary would make grants to encourage the effective use of community resources to combat hunger and the causes of hunger by “creating opportunity through food recovery, job training, and community service.” Activities under the grants (e.g., job training, providing meals) would be primarily directed to “vulnerable subpopulations”—low-income persons, the unemployed, and others identified by the Secretary as being likely to experience special risks from hunger or a special need for job training (e.g., addicts, at-risk youths, individuals who are “basic skills deficient,” homeless persons, disabled persons).

Grants would be made to public agencies and private nonprofit institutions that, as an integral part of their normal operations, conduct 2 or more of the following activities:

- Recovery of donated food from restaurants and other businesses in order to serve meals to vulnerable subpopulations;
- Distribution of meals to entities that feed vulnerable subpopulations;
- Training of unemployed/underemployed adults for careers in food service;
- Engaging people in developing community solutions through community service and leadership training; or
- Carrying out welfare-to-work job training programs in combination with the production of school meals or support of after-school programs;

Grantees could use their award for (1) capital investments, purchases of equipment and supplies, and building/kitchen renovations, (2) support services for clients and staff, (3) educational materials and services, (4) administrative costs, and (7) additional activities determined by the Secretary.

The Secretary would be required to establish annual “performance indicators” that grantees would have to meet to continue to receive grants. These would measure performance as to the provisions of meals, job training, and community service. The Secretary also would be required to provide specific forms of technical assistance to grantees and could retain a portion of the funding provided to carry out this responsibility.

Grants could not exceed \$200,000 a year, and appropriations of \$20 million a year are authorized through fiscal year 2008.

#### TITLE V. IMPLEMENTATION

##### *Section 501. Guidance and Regulations*

This section requires the Secretary to issue guidance to implement certain amendments made by this Act as soon as practicable after enactment. It also requires the Secretary to promulgate final regulations for these amendments not later than 2 years after enactment.

The amendments affected by these directives are:

- Section 102 (nutrition requirements);
- Section 103 (provision of information);
- Section 104 (direct certification);
- Section 105 (household applications);
- Section 106 (duration of eligibility for free and reduced price meals);
- Section 107 (runaway, homeless, and migrant youth);
- Section 110 (school food safety programs);
- Section 115 (summer food service program for children);
- Section 117(c) (disregarded overpayments in the child and adult care food program);
- Section 117(g) (age limits in emergency shelters in the child and adult care food program);
- Section 118 (fruit and vegetable program);
- Section 129(b) and (c) (additional administrative review requirements, State plan requirements, State training requirements, funding);
- Section 201 (severe need assistance);
- Section 204(a)(3) (WIC definition changes);
- Section 204(b) (WIC certification period for breastfeeding women, physical presence requirement);
- Section 204(c)(4) (notification of WIC vendor violations);
- Section 204(e)(3) (size of WIC State alliances);
- Section 204(e)(4) (primary contract infant formula);
- Section 204(e)(5) (counting units for infant formula rebates in the WIC program);
- Section 204(e)(6) (uncoupling milk-based and soy-based infant formula bids in the WIC program);
- Section 204(e)(7) (cent-for-cent adjustments to infant formula rebates in the WIC program);
- Section 204(e)(10) (vendor cost containment in the WIC program); and
- Section 204(h)(1) (WIC farmers’ market nutrition program, roadside stands).

*Section 502. Effective Dates*

This section makes most provisions effective on the date of enactment. Special effective dates are:

July 1, 2004 for:

Section 106 (duration of eligibility for free and reduced price meals);

Section 107 (runaway, homeless, and migrant youth);

Section 129(c) (State plan requirements, State training requirements, funding); and

Section 201 (severe need assistance).

October 1, 2004 for:

Section 117(c) (child and adult care food program, disregarded overpayments);

Section 117(g) (child and adult care food program, age limits);

Section 202(a) (State administrative expenses, minimum State grants);

Section 204(a) (WIC definition changes);

Section 204(b) (WIC certification of breastfeeding women, physical presence requirement);

Section 204(c)(1) (accelerated approval of WIC vendors);

Section 204(c)(4) (notification of WIC vendor violations);

Section 204(e)(4) (primary contract infant formula in the WIC program);

Section 204(e)(5) (counting units for infant formula rebates in the WIC program);

Section 204(e)(6) (uncoupling milk and soy infant formula bids in the WIC program);

Section 204(e)(7) (cent-for-cent adjustments to infant formula rebates in the WIC program);

Section 204(e)(8) (lists of infant formula providers in the WIC program);

Section 204(e)(9) (earmarked WIC funding);

Section 204(e)(10) (WIC vendor cost containment);

Section 204(e)(13) (incentive items in the WIC program);

Section 204(f) (spend-forward authority in the WIC program); and

Section 204 (h)(1) and (2) (WIC farmers' market nutrition program, roadside stands and matching requirement).

January 1, 2005 for: Section 115(e)(1) and (e)(3) (the simplified summer food program).

July 1, 2005 for:

Section 104 (direct certification);

Section 105 (household applications);

Section 110 (school food safety programs); and

Section 129(b) (additional administrative review requirements).

## VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2507 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman.):

**NATIONAL SCHOOL LUNCH ACT**

\* \* \* \* \*

**SEC. 5. NUTRITION PROMOTION.**

(a) *IN GENERAL.*—Subject to the availability of funds made available under subsection (g), the Secretary shall make payments to State agencies for each fiscal year, in accordance with this section, to promote nutrition in food service programs under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(b) *TOTAL AMOUNT FOR EACH FISCAL YEAR.*—The total amount of funds available for a fiscal year for payments under this section shall equal not more than the product obtained by multiplying—

(1)  $\frac{1}{2}$  cent; by

(2) the number of lunches reimbursed through food service programs under this Act during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs.

(c) *PAYMENTS TO STATES.*—

(1) *ALLOCATION.*—Subject to paragraph (2), from the amounts of funds available under subsection (g) for a fiscal year, the Secretary shall allocate to each State agency an amount equal to the greater of—

(A) a uniform base amount established by the Secretary;

or

(B) an amount determined by the Secretary, based on the ratio that—

(i) the number of lunches reimbursed through food service programs under this Act in schools, institutions, and service institutions in the State that participate in the food service programs; bears to

(ii) the number of lunches reimbursed through the food service programs in schools, institutions, and service institutions in all States that participate in the food service programs.

(2) *REDUCTIONS.*—The Secretary shall reduce allocations to State agencies qualifying for an allocation under paragraph (1)(B), in a manner determined by the Secretary, to the extent necessary to ensure that the total amount of funds allocated under paragraph (1) is not greater than the amount appropriated under subsection (g).

(d) *USE OF PAYMENTS.*—

(1) *USE BY STATE AGENCIES.*—A State agency may reserve, to support dissemination and use of nutrition messages and materials developed by the Secretary, up to—

(A) 5 percent of the payment received by the State for a fiscal year under subsection (c); or

(B) in the case of a small State (as determined by the Secretary), a higher percentage (as determined by the Secretary) of the payment.

(2) *DISBURSEMENT TO SCHOOLS AND INSTITUTIONS.*—Subject to paragraph (3), the State agency shall disburse any remaining amount of the payment to school food authorities and institutions participating in food service programs described in sub-

section (a) to disseminate and use nutrition messages and materials developed by the Secretary.

(3) *SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.*—In addition to any amounts reserved under paragraph (1), in the case of the summer food service program for children established under section 13, the State agency may—

(A) retain a portion of the funds made available under subsection (c) (as determined by the Secretary); and

(B) use the funds, in connection with the program, to disseminate and use nutrition messages and materials developed by the Secretary.

(e) *DOCUMENTATION.*—A State agency, school food authority, and institution receiving funds under this section shall maintain documentation of nutrition promotion activities conducted under this section.

(f) *REALLOCATION.*—The Secretary may reallocate, to carry out this section, any amounts made available to carry out this section that are not obligated or expended, as determined by the Secretary.

(g) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

\* \* \* \* \*

SEC. 9 \* \* \*

[(2) Lunches served by schools participating in the school lunch program under this Act—

[(A) shall offer students fluid milk; and

[(B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.]]

(2) *FLUID MILK.*—

(A) *IN GENERAL.*—Lunches served by schools participating in the school lunch program under this Act—

(i) shall offer students fluid milk in a variety of fat contents;

(ii) may offer students flavored and unflavored fluid milk and lactose-free fluid milk; and

(iii) shall provide a substitute for fluid milk for students whose disability restricts their diet, on receipt of a written statement from a licensed physician that identifies the disability that restricts the student's diet and that specifies the substitute for fluid milk.

(B) *SUBSTITUTES.*—

(i) *STANDARDS FOR SUBSTITUTION.*—A school may substitute for the fluid milk provided under subparagraph (A), a nondairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk) for students who cannot consume fluid milk because of a medical or other special dietary need other than a disability described in subparagraph (A)(iii).

(ii) *NOTICE.*—*The substitutions may be made if the school notifies the State agency that the school is implementing a variation allowed under this subparagraph, and if the substitution is requested by written statement of a medical authority or by a student's parent or legal guardian that identifies the medical or other special dietary need that restricts the student's diet, except that the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes.*

(iii) *EXCESS EXPENSES BORNE BY SCHOOL DISTRICT.*—*Expenses incurred in providing substitutions under this subparagraph that are in excess of expenses covered by reimbursements under this Act shall be paid by the school district.*

(C) *RESTRICTIONS ON SALE OF MILK PROHIBITED.*—*A school or institution that participates in the school lunch program under this Act shall not directly or indirectly restrict the sale or marketing of fluid milk products by the school (or by a person approved by the school) at any time or any place—*

*(i) on the school premises; or*

*(ii) at any school-sponsored event.*

(3) Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

(4) *PROVISION OF INFORMATION.*—*The Secretary shall ensure that States and school food authorities administer school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in a manner that reflects consumption recommendations—*

*(A) specified in the Dietary Guidelines for Americans; and*

*(B) at the option of the Secretary, based on other recent scientifically valid information.*

\* \* \* \* \*

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

(B) **APPLICATIONS AND DESCRIPTIVE MATERIAL.**—

*(i) IN GENERAL.*—*Applications for free and reduced price lunches, in such form as the Secretary may prescribe or*

approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. **【Such forms and descriptive material】**

(i) *INCOME ELIGIBILITY GUIDELINES.—Forms and descriptive materials distributed in accordance with clause (i) may not contain the income eligibility guidelines for free lunches.*

(ii) *CONTENTS OF DESCRIPTIVE MATERIALS.—*

(I) *IN GENERAL.—Descriptive materials distributed in accordance with clause (i) shall contain a notification that-*

(aa) *participants in the programs listed in subclause (II) may be eligible for free or reduced price meals; and*

(bb) *documentation may be requested for verification of eligibility for free or reduced price meals.*

(II) *PROGRAMS.—The programs referred to in subclause (I)(aa) are—*

(aa) *the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);*

(bb) *the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);*

(cc) *the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and*

(dd) *a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).*

**【(C)(i)** Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

**【(ii)** Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

**【(I)** a household that is receiving food stamps under the Food Stamp Act of 1977; or

- [(II) a family that is receiving assistance under the State program funded under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.
- [(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—
- [(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;
- [(II) a person directly connected with the administration or enforcement of—
- [(aa) a Federal education program;
- [(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or
- [(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and
- [(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and
- [(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph; and
- [(IV) a person directly connected with the administration of the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the school food authority so elect.
- [(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.
- [(v) A person described in clause (iii) 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.
- [(vi) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in clause (iii)(IV) shall ensure that any school food authority acting in accordance with that option—

[(I) has a written agreement with the State or local agency or agencies administering health insurance programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under clause (iii) to seek to enroll children in those health insurance programs; and

[(II)(aa) notifies each household, the information of which shall be disclosed under clause (iii), that the information disclosed will be used only to enroll children in health programs referred to in clause (iii)(IV); and

[(bb) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

[(vii) USE OF DISCLOSED INFORMATION.—A person to which information is disclosed under clause (iii)(IV) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in clause (iii)(IV).

[(D) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.]

(3) HOUSEHOLD APPLICATIONS.—

(A) DEFINITION OF HOUSEHOLD APPLICATION.—*In this paragraph, the term “household application” means an application for a child of a household to receive free or reduced price school lunches under this Act, or school breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), for which an eligibility determination is made other than under paragraph (4) or (5).*

(B) ELIGIBILITY DETERMINATION.—

(i) IN GENERAL.—*An eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household or in accordance with guidance issued by the Secretary*

(ii) ELECTRONIC SIGNATURES AND APPLICATIONS.—*A household application may be executed using an electronic signature if—*

(I) *the application is submitted electronically;*  
and

(II) *the electronic application filing system meets confidentiality standards established by the Secretary.*

(C) CHILDREN IN HOUSEHOLD.—

(i) IN GENERAL.—*The household application shall identify the names of each child in the household for whom meal benefits are requested.*

(ii) *SEPARATE APPLICATIONS.*—A State educational agency or school food authority may not request a separate application for each child in the household that attends schools under the same school food authority.

(D) *VERIFICATION OF SAMPLE.*—

(i) *DEFINITIONS.*—In this subparagraph:

(I) *ERROR PRONE APPLICATION.*—The term “error prone application” means an approved household application that—

(aa) indicates monthly income that is within \$100, or an annual income that is within \$1,200, of the income eligibility limitation for free or reduced price meals; or

(bb) in lieu of the criteria established under item (aa), meets criteria established by the Secretary.

(II) *NON-RESPONSE RATE.*—The term “non-response rate” means (in accordance with guidelines established by the Secretary) the percentage of approved household applications for which verification information has not been obtained by a school food authority after attempted verification under subparagraphs (F) and (G).

(ii) *VERIFICATION OF SAMPLE.*—Each school year, a school food authority shall verify eligibility of the children in a sample of household applications approved for the school year by the school food authority, as determined by the Secretary in accordance with this subsection.

(iii) *SAMPLE SIZE.*—Except as otherwise provided in this paragraph, the sample for a school food authority for a school year shall equal the lesser of—

(I) 3 percent of all applications approved by the school food authority for the school year, as of October 1 of the school year, selected from error prone applications; or

(II) 3,000 error prone applications approved by the school food authority for the school year, as of October 1 of the school year.

(iv) *ALTERNATIVE SAMPLE SIZE.*—

(I) *IN GENERAL.*—If the conditions described in subclause (IV) are met, the verification sample size for a school food authority shall be the sample size described in subclause (II) or (III), as determined by the school food authority.

(II) *3,000/3 PERCENT OPTION.*—The sample size described in this subclause shall be the lesser of 3,000, or 3 percent of, applications selected at random from applications approved by the school food authority for the school year, as of October 1 of the school year.

(III) *1,000/1 PERCENT PLUS OPTION.*—

(aa) *IN GENERAL.*—The sample size described in this subclause shall be the sum of—

(AA) the lesser of 1,000, or 1 percent of, all applications approved by the school food authority for the school year, as of October 1 of the school year, selected from error prone applications; and

(BB) the lesser of 500, or 1/2 of 1 percent of, applications approved by the school food authority for the school year, as of October 1 of the school year, that provide a case number (in lieu of income information) showing participation in a program described in item (bb) selected from those approved applications that provide a case number (in lieu of income information) verifying the participation.

(bb) PROGRAMS.—The programs described in this item are—

(AA) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(BB) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(CC) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(IV) CONDITIONS.—The conditions referred to in subclause (I) shall be met for a school food authority for a school year if—

(aa) the nonresponse rate for the school food authority for the preceding school year is less than 20 percent; or

(bb) the school food authority has more than 20,000 children approved by application by the school food authority as eligible for free or reduced price meals for the school year, as of October 1 of the school year, and—

(AA) the nonresponse rate for the preceding school year is at least 10 percent below the nonresponse rate for the second preceding school year; or

(BB) in the case of the school year beginning July 2005, the school food authority attempts to verify all approved household applications selected for verification through use of public agency records from

at least 2 of the programs or sources of information described in subparagraph (F)(i).

(v) *ADDITIONAL SELECTED APPLICATIONS.*—A sample for a school food authority for a school year under clauses (iii) and (iv)(III) shall include the number of additional randomly selected approved household applications that are required to comply with the sample size requirements in those clauses.

(E) *PRELIMINARY REVIEW.*—

(i) *IN GENERAL.*—Prior to conducting any other verification activity for approved household applications selected for verification, the school food authority shall ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial eligibility determination, unless otherwise determined by the Secretary.

(ii) *CORRECT ELIGIBILITY DETERMINATION.*—If the review indicates that the initial eligibility determination is correct, the school food authority shall verify the approved household application.

(iii) *INCORRECT ELIGIBILITY DETERMINATION.*—If the review indicates that the initial eligibility determination is incorrect, the school food authority shall (as determined by the Secretary)—

(I) correct the eligibility status of the household;

(II) notify the household of the change;

(III) in any case in which the review indicates that the household is not eligible for free or reduced-price meals, notify the household of the reason for the ineligibility and that the household may reapply with income documentation for free or reduced-price meals; and

(IV) in any case in which the review indicates that the household is eligible for free or reduced-price meals, verify the approved household application.

(F) *DIRECT VERIFICATION.*—

(i) *IN GENERAL.*—Subject to clauses (ii) and (iii), to verify eligibility for free or reduced price meals for approved household applications selected for verification, the school food authority may (in accordance with criteria established by the Secretary) first obtain and use income and program participation information from a public agency administering—

(I) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(II) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(IV) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(V) a similar income-tested program or other source of information, as determined by the Secretary.

(ii) *FREE MEALS.*—Public agency records that may be obtained and used under clause (i) to verify eligibility for free meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for free meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 133 percent of the income official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 133 percent of the income official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iii) *REDUCED PRICE MEALS.*—Public agency records that may be obtained and used under clause (i) to verify eligibility for reduced price meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for reduced price meals) that is relied to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 185 percent of the income official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 185 percent of the income official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iv) *EVALUATION.*—Not later than 3 years after the date of implementation of this subparagraph, the Secretary shall complete an evaluation of—

(I) the effectiveness of direct verification carried out under this subparagraph in decreasing the portion of the verification sample that must be verified under subparagraph (G) while ensuring that adequate verification information is obtained; and

(II) the feasibility of direct verification by State agencies and school food authorities.

(v) *EXPANDED USE OF DIRECT VERIFICATION.*—If the Secretary determines that direct verification significantly decreases the portion of the verification sample that must be verified under subparagraph (G) while ensuring that adequate verification information is obtained and can be conducted by most State agencies and school food authorities, the Secretary may require a State agency or school food authority to implement direct verification through 1 or more of the programs described in clause (i), as determined by the Secretary, unless the State agency or school food authority demonstrates (under criteria established by the Secretary) that the State agency or school food authority lacks the capacity to conduct, or is unable to implement, direct verification.

(G) *HOUSEHOLD VERIFICATION.*—

(i) *IN GENERAL.*—If an approved household application is not verified through the use of public agency records, a school food authority shall provide to the household written notice that—

(I) the approved household application has been selected for verification; and

(II) the household is required to submit verification information to confirm eligibility for free or reduced price meals.

(ii) *PHONE NUMBER.*—The written notice in clause (i) shall include a toll-free phone number that parents and legal guardians in households selected for verification can call for assistance with the verification process.

(iii) *FOLLOW-UP ACTIVITIES.*—If a household does not respond to a verification request, a school food authority shall make at least 1 attempt to obtain the necessary verification from the household in accordance with guidelines and regulations promulgated by the Secretary.

(iv) *CONTRACT AUTHORITY FOR SCHOOL FOOD AUTHORITIES.*—A school food authority may contract (under standards established by the Secretary) with a third party to assist the school food authority in carrying out clause (iii).

(H) *VERIFICATION DEADLINE.*—

(i) *IN GENERAL.*—Not later than November 15 of each school year, a school food authority shall complete the

verification activities required for the school year (including followup activities).

(ii) *ELIGIBILITY CHANGES.*—Based on the verification activities, the school food authority shall make appropriate modifications to the eligibility determinations made for household applications in accordance with criteria established by the Secretary.

(I) *LOCAL CONDITIONS.*—In the case of a natural disaster, civil disorder, strike, or other local condition (as determined by the Secretary), the Secretary may substitute alternatives for—

(i) the sample size and sample selection criteria established under subparagraph (D); and

(ii) the verification deadline established under subparagraph (H).

(J) *INDIVIDUAL REVIEW.*—In accordance with criteria established by the Secretary, the school food authority may, on individual review—

(i) decline to verify no more than 5 percent of approved household applications selected under subparagraph (D); and

(ii) replace the approved household applications with other approved household applications to be verified.

(K) *FEASIBILITY STUDY.*—

(i) *IN GENERAL.*—The Secretary shall conduct a study of the feasibility of using computer technology (including data mining) to reduce—

(I) overcertification errors in the school lunch program under this Act;

(II) waste, fraud, and abuse in connection with this paragraph; and

(III) errors, waste, fraud, and abuse in other nutrition programs, as determined to be appropriate by the Secretary.

(ii) *REPORT.*—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the results of the feasibility study conducted under this subsection;

(II) how a computer system using technology described in clause (i) could be implemented;

(III) a plan for implementation; and

(IV) proposed legislation, if necessary, to implement the system.

(4) *DIRECT CERTIFICATION FOR CHILDREN IN FOOD STAMP HOUSEHOLDS.*—

(A) *IN GENERAL.*—Subject to subparagraph (D), each State agency shall enter into an agreement with the State agency conducting eligibility determinations for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(B) *PROCEDURES.*—Subject to paragraph (6), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the food stamp program shall be certified as eligible for free meals lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(C) *CERTIFICATION.*—Subject to paragraph (6), under the agreement, the school food authority conducting eligibility determinations for a school lunch program conducted under this Act and school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall certify a child who is a member of a household receiving assistance under the food stamp program as eligible for free meals lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(D) *APPLICABILITY.*—This paragraph applies to—

(i) in the case of the school year beginning July 2006, a school district that had an enrollment of 25,000 students or more in the preceding school year;

(ii) in the case of the school year beginning July 2007, a school district that had an enrollment of 10,000 students or more in the preceding school year; and

(iii) in the case of the school year beginning July 2008 and each subsequent school year, each school food authority.

(5) *DISCRETIONARY CERTIFICATION.*—

(A) *IN GENERAL.*—Subject to paragraph (6), any school food authority may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as—

(i) a member of a family that is receiving assistance under the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;

(ii) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

(iii) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

(iv) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)).”

(B) *CHILDREN OF HOUSEHOLDS RECEIVING FOOD STAMPS.*—Subject to paragraph (6), any school food authority may certify any child as eligible for free lunches or

*breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the status of the child as a member of a household that is receiving food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).*

(6) *USE OR DISCLOSURE OF INFORMATION.—*

(A) *IN GENERAL.—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in paragraph (3)(F), (4), or (5), shall be limited to—*

*(i) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (including a regulation promulgated under either Act);*

*(ii) a person directly connected with the administration or enforcement of—*

*(I) a Federal education program;*

*(II) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)); or*

*(III) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section;*

*(iii)(I) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and*

*(II) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by this paragraph or paragraph (3)(F), (4), or (5);*

*(iv) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purposes of—*

*(I) identifying children eligible for benefits under, and enrolling children in, those programs, except that this subclause shall apply only to the extent that the State and the school food authority so elect; and*

*(II) verifying the eligibility of children for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and*

*(v) a third party contractor described in paragraph (3)(G)(iv).*

(B) *LIMITATION ON INFORMATION PROVIDED.—Information provided under clause (ii) or (v) of subparagraph (A) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits is made or for whom eligibility information is provided under paragraph (3)(F), (4), or (5), unless the consent of the par-*

ent or guardian of the child for whom application for benefits was made is obtained.

(C) **CRIMINAL PENALTY.**—A person described in subparagraph (A) 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.

(D) **REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.**—A State that elects to exercise the option described in subparagraph (A)(iv) shall ensure that any school food authority acting in accordance with that option—

(i) has a written agreement with 1 or more State or local agencies administering health programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under subparagraph (A) to seek to enroll children in those health programs; and

(ii)(I) notifies each household, the information of which shall be disclosed under subparagraph (A), that the information disclosed will be used only to enroll children in health programs referred to in subparagraph (A)(iv); and

(II) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

(E) **USE OF DISCLOSED INFORMATION.**—A person to which information is disclosed under subparagraph (A)(iv) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in subparagraph (A)(iv).

(7) **FREE AND REDUCED PRICE POLICY STATEMENT.**—

(A) **IN GENERAL.**—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority.

(B) **ROUTINE CHANGE.**—A routine change in the policy of a school food authority (such as an annual adjustment of the income eligibility guidelines for free and reduced price meals) shall not be sufficient cause for requiring the school food authority to submit a policy statement.

(8) **COMMUNICATIONS.**—

(A) **IN GENERAL.**—Any communication with a household under this subsection or subsection (d) shall be in an understandable and uniform format and, to the extent practicable, in a language that parents and legal guardians can understand.

(B) **ELECTRONIC AVAILABILITY.**—In addition to the distribution of applications and descriptive material in paper form as provided for in this paragraph, the applications and material may be made available electronically via the Internet.

**[(3)] (9) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—**

(A) *FREE LUNCHES.*—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch.

(B) *REDUCED PRICE LUNCHES.*—

(i) *IN GENERAL.*—Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch.

(ii) *MAXIMUM PRICE.*—The price charged for a reduced price lunch shall not exceed 40 cents.

(C) *DURATION.*—*Except as otherwise specified in paragraph (3)(E), (3)(H)(ii), and section 11(a), eligibility for free or reduced price meals for any school year shall remain in effect—*

(i) *beginning on the date of eligibility approval for the current school year; and*

(ii) *ending on a date during the subsequent school year determined by the Secretary.*

**[(4)] (10)** No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published list of names, or by other means.

**[(5)] (11)** Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

[(6)] (12)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—

(i) a member of a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(ii) a member of a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; [or]

(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))[.];

(iv) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

(v) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

(vi) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)).

(B) Proof of receipt of food stamps or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).

[(7)] (13) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—[For each of fiscal years 2002 and 2003 and through June 30, 2004, the] *The* amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.

\* \* \* \* \*

(d)(1) \* \* \*  
 (2) \* \* \*

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 [(7 U.S.C. 2011 et seq.)] has been provided to the appropriate local school food authority; [or]

(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the State program funded under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995[.];

(D) documentation has been provided to the appropriate school food authority showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(12)(A); or

(E) documentation has been provided to the appropriate school food authority showing the status of the child as a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)).

\* \* \* \* \*

(f) \* \* \*

(5) WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—During the period ending on [September 30, 2003] *September 30, 2008*, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(g) Not later than 1 year after the date of enactment of this subsection, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.

(h) FOOD SAFETY [INSPECTIONS].—

(1) IN GENERAL.—Except as provided in paragraph (2), a school participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections.

(2) EXCEPTION.—Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections.

(3) SCHOOL FOOD SAFETY PROGRAM.—*Each school food authority shall implement a school food safety program, in the preparation and service of each meal served to children, that complies with a hazard analysis and critical control point system established by the Secretary.*

\* \* \* \* \*

(j) \* \* \*

## (2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection \$400,000 for each of fiscal years 2003 through ~~2007~~ 2008, to remain available until expended.

\* \* \* \* \*

## SEC. 11 \* \* \*

(C)(i) Except as provided in subparagraph (D), in the case of any school or school district that—

(I) elects to serve all children in the school *or school district* free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school *or school district* that serves both lunches and breakfasts, elects to serve all children in the school *or school district* free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 4 successive school years; 11–6 and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period; special assistance payments shall be paid to the State educational agency with respect to the school *or school district* during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school *or school district* to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 4-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school *or school district* to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

(iii) For purposes of computing the amount of the payments, a school *or school district* may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 4-school-year period.

(D)(i) In the case of any school *or school district* that is receiving special assistance payments under this paragraph for a 4-school-year period described in subparagraph (C), the State may grant, at the end of the 4-school-year period, an extension of the period for an additional 4 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school *or school district* has remained stable.

(ii) A school *or school district* described in clause (i) may reapply to the State at the end of the 4-school-year period, and at the end of each 4-school-year period thereafter for which the school *or school district* receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 4-school-year period.

(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school *or school district* has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 4-school-year period for which the school *or school district* receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

(iv) For the purpose of updating information and reimbursement levels, a school *or school district* described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

(E)(i) In the case of any school *or school district* that—

(I) elects to serve all children in the school free *or school district* lunches under the school lunch program during any period of 4 successive school years, or in the case of a school *or school district* that serves both lunches and breakfasts, elects to serve all children in the school *or school district* free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period; total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school *or school district* at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school *or school district* in the last school year for which the school *or school district* accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes

in enrollment, to carry out the school lunch or school breakfast program.

(ii) A school or school district described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school or school district receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school or school district has remained consistent with the income level of the population of the school or school district in the last school year for which the school or school district accepted the applications described in clause (i).

\* \* \* \* \*

SEC. 12 \* \* \*

[(m)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

[(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

[(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

[(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

[(C) create community service learning opportunities or educational programs;

[(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

[(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

[(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

[(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than \$100,000, nor more than \$200,000, for each of fiscal years 1995 through 2003.

[(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

[(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 2003.]

(m) *PROCUREMENT TRAINING.*—

(1) *IN GENERAL.*—*Subject to the availability of appropriations under paragraph (3), the Secretary shall provide technical assistance and training to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)).*

(2) *BUY AMERICAN TRAINING.*—*Activities carried out under paragraph (1) shall include technical assistance and training to ensure compliance with subsection (n).*

(3) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this subsection \$1,000,000 for each of fiscal years 2005 through 2008, to remain available until expended.*

\* \* \* \* \*

[(p) GRANT FOR DEMONSTRATION PROJECT.—

[(1) USE OF FUNDS FOR WIC DEMONSTRATION PROJECT.—

[(A) IN GENERAL.—The Secretary shall make grants of funds under [this subsection to a State-

[(i) for purposes that include carrying out the demonstration project under section 17(r) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(r)); and

[(ii) for the purpose described in clause (i), in amounts not to exceed \$10,000 for each fiscal year for each site in the State.

[(B) APPORTIONMENT.—A State that receives a grant under subparagraph (A) shall apportion the funds received to ensure that each site in the State receives not more than \$10,000 for any fiscal year.

[(2) EVALUATIONS OF DEMONSTRATION PROJECT.—The Secretary shall conduct an evaluation of the demonstration project and grant program for identification and enrollment efforts funded under this subsection that include a determination of—

[(A) the number of children enrolled as a result of the enactment of this subsection;

[(B) the income levels of the families of enrolled children;

[(C) the cost of identification and enrollment assistance services provided under the project or grant program;

[(D) the effect on the caseloads of local agencies that carry out the special supplemental nutrition program for woman, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

[(E) such other factors as the Secretary determines to be appropriate.

[(3) FUNDING.—

[(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection \$1,000,000 for the period of fiscal years 2001 through

2004, to remain available until expended but not later than September 30, 2004.

**[(B) RECEIPT AND ACCEPTANCE.—**The Secretary shall be entitled to receive the funds and shall accept the funds provided under subparagraph (A), without further appropriation.**]**

\* \* \* \* \*

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. \* \* \*

(8) *SEAMLESS SUMMER OPTION.—*Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this Act or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(b) SERVICE INSTITUTIONS.— \* \* \*

(D) *SEAMLESS SUMMER REIMBURSEMENTS.—*A service institution described in subsection (a)(8) shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this Act (other than subparagraphs (A), (B), and (C) of this paragraph and paragraph (4)) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.

\* \* \* \* \*

**[(i) Repealed]**

*(i) RURAL AREA ELIGIBILITY DEMONSTRATION FOR SUMMER FOOD SERVICE.—*

(1) *IN GENERAL.—*For each of calendar years 2005 and 2006, the Secretary shall carry out a demonstration in rural areas of a State selected by the Secretary under which the threshold for determining “areas in which poor economic conditions exist” under subsection (a)(1)(C) for the demonstration authorized by this section shall be 40 percent.

(2) *EVALUATION.—*

(A) *IN GENERAL.—*The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the demonstration carried out under this subsection to assess the impact of the demonstration by comparing the areas operating under the demonstration to comparable areas not operating under the demonstration.

(B) *IMPACT.—*The evaluation shall assess the impact of the demonstration on—

- (i) the number of sponsors offering meals through the summer food service program;
- (ii) the number of sites offering meals through the summer food service program;
- (iii) the geographic location of the sites;
- (iv) services provided to eligible children; and
- (v) other factors determined by the Secretary.

(C) *REPORT.—*Not later than January 1, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Com-

*mittee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the demonstration under this subsection.*

**(D) FUNDING.—**

*(i) IN GENERAL.—On January 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph \$400,000, to remain available until expended.*

*(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.*

\* \* \* \* \*

(q) For the period beginning October 1, 1977, and ending **June 30, 2004** *September 30, 2008*, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

\* \* \* \* \*

COMMODITY DISTRIBUTION PROGRAM

SEC. 14. [42 U.S.C. 1762a] (a) Notwithstanding any other provision of law, the Secretary**],** during the period beginning July 1, 1974, and ending June 30, 2004,**]** shall—

\* \* \* \* \*

SEC. 17. \* \* \*

(2) DEFINITION OF INSTITUTION.—In this section, the term “institution” means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B) any other private organization providing nonresidential child care or day care outside school hours for school children, if—

(i) **]** during the period beginning on the date of enactment of this clause and ending on June 30, 2004,**]** at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; or

\* \* \* \* \*

(6) \* \* \*

(B) has not been seriously deficient in its operation of the child *and adult* care food program, or any other program under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], or has not been determined to be ineligible to participate in any other publicly funded

program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;

- \* \* \*
- (f) \* \* \*
- (3) \* \* \*
- (E) \* \* \*

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for [3 years] 5 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

- \* \* \*
- [(i) The] (i) AUDITS.—
- (1) DISREGARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), in conducting management evaluations, reviews, or audits under this section, the Secretary or a State agency may disregard any overpayment to an institution for a fiscal year if the total overpayment to the institution for the fiscal year does not exceed an amount that is consistent with the disregards allowed in other programs under this Act and recognizes the cost of collecting small claims, as determined by the Secretary.

(B) CRIMINAL OR FRAUD VIOLATIONS.—In carrying out this paragraph, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.

(2) FUNDING.—The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent) of the funds used by each State in the program under this section, during the second preceding fiscal year.

- [(j) The] (j) AGREEMENTS.—

(1) IN GENERAL.—The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

(2) DURATION.—An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.

\* \* \*

[(p)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out State-wide demonstration projects in three States under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

[(A) at least 25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less, meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

[(B) as a result of the participation of the organization in the project—

[(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

[(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

[(2) Under each such project, the Secretary shall examine—

[(A) the budgetary impact of the change in eligibility being tested;

[(B) the extent to which, as a result of such change, additional low-income children can be reached; and

[(C) which outreach methods are most effective.

[(3) The Secretary shall choose to conduct demonstration projects under this subsection in—

[(A) 1 State that—

[(i) has a history of participation of for-profit organizations in the child care food program;

[(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

[(iii) has other funding mechanisms that support parental choice for child care;

[(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

[(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program;

[(B) 1 State in which—

[(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

[(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

[(iii) at least  $\frac{1}{3}$  of the licensed child care centers and preschools operate as for-profit facilities;

[(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar

to those required under the child care food program; and

[(v) less than 1 percent of child care centers participating in [the child care food program receive assistance under title XX of the Social Security Act; and

[(C) one other State—

[(i) with fewer than 60,000 children below 5 years of age;

[(ii) that serves more than the national average proportion of children potentially eligible for assistance provided under the Child Care and Development Fund (as indicated in data published by the Department of Health and Human Services in October 1999);

[(iii) that exempts all low-income families from cost sharing requirements under programs funded by the Child Care and Development Fund; and

[(iv) in which State spending represents more than 50 percent of total expenditures reported for fiscal year 1998 under the Child Care and Development Fund.]

(p) *RURAL AREA ELIGIBILITY DEMONSTRATION FOR DAY CARE HOMES.*—

(1) *DEFINITION OF DEMONSTRATION TIER I FAMILY OR GROUP DAY CARE HOME.*—*In this subsection, the term ‘demonstration tier I family or group day care home’ means a family or group day care home that meets the definition of tier I family or group day care home under subclause (I) of subsection (f)(3)(A)(ii) except that items (aa) and (bb) of that subclause shall be applied by substituting ‘40 percent’ for ‘50 percent’.*

(2) *DEMONSTRATION.*—*For each of fiscal years 2006 and 2007, the Secretary shall conduct a demonstration in rural areas of a State selected by the Secretary under which demonstration tier I family or group day care homes (as defined in paragraph (1)) shall be provided reimbursement under subsection (f)(3) in the same manner as tier I family or group day care homes (as defined in subsection (f)(3)(A)(ii)(I)).*

(3) *EVALUATION.*—

(A) *IN GENERAL.*—*The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the demonstration carried out under this subsection to assess the impact of the demonstration by comparing the areas operating under the demonstration to comparable areas not operating under the demonstration.*

(B) *IMPACT.*—*The evaluation shall assess the impact of the demonstration on—*

*(i) the number of family or group day care homes offering meals under this section;*

*(ii) the number of family or group day care homes offering meals under this section that are defined as tier I family or group day care homes as a result of the demonstration conducted under this subsection that otherwise would be defined as tier II family or group day care homes under subsection (f)(3)(A)(iii);*

*(iii) the geographic location of the family or group day care homes;*

- (iv) services provided to eligible children; and
- (v) other factors determined by the Secretary.

(C) *REPORT.*—Not later than March 31, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the demonstration under this subsection.

(D) *FUNDING.*—

(i) *IN GENERAL.*—On October 1, 2005, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph \$400,000, to remain available until expended.

(ii) *RECEIPT AND ACCEPTANCE.*—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(q) \* \* \*

(3) *FUNDING.*—For each of fiscal years [1999 through 2003] 2005 and 2006, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section.

\* \* \* \* \*

PILOT PROJECTS

SEC. 18. \* \* \*

[(f) *SUMMER FOOD PILOT PROJECTS.*—] (f) *SIMPLIFIED SUMMER FOOD PROGRAMS.*—

[(1) *DEFINITION OF ELIGIBLE STATE.*—In this subsection, the term “eligible State” means a State in which (based on data available in July 2000)—

[(A) the percentage obtained by dividing—

[(i) the sum of—

[(I) the average daily number of children attending the summer food service program in the State in July 1999; and

[(II) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in July 1999; by

[(ii) the average daily number of children receiving free or [reduced price meals under the school lunch program in the State in March 1999; is less than 50 percent of

[(B) the percentage obtained by dividing—

[(i) the sum of—

[(I) the average daily number of children attending the summer food service program in all States in July 1999; and

[(II) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 1999; by

[(ii) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in March 1999.]

(1) *DEFINITION OF ELIGIBLE STATE.*—*In this subsection, the term ‘eligible State’ means—*

(A) *a State participating in the program under this subsection as of May 1, 2004; and*

(B) *a State in which (based on data available in April 2004)—*

(i) *the percentage obtained by dividing—*

(I) *the sum of—*

(aa) *the average daily number of children attending the summer food service program in the State in July 2003; and*

(bb) *the average daily number of children receiving free or reduced price meals under the school lunch program in the State in July 2003; by*

(II) *the average daily number of children receiving free or reduced price meals under the school lunch program in the State in March 2003; is less than*

(ii) *66.67 percent of the percentage obtained by dividing—*

(I) *the sum of—*

(aa) *the average daily number of children attending the summer food service program in all States in July 2003; and*

(bb) *the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 2003; by*

(II) *the average daily number of children receiving free or reduced price meals under the school lunch program in all States in March 2003.*

[(2) *PILOT PROJECTS.*—*During the period beginning October 1, 2000, and ending June 30, 2004, the* (2) *PROGRAMS.*—*The Secretary shall carry out a summer food [pilot project] program in each eligible State to increase the number of children participating in the summer food service program in the State.*

(3) *SUPPORT LEVELS FOR SERVICE INSTITUTIONS.*—

(A) *FOOD SERVICE.*—*Under the [pilot project] program, a service institution [(other than a service institution described in section 13(a)(7))] in an eligible State shall receive the maximum amounts for food service under section 13(b)(1) without regard to the requirement under section 13(b)(1)(A) that payments shall equal the full cost of food service operations.*

(B) *ADMINISTRATIVE COSTS.*—*Under the [pilot project] program, a service institution [(other than a service institution described in section 13(a)(7))] in an eligible State shall receive the maximum amounts for administrative costs determined by the Secretary under section 13(b)(4) without regard to the requirement under section 13(b)(3)*

that payments to service institutions shall equal the full amount of State-approved administrative costs incurred.

\* \* \* \* \*

(5) EVALUATION OF **PILOT PROJECTS** PROGRAMS.—

(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the **pilot project** program.

(B) CONTENT.—An evaluation under this paragraph shall describe—

(i) any effect on participation by children and service institutions in the summer food service program in the eligible State in which the **pilot project** program is carried out;

(ii) any effect of the **pilot project** program on the quality of the meals and supplements served in the eligible State in which the **pilot project** program is carried out; and

(iii) any effect of the **pilot project** program on program integrity.

\* \* \* \* \*

**(6) REPORTS.—**

**(A) INTERIM REPORT.—**Not later than December 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report that describes the status of, and any progress made by, each pilot project being carried out under this subsection as of the date of submission of the report.

**(B) FINAL REPORT.—**Not later than April 30, 2004, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report that includes—

**(i)** the evaluations completed by the Secretary under paragraph (5); and

**(ii)** any recommendations of the Secretary concerning the pilot projects.

*(6) REPORT.—Not later than April 30, 2007, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes—*

*(A) the evaluations completed by the Secretary under paragraph (5); and*

*(B) any recommendations of the Secretary concerning the programs.*

\* \* \* \* \*

**(g) FRUIT AND VEGETABLE PILOT PROGRAM.—**

**(1) IN GENERAL.—**In the school year beginning July 2002, the Secretary shall carry out a pilot program to make available to students in 25 elementary or secondary schools in each of 4 States, and in elementary or secondary schools on 1 Indian

reservation, free fresh and dried fruits and fresh vegetables throughout the school day in 1 or more areas designated by the school.

【(2) PUBLICITY.—A school that participates in the pilot program shall widely publicize within the school the availability of free fruits and vegetables under the pilot program.

【(3) REPORT.—Not later than May 1, 2003, the Secretary, acting through the Administrator of the Economic Research Service, shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of the pilot program.

【(4) FUNDING.—The Secretary shall use not more than \$6,000,000 of funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out this subsection (other than paragraph (3)), to remain available until the close of the school year beginning July 2003.】

(g) *FRESH FRUIT AND VEGETABLE PROGRAM.*—

(1) *IN GENERAL.*—*For the school year beginning July 2004 and each subsequent school year, the Secretary shall carry out a program to make free fresh fruits and vegetables available, to the maximum extent practicable, to—*

(A) *25 elementary or secondary schools in each of the 4 States authorized to participate in the program under this subsection on May 1, 2004;*

(B) *25 elementary or secondary schools (as selected by the Secretary in accordance with paragraph (3)) in each of 4 States (including a State for which funds were allocated under the program described in paragraph (3)(B)(ii)) that are not participating in the program under this subsection on May 1, 2004; and*

(C) *25 elementary or secondary schools operated on 3 Indian reservations (including the reservation authorized to participate in the program under this section on May 1, 2004), as selected by the Secretary.*

(2) *PROGRAM.*—*A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day in 1 or more areas designated by the school.*

(3) *SELECTION OF SCHOOLS.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), in selecting additional schools to participate in the program under paragraph (1)(B), the Secretary shall—*

(i) *to the maximum extent practicable, ensure that the majority of schools selected are those in which not less than 50 percent of students are eligible for free or reduced price meals under this Act;*

(ii) *solicit applications from interested schools that include—*

(I) *information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;*

(II) *a certification of support for participation in the program signed by the school food manager,*

*the school principal, and the district superintendent (or equivalent positions, as determined by the school); and*

*(III) such other information as may be requested by the Secretary; and*

*(iii) for each application received, determine whether the application is from a school in which not less than 50 percent of students are eligible for free or reduced price meals under this Act.*

**(B) NONAPPLICABILITY TO EXISTING PARTICIPANTS.**—*Subparagraph (A) shall not apply to a school, State, or Indian reservation authorized—*

*(i) to participate in the program on May 1, 2004; or*

*(ii) to receive funding for free fruits and vegetables under funds provided for public health improvement under the heading ‘disease control, research, and training’ under the heading ‘Centers for Disease Control and Prevention’ in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004 (Division E of Public Law 108 09199; 118 Stat. 238).*

**(4) NOTICE OF AVAILABILITY.**—*To be eligible to participate in the program under this subsection, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.*

**(5) REPORTS.**—

**(A) INTERIM REPORTS.**—*Not later than September 30 of each of fiscal years 2005 through 2008, the Secretary, acting through the Administrator of the Food and Nutrition Service, shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report that describes the activities carried out under this subsection during the fiscal year covered by the report.*

**(B) FINAL REPORT.**—*Not later than December 31, 2008, the Secretary, acting through the Administrator of the Food and Nutrition Service, shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report that describes the results of the program under this subsection.*

**(6) FUNDING.**—

**(A) EXISTING FUNDS.**—*The Secretary shall use to carry out this subsection any funds that remain under this subsection on the day before the date of enactment of this subparagraph.*

**(B) MANDATORY FUNDS.**—

*(i) IN GENERAL.*—*On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection \$9,000,000, to remain available until expended.*

(ii) *RECEIPT AND ACCEPTANCE.*—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds made available under this subparagraph, without further appropriation.

(C) *AUTHORIZATION OF APPROPRIATIONS.*—In addition to any amounts made available under subparagraphs (A) and (B), there are authorized to be appropriated such sums as are necessary to expand the program carried out under this subsection.

(D) *REALLOCATION.*—The Secretary may reallocate any amounts made available to carry out this subsection that are not obligated or expended, as determined by the Secretary.

(h) *SUMMER FOOD SERVICE RURAL TRANSPORTATION DEMONSTRATION.*—

(1) *IN GENERAL.*—The Secretary shall carry out a demonstration under which grants are provided, through not more than 5 eligible State agencies selected by the Secretary, to not more than 60 eligible service institutions selected by the Secretary to increase participation in the summer food service program for children authorized by section 13 through innovative approaches to limited transportation in rural areas.

(2) *ELIGIBILITY.*—To be eligible to participate in the demonstration under this subsection—

(A) a State agency shall—

(i) submit an application to the Secretary, in such manner as the Secretary shall establish, and meet criteria established by the Secretary;

(ii) provide such information relating to the operation and results of the demonstration as the Secretary may require;

(iii) provide technical assistance to participating service institutions; and

(iv) establish procedures that ensure that service institutions making purchases under this subsection meet any criteria established by the Secretary and secure State agency approval prior to a purchase; and

(B) a service institution shall—

(i) agree to the terms and conditions of the grant, as established by the Secretary;

(ii) provide such information relating to the operation and results of the demonstration as the Secretary may require; and

(iii) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.

(3) *DURATION.*—A service institution that receives a grant to carry out a demonstration under this subsection shall conduct the demonstration during a period of 3 successive years, beginning in fiscal year 2005.

(4) *REPORTS.*—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(A) not later than January 1, 2007, an interim report that describes—

(i) the use of funds made available under this subsection; and

(ii) any progress made by each demonstration carried out under this subsection; and

(B) not later than January 1, 2009, a final report that describes—

(i) the use of funds made available under this subsection;

(ii) any progress made by each demonstration carried out under this subsection;

(iii) the impact of the demonstrations on participation in the summer food service program for children authorized by section 13; and

(iv) any recommendations by the Secretary concerning the activities of the service institutions receiving grants under this subsection.

(5) FUNDING.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section—

(i) on October 1, 2005, \$2,000,000; and

(ii) on October 1, 2006, and October 1, 2007, \$1,000,000.

(B) Receipt and acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(C) Availability of funds.—Funds transferred under subparagraph (A) shall remain available until expended.

(D) Reallocation.—The Secretary may reallocate any amounts made available to carry out this subsection that are not obligated or expended, as determined by the Secretary.

(i) SUMMER FOOD SERVICE RESIDENTIAL CAMP DEMONSTRATION.—

(1) IN GENERAL.—During the month after the date of enactment of this subsection through September, 2004, and the months of May through September, 2005, the Secretary shall carry out a demonstration, at not more than 1 private nonprofit residential camp in each of not more than 2 States, as determined by the Secretary, for the purpose of identifying and evaluating alternative methods of determining the eligibility of residential private nonprofit camps to participate in the summer food service program for children established under section 13.

(2) ELIGIBILITY.—To be eligible to participate in the demonstration, a residential camp—

(A) shall be a service institution (as defined in section 13(a)(1));

(B) may not charge a fee to any child in residence at the camp; and

(C) shall serve children who reside in an area in which poor economic conditions exist (as defined in section 13(a)(1)).

(3) PAYMENTS.—

(A) IN GENERAL.—Under the demonstration, the Secretary shall provide reimbursement for meals served to all children at a residential camp at the payment rates specified in section 13(b)(1).

(B) REIMBURSABLE MEALS.—A residential camp participating in the demonstration may receive reimbursement for not more than 3 meals, or 2 meals and 1 supplement, during each day of operation.

(4) EVALUATION OF DEMONSTRATIONS.—

(A) INFORMATION FROM RESIDENTIAL CAMPS.—Not later than December 31, 2005, a residential camp participating in the demonstration shall report to the Secretary such information as is required by the Secretary concerning participation in the demonstration.

(B) REPORT TO CONGRESS.—Not later than March 31, 2006, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the results of the demonstration.

(j) HEALTHY SCHOOL NUTRITION ENVIRONMENT DEMONSTRATIONS.—

(1) IN GENERAL.—Subject to the availability of funds under paragraph (6), the Secretary shall conduct demonstrations in selected elementary and secondary schools—

- (A) to create healthy school nutrition environments; and
- (B) to assess the impact of the environments on the health and well-being of children enrolled in the schools.

(2) SELECTION OF SCHOOLS.—In selecting schools for participation in demonstrations under this subsection, the Secretary shall select schools in a manner that—

- (A) provides for an equitable distribution of demonstrations among—
  - (i) urban, suburban, and rural schools; and
  - (ii) schools with varying family income levels; and
- (B) permits the evaluation of demonstrations designed by the Secretary.

(3) ASSESSMENT OF NUTRITIONAL ENVIRONMENTS AND ACHIEVEMENT OF CERTIFICATION CRITERIA.—In carrying out this subsection, for the first school year for which funds are made available, the Secretary shall make a grant to each selected school to assist the school in—

- (A) conducting an assessment of the nutritional environment of the school, in accordance with procedures established by the Secretary; and
- (B) meeting the certification criteria specified in paragraph (4)(B).

(4) INCENTIVE GRANTS FOR HEALTHY SCHOOL NUTRITION ENVIRONMENTS.—

(A) IN GENERAL.—In carrying out this subsection, for each subsequent school year, the Secretary shall make a

grant to each selected school that meets the certification criteria specified in subparagraph (B) to assist the school in conducting—

(i) meal service activities under the nonprofit school food service program of the school; and

(ii) other activities that the Secretary determines are consistent with a healthy school nutrition environment.

(B) CERTIFICATION CRITERIA.—To be certified as a school that meets healthy school nutrition environment criteria under subparagraph (A), the school shall meet criteria established by the Secretary, that include (at a minimum)—

(i) providing program meals that meet the nutritional standards for breakfasts and lunches established by the Secretary;

(ii) offering healthy food choices outside program meals, such as offering healthy foods in vending machines, school stores, and other venues;

(iii) promoting the consumption of fruits and vegetables;

(iv) providing nutrition education to staff and to students in an understandable and uniform format and, to the extent practicable, in a language that students can understand; and

(v) meeting other criteria established by the Secretary.

(5) EVALUATIONS.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of schools that conduct demonstrations under this subsection.

(B) CONTENT.—The evaluation shall measure, at a minimum, the effects of a healthy school nutrition environment on—

(i) overweight children and obesity;

(ii) dietary intake;

(iii) nutrition education and behavior;

(iv) the adequacy of time to eat;

(v) physical activities;

(vi) parental and student attitudes and participation; and

(vii) related funding issues, including the cost of maintaining a healthy school nutrition environment.

(C) REPORTS.—In carrying out this subsection, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the activities of schools participating in demonstrations under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as are necessary, to remain available until expended.

(k) FOOD SERVICE PROGRAM PERSONNEL PROFESSIONAL STANDARDS DEMONSTRATION.—

(1) IN GENERAL.—Subject to the availability of funds under paragraph (5), the Secretary shall carry out a demonstration—

(A) to assess issues pertaining to professional certification of school food service program personnel; and

(B) to provide States, school districts, and schools with assistance in improving professional standards, and obtaining appropriate program certification, related to food service and dietary management.

(2) ASSISTANCE.—In carrying out the demonstration, the Secretary shall—

(A) assist States in providing training and professional development classes and programs for district school food service administrators and other senior food service program personnel who do not possess an approved certificate or credential in preparing for and obtaining an approved certificate or credential; and

(B) provide assistance to schools, or individuals described in subparagraph (A), to pay the costs of attending classes and obtaining an approved certificate or credential.

(3) ASSESSMENT.—In carrying out the demonstration, the Secretary shall assess—

(A) which certifications or credentials may be considered appropriate professional standards for senior administration personnel of a district school food service program;

(B) the degree to which school food authorities require the senior district food service program personnel to have attained certification or credentials from an approved or appropriate governing body, including differences that may derive from district size;

(C) the impact that employing a certified or credentialed school food service administrator has on program quality; and

(D) the costs to the school food authority of including such a requirement in employing a district school food service administrator.

(4) REPORT.—On completion of the demonstration, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the demonstration.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(l) SCHOOL GARDEN GRANT DEMONSTRATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make grants to State or local educational agencies and non-profit organizations to support school garden demonstrations that allow children to learn about the importance of specialty crops to a healthy diet.

(2) SUBSTANTIAL URBAN CENTERS.—The Secretary shall initially target grants under this subsection to substantial urban centers, as determined by the Secretary.

(3) CONSULTATION.—The Secretary shall develop and carry out the grant demonstration in consultation with the State department of agriculture and other appropriate institutions in each State in which the grant demonstration is conducted.

(4) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated to carry out this subsection \$15,000,000, to remain available until expended.*

(m) *ACCESS TO LOCAL FOODS.*—

(1) *IN GENERAL.*—*The Secretary may provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities for projects that—*

(A) *improve access to local foods in schools and institutions participating in programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) through farm-to-cafeteria activities that may include the acquisition of food and appropriate equipment and the provision of training and education;*

(B) *are, at a minimum, designed to procure local foods from small- and medium-sized farms for school meals;*

(C) *support nutrition education activities or curriculum planning that incorporates the participation of school children in farm and agricultural education activities;*

(D) *develop a sustained commitment to farm-to-cafeteria projects in the community by linking schools, agricultural producers, parents, and other community stakeholders;*

(E) *require \$100,000 or less in Federal contributions;*

(F) *require a Federal share of costs of not to exceed 75 percent;*

(G) *provide matching support in the form of cash or in-kind contributions (including facilities, equipment, or services provided by State and local governments and private sources); and*

(H) *cooperate in an evaluation carried out by the Secretary.*

(2) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2004 through 2008.*

(n) *CHILDHOOD OBESITY PREVENTION DEMONSTRATION.*—

(1) *IN GENERAL.*—*Subject to the availability of funds under paragraph (6), for a period of 4 successive years, the Secretary shall award to a national organization with expertise in designing and implementing health education programs for limited-English-proficient individuals a grant to carry out a demonstration to enhance obesity prevention activities for child care centers and sponsoring organizations providing services to limited-English-proficient individuals through the child and adult care food program under section 17 in each of 4 States selected by the Secretary in accordance with paragraph (2).*

(2) *STATES.*—*The demonstration shall be carried out in States that have experienced a growth in the limited-English-proficient population of the States of at least 100 percent between the years 1990 and 2000, as measured by the census.*

(3) *REQUIRED ACTIVITIES.*—*Activities carried out under paragraph (1) shall include—*

(A) *developing an interactive and comprehensive tool kit for use by lay health educators and training activities;*

(B) *conducting training and providing ongoing technical assistance for lay health educators; and*

- (C) *establishing collaborations with child care centers and sponsoring organizations participating in the child and adult care food program under section 17 to—*
- (i) *identify limited-English-proficient children and families; and*
  - (ii) *enhance the capacity of the child care centers and sponsoring organizations to use appropriate obesity prevention strategies.*
- (4) **EVALUATION.**—*The grant recipient shall identify an institution of higher education to conduct an independent evaluation of the effectiveness of the demonstration.*
- (5) **REPORT.**—*The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Health, Education, Labor, and Pensions Committee of the Senate a report that includes—*
- (A) *the evaluation completed by the institution of higher education under paragraph (4);*
  - (B) *the effectiveness of lay health educators in reducing childhood obesity; and*
  - (C) *any recommendations of the Secretary concerning the demonstration.*
- (6) **AUTHORIZATION OF APPROPRIATIONS.**—*There are authorized to be appropriated to carry out this subsection \$250,000 for each of fiscal years 2005 through 2008.*
- (o) **YEAR ROUND SERVICES FOR ELIGIBLE ENTITIES.**—
- (1) **IN GENERAL.**—*A service institution (as defined in paragraphs (6) or (7) of section 13(a)) located in California—*
    - (A) *may be reimbursed for up to 3 meals and 2 supplements for any day for which services are being offered at the institution; and*
    - (B) *shall be reimbursed for costs consistent with section 13(b)(1).*
  - (2) **EXEMPTIONS.**—*A service institution that receives assistance under this subsection shall comply with all provisions of section 13 other than subsections (b)(2) and (c)(1) of that section.*
  - (3) **FUNDING.**—*From funds made available to carry out section 13, the Secretary shall provide to the State of California in fiscal year 2005 an amount not to exceed \$1,000,000, to remain available until expended, for the additional reimbursement costs for meals and supplements authorized by this subsection.*
- (p) **FREE LUNCH AND BREAKFAST EXPANSION DEMONSTRATION.**—
- (1) **IN GENERAL.**—*Subject to the availability of funds under paragraph (4), the Secretary shall carry out a demonstration under which expanded service of free lunches and breakfasts is provided at schools participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) in all or part of 5 States selected by the Secretary (of which at least 1 shall be a largely rural State with a significant Native American population).*
  - (2) **INCOME ELIGIBILITY.**—*The income guidelines for determining eligibility for free lunches or breakfasts under this subsection shall be 185 percent of the applicable family size income*

levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 9(b)(1)(B).

(3) EVALUATION.—

(A) IN GENERAL.—Not later than 3 years after the implementation of the demonstration under this subsection, the Secretary shall conduct an evaluation of the demonstration to assess the impact of the demonstration by comparing the school food authorities operating under the demonstration to school food authorities not operating under the demonstration.

(B) IMPACT ASSESSMENT.—

(i) CHILDREN.—The evaluation shall assess the impact of the demonstration separately on—

(I) children in households with incomes less than 130 percent of the applicable family income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 9(b)(1)(B); and

(II) children in households with incomes greater than 130 percent and not greater than 185 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 9(b)(1)(B).

(ii) FACTORS.—The evaluation shall assess the impact of the demonstration on—

(I) certification and participation rates in the school lunch and breakfast programs;

(II) rates of lunch- and breakfast-skipping;

(III) academic achievement; and

(IV) other factors determined by the Secretary.

(C) COST ASSESSMENT.—The evaluation shall assess the increased costs associated with providing additional free, reduced price, or paid meals in the school food authorities operating under the demonstration.

(D) REPORT.—On completion of the demonstration and the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the demonstration under this paragraph.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

\* \* \* \* \*

SEC. 21 \* \* \*

(a) \* \* \*

(1) subject to the availability of, and from, amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

[(A) food service programs carried out with assistance under this Act;

[(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

[(C) as appropriate, other federally assisted feeding programs; and] activities and provide—

(A) technical assistance to improve the skills of individuals employed in—

(i) food service programs carried out with assistance under this Act;

(ii) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(iii) as appropriate, other federally assisted feeding programs; and

(B) assistance, on a competitive basis, to State agencies for the purpose of aiding schools and school food authorities with at least 50 percent of enrolled children certified to receive free or reduced price meals (and, if there are any remaining funds, other schools and school food authorities) in meeting the cost of acquiring or upgrading technology and information management systems for use in food service programs carried out under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), if the school or school food authority submits to the State agency an infrastructure development plan that—

(i) addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology;

(ii) ensures that there is not any overt identification of any child by special tokens or tickets, announced or published list of names, or by any other means;

(iii) provides for processing and verifying applications for free and reduced price school meals;

(iv) integrates menu planning, production, and serving data to monitor compliance with section 9(f)(1); and

(v) establishes compatibility with statewide reporting systems;

(C) assistance, on a competitive basis, to State agencies with low proportions of schools or students that—

(i) participate in the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(ii) demonstrate the greatest need, for the purpose of aiding schools in meeting costs associated with initiating or expanding a school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including outreach and informational activities; and

(c) \* \* \* \* \*  
(2) \* \* \*

(B) providing training and technical assistance with respect to—

- (i) efficient use of physical resources;
- (ii) financial management;
- (iii) efficient use of computers;
- (iv) procurement;
- (v) sanitation;
- [(vi) safety;
- [(vii) food handling;]

*(vi) safety, including food handling, hazard analysis and critical control point plan implementation, emergency readiness, responding to a food recall, and food biosecurity training;*

[(viii)] *(vii) meal planning and related nutrition activities;*

[(ix)] *(viii) culinary skills; and*

[(x)] *(ix) other appropriate activities;*

\* \* \* \* \*

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs[, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966];

\* \* \* \* \*

(d) \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated to carry out subsection (a)(1) \$3,000,000 for fiscal year 1990, \$2,000,000 for fiscal year 1991, and \$1,000,000 for each of fiscal years 1992 through [2003] 2008.

(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

(A) FUNDING.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary [\$147,000 for fiscal year 1995, \$2,000,000 for each of fiscal years 1996 through 1998, and \$3,000,000 for fiscal year 1999] \$3,000,000 for fiscal year 2004 and \$4,000,000 for fiscal year 2005 and each subsequent fiscal year, to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.

(f) ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIALS.—*In collaboration with State educational agencies, school food authorities, and local educational agencies of varying sizes, the Secretary shall develop and distribute training and technical assistance materials relating to the administration of school meal programs that are representative of the best management and administrative practices.*

(g) FEDERAL ADMINISTRATIVE SUPPORT.—

(1) FUNDING.—

(A) IN GENERAL.—*Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall*

transfer to the Secretary of Agriculture to carry out this subsection—

(i) on October 1, 2004, and October 1, 2005, \$5,000,000; and

(ii) on October 1, 2006, and October 1, 2007, \$3,000,000.

(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(C) AVAILABILITY OF FUNDS.—Funds transferred under subparagraph (A) shall remain available until expended.

(2) USE OF FUNDS.—The Secretary may use funds provided under this subsection—

(A) to provide training and technical assistance and materials related to improving program integrity and administrative accuracy in school meals programs; and

(B) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary.

\* \* \* \* \*

SEC. 22 \* \* \*

(b) \* \* \*

(3) ADDITIONAL REVIEW REQUIREMENT FOR SELECTED SCHOOL FOOD AUTHORITIES.—

(A) DEFINITION OF SELECTED SCHOOL FOOD AUTHORITY.—In this paragraph, the term ‘selected school food authority’ means a school food authority that has a demonstrated high level of, or a high risk for, administrative error, as determined by the Secretary.

(B) ADDITIONAL ADMINISTRATIVE REVIEW.—In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected school food authority during the review cycle established under subsection (a).

(C) SCOPE OF REVIEW.—In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected school food authority, including application, certification, verification, meal counting, and meal claiming procedures.

(D) RESULTS OF REVIEW.—If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected school food authority fails to meet performance criteria established by the Secretary, the State educational agency shall—

(i) require the selected school food authority to develop and carry out an approved plan of corrective action;

(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected school food authority in carrying out the corrective action plan; and

(iii) conduct a followup review of the selected school food authority under standards established by the Secretary.

(4) *RETAINING FUNDS AFTER ADMINISTRATIVE REVIEWS.*—

(A) *IN GENERAL.*—Subject to subparagraphs (B) and (C), if the school food authority fails to meet administrative performance criteria established by the Secretary in both an initial review and a followup review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to retain funds that would otherwise be paid to the school food authority for school meals programs under procedures prescribed by the Secretary.

(B) *AMOUNT.*—The amount of funds retained under subparagraph (A) shall equal the value of any overpayment made to the school food authority as a result of an erroneous claim during the time period described in subparagraph (C).

(C) *TIME PERIOD.*—The period for determining the value of any overpayment under subparagraph (B) shall be the period—

(i) beginning on the date the erroneous claim was made; and

(ii) ending on the earlier of the date the erroneous claim is corrected or—

(I) in the case of the first review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or

(II) in the case of any subsequent review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

(5) *USE OF RETAINED FUNDS.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), funds retained under paragraph (4) shall—

(i) be returned to the Secretary, and may be used—

(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

(II) to assist State educational agencies in reviewing the administrative practices of school food authorities in carrying out school meals programs; and

(III) to carry out section 21(f); or

(ii) be credited to the child nutrition programs appropriation account.

(B) *STATE SHARE.*—A State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist school food authorities and local educational agencies that have repeatedly failed, as deter-

*mined by the Secretary, to meet administrative performance criteria.*

*(C) REQUIREMENT.—To be eligible to retain funds under subparagraph (B), a State educational agency shall—*

- (i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to school food authorities from which funds were retained under paragraph (4); and*
- (ii) obtain the approval of the Secretary for the plan.*

\* \* \* \* \*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) **[\$3,000,000 for each of the fiscal years 1994 through 2003]** \$6,000,000 for each of fiscal years 2004 through 2008.*

\* \* \* \* \*

**SEC. 26 \* \* \***

*(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, \$200,000 for each of fiscal years 1995 and 1996, \$150,000 for fiscal year 1997, \$100,000 for fiscal year 1998, **[and \$166,000 for each of fiscal years 1999 through 2003]** \$166,000 for each of fiscal years 1999 through 2004, and \$250,000 for each of fiscal years 2005 through 2008. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.*

\* \* \* \* \*

**SEC. 28. PROGRAM EVALUATION.**

*(a) PERFORMANCE ASSESSMENTS.—*

- (1) IN GENERAL.—Subject to the availability of funds made available under paragraph (3), the Secretary, acting through the Administrator of the Food and Nutrition Service, may conduct annual national performance assessments of the meal programs conducted under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).*
- (2) COMPONENTS.—In conducting an assessment, the Secretary may assess—*

- (A) the cost of producing meals and meal supplements under the programs described in paragraph (1); and*
- (B) the nutrient profile of meals, and status of menu planning practices, under the programs.*

*(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for fiscal year 2004 and each subsequent fiscal year.*

*(b) CERTIFICATION IMPROVEMENTS.—*

- (1) IN GENERAL.—Subject to the availability of funds made available under paragraph (5), the Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct a study of the feasibility of improving the certification process used for the school lunch program established under this Act.*

(2) *PILOT PROJECTS.*—In carrying out this subsection, the Secretary may conduct pilot projects to improve the certification process used for the school lunch program.

(3) *COMPONENTS.*—In carrying out this subsection, the Secretary shall examine the use of—

(A) other income reporting systems;

(B) an integrated benefit eligibility determination process managed by a single agency;

(C) income or program participation data gathered by State or local agencies; and

(D) other options determined by the Secretary.

(4) *WAIVERS.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), the Secretary may waive such provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as are necessary to carry out this subsection.

(B) *PROVISIONS.*—The protections of section 9(b)(6) shall apply to any study or pilot project carried out under this subsection.

(5) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this subsection such sums as are necessary.

**SEC. 29. GLEANING OF FRESH FRUITS AND VEGETABLES.**

(a) *IN GENERAL.*—The Secretary shall make a grant to a nongovernmental organization described in subsection (b) to establish and maintain a field gleaning operation in a State to encourage the consumption of fresh fruits and vegetables.

(b) *NONGOVERNMENTAL ORGANIZATION.*—The nongovernmental organization referred to in subsection (a) shall—

(1) be selected by the Secretary; and

(2) be a nonprofit organization that—

(A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from tax under section 501(a) of that Code;

(B) is experienced in providing to needy individuals fresh fruits and vegetables that would otherwise go to waste;

(C) is experienced in establishing and maintaining a field gleaning network that coordinates the efforts of volunteers, growers, and distribution agencies to salvage food for needy individuals in multiple States; and

(D) agrees to provide to related organizations information regarding field gleaning operations.

(c) *FUNDING.*—

(1) *IN GENERAL.*—On October 1, 2004, and on each October 1 thereafter through October 1, 2007, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section \$100,000, of which not more than 25 percent of the amount made available from each transfer may be expended in the fiscal year following the fiscal year of the transfer.

(2) *RECEIPT AND ACCEPTANCE.*—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this sec-

*tion the funds transferred under paragraph (1), without further appropriation.*

\* \* \* \* \*

**CHILD NUTRITION ACT OF 1966**

\* \* \* \* \*

**SEC. 4 \* \* \***

**[(d)(1) Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—**

**[(A) those schools in which the service of breakfasts is required pursuant to State law; and**

**[(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more [of the lunches served to students at the school were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.**

**[The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.**

**[(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.]**

**(d) SEVERE NEED ASSISTANCE.—**

**(1) IN GENERAL.—Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which—**

**(A) during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price; or**

**(B) in the case of a school in which lunches were not served during the most recent second preceding school year, the Secretary otherwise determines that the requirements of subparagraph (A) would have been met.**

**(2) ADDITIONAL ASSISTANCE.—A school, on the submission of appropriate documentation about the need circumstances in that school and the eligibility of the school for additional assistance, shall be entitled to receive the meal reimbursement rate specified in subsection (b)(2).**

\* \* \* \* \*

**[STATE ADMINISTRATIVE EXPENSES**

**SEC. 7. [42 U.S.C. 1776] (a)(1) Each] SEC. 7. STATE ADMINISTRATIVE EXPENSES.**

## (a) AMOUNT AND ALLOCATION OF FUNDS.—

## (1) AMOUNT AVAILABLE.—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1753, 1759a, and 1766)] and sections 3 and 4 of this Act during the second preceding fiscal year.*

(B) *MINIMUM AMOUNT.*—*In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for their administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004. [The Secretary]*

(C) *ALLOCATION.*—*The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. [There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.]*

## [(2) The] (2) EXPENSE GRANTS.—

(A) *IN GENERAL.*—*Subject to subparagraph (B), the Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)] or under this Act, except for the programs authorized under section 13 or 17 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1761 or 1766)] or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1753 and 1759a)] and sections 3 and 4 of this Act during the second preceding fiscal year. [In no case]*

(B) *MINIMUM AMOUNT.*—

(i) *IN GENERAL.*—*In no case shall the grant available to any State under [this subsection] this paragraph be less than the amount such State was allocated in the fiscal year ending September 30, 1981, or [\$100,000] \$200,000 (as adjusted under clause (ii), whichever is larger.*

(ii) *ADJUSTMENT.*—*On October 1, 2008, and each October 1 thereafter, the minimum dollar amount for a fiscal year specified in clause (i) shall be adjusted to reflect the percentage change between—*

(I) *the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and*

(II) *the value of that index for the 12-month period ending June 30 of the preceding fiscal year.*

\* \* \* \* \*

**[(e) Each] (e) PLANS FOR USE OF ADMINISTRATIVE EXPENSE FUNDS.—**

(1) *IN GENERAL.*—Each State shall submit to the Secretary for approval by October 1 of the initial fiscal year a plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel. **[After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.]**

(2) *UPDATES AND INFORMATION MANAGEMENT SYSTEMS.—*

(A) *IN GENERAL.*—After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.

(B) *PLAN CONTENTS.*—Each State plan shall, at a minimum, include a description of how technology and information management systems will be used to improve program integrity by—

- (i) monitoring the nutrient content of meals served;
- (ii) training schools and school food authorities in how to use technology and information management systems (including verifying eligibility for free or reduced price meals using program participation or income data gathered by State or local agencies); and
- (iii) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data.

(3) *TRAINING AND TECHNICAL ASSISTANCE.*—Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) of section 7 of this Act and section 22(b)(3) of the Richard B. Russell National School Lunch Act (as added by section 125(b) of the Child Nutrition and WIC Reauthorization Act of 2004).

(f) \* \* \*

(g) *STATE TRAINING.—*

(1) *IN GENERAL.*—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to school food authority administrative personnel and other appropriate personnel, with emphasis on the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004 and the amendments made by that Act.

(2) *FEDERAL ROLE.*—The Secretary shall—

(A) provide training and technical assistance to a State;

or

(B) at the option of the Secretary, directly provide training and technical assistance described in paragraph (1).

(3) *REQUIRED PARTICIPATION.*—In accordance with procedures established by the Secretary, each school food authority or local educational agency shall ensure that an individual conducting or overseeing administrative procedures described in paragraph (1) receives training at least annually, unless determined otherwise by the Secretary.

(h) *FUNDING FOR TRAINING AND ADMINISTRATIVE REVIEWS.—*

(1) *FUNDING.*—

(A) *IN GENERAL.*—On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection \$4,000,000, to remain available until expended.

(B) *RECEIPT AND ACCEPTANCE.*—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(2) *USE OF FUNDS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected school food authorities and local educational agencies carried out under section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c).

(B) *EXCEPTION.*—The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

(3) *ALLOCATION.*—The Secretary shall allocate funds provided under this subsection to States based on the number of local educational agencies that have demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary, taking into account the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004 and the amendments made by that Act.

(4) *REALLOCATION.*—The Secretary may reallocate, to carry out this section, any amounts made available to carry out this subsection that are not obligated or expended, as determined by the Secretary.

(i) *TECHNOLOGY INFRASTRUCTURE IMPROVEMENT.*—

(1) *IN GENERAL.*—Each State shall submit to the Secretary, for approval by the Secretary, an amendment to the plan required by subsection (e) that describes the manner in which funds provided under this section will be used for technology and information management systems.

(2) *REQUIREMENTS.*—The amendment shall, at a minimum, describe the manner in which the State will improve program integrity by—

(A) monitoring the nutrient content of meals served;

(B) providing training to schools and school food authorities on the use of technology and information management systems for activities such as—

(i) menu planning;

(ii) collection of point-of-sale data; and

(iii) the processing of applications for free and reduced price meals; and

(C) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.

(3) *TECHNOLOGY INFRASTRUCTURE GRANTS.*—

(A) *IN GENERAL.*—Subject to the availability of appropriations to carry out this paragraph, the Secretary shall,

on a competitive basis, provide funds to States to be used to provide grants to schools and school food authorities to defray the cost of purchasing or upgrading technology and information management systems for use in programs authorized by this Act (other than section 17) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) *INFRASTRUCTURE DEVELOPMENT PLAN.*—To be eligible to receive a grant under this paragraph, a school or school food authority shall submit to the State a plan to purchase or upgrade technology and information management systems that addresses potential cost savings and methods to improve program integrity, including—

- (i) processing and verification of applications for free and reduced price meals;
- (ii) integration of menu planning, production, and serving data to monitor compliance with section 9(f)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1)); and
- (iii) compatibility with statewide reporting systems.

(4) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2005 through 2008, to remain available until expended.

[(g)] (j) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [2003] 2008, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

\* \* \* \* \*

**[MISCELLANEOUS PROVISIONS AND DEFINITIONS]**

SEC. 15. [42 U.S.C. 1784] **[For the purposes of this Act] DEFINITIONS; MISCELLANEOUS PROVISIONS.**

(a) *DEFINITIONS.*—In this Act:

(1) \* \* \*

(b) *WORLD FOOD PRIZE.*—

(1) *IN GENERAL.*—Subject to the availability of appropriations, the Secretary shall provide assistance for activities of the World Food Prize Foundation, including—

- (A) acquisition or improvement of property to serve as headquarters for the World Food Prize Foundation;
- (B) support of research and outreach for improving the quality, quantity, and availability of food throughout the world; and
- (C) promotion of educational opportunities available to students through the World Food Prize Youth Institute.

(2) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

\* \* \* \* \*

SEC. 17. \* \* \*

(b) \* \* \*

[(7) “Nutrition education” means individual or group sessions and the provision of materials designed to improve health

status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.】

(7) *NUTRITION EDUCATION.*—*The term 'nutrition education' means individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.*

\* \* \* \* \*

(14) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children *and foods that promote the health of the population served by the program authorized by this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns,* as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

\* \* \* \* \*

(22) *PRIMARY CONTRACT INFANT FORMULA.*—*The term 'primary contract infant formula' means the specific infant formula for which manufacturers submit a bid to a State agency in response to a rebate solicitation under this section and for which a contract is awarded by the State agency as a result of that bid.*

(23) *STATE ALLIANCE.*—*The term 'State alliance' means 2 or more State agencies that join together for the purpose of procuring infant formula under the program by soliciting competitive bids for infant formula.*

\* \* \* \* \*

(d)(1) \* \* \*

【(3)(A) Persons】 (3) *CERTIFICATION.*—

(A) *PROCEDURES.*—

(i) *IN GENERAL.*—*Subject to clause (ii), a person shall be certified for participation in accordance with general procedures prescribed by the Secretary.*

(ii) *BREASTFEEDING WOMEN.*—*A State may elect to certify a breastfeeding woman for a period of 1 year postpartum or until a woman discontinues breastfeeding, whichever is earlier.*

\* \* \* \* \*

(C) \* \* \*

(ii) \* \* \*

(I) \* \* \*

(bb) *is receiving ongoing health care [from a provider other than the local agency; or];*

(II) \* \* \*

- (cc) has one or more parents who work**[.]**;  
and
- (III) an infant under 8 weeks of age—
  - (aa) who cannot be present at certification for a reason determined appropriate by the local agency; and
  - (bb) for whom all necessary certification information is provided.

\* \* \* \* \*

(f)(1)(A) \* \* \*

- (C) The plan shall include—
- (i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program *at any of the authorized retail stores under the program*, to be administered in accordance with standards developed by the Secretary;
  - (ii) procedures for accepting and processing vendor applications outside of the established timeframes if the State agency determines there will be inadequate access to the program, such as in a case in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership;
  - [(ii)] (iii) \* \* \***
  - [(iii)] (iv) \* \* \***
  - [(iv)] (v) \* \* \***
  - [(v)] (vi) \* \* \***
  - [(vi)] (vii) \* \* \***
  - [(vii)] (viii) \* \* \***
  - [(viii)] (ix) \* \* \***
  - [(ix)] (x) \* \* \***
  - [(x)] (xi) \* \* \***

\* \* \* \* \*

(21) USE OF CLAIMS FROM **[VENDORS]** LOCAL AGENCIES, VENDORS, AND PARTICIPANTS.—A State agency may use funds recovered from **[vendors]** local agencies, vendors, and participants, as a result of a claim arising under the program, to carry out the program during—

\* \* \* \* \*

(25) INFANT FORMULA BENEFITS.—A State agency may round up to the next whole can of infant formula to allow all infants under the program to receive the full-authorized nutritional benefit specified by regulation.

(26) NOTIFICATION OF VIOLATIONS.—If a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a penalty or sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise an investigation.

**[(g)(1)** There are authorized to be appropriated to carry out this section \$2,158,000,000 for the fiscal year 1990, and such sums as

may be necessary for each of the fiscal years 1995 through 2003. As authorized】

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—

(A) AUTHORIZATION.—*There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2008.*

(B) ADVANCE APPROPRIATIONS; AVAILABILITY.—*As authorized by section 3 of the Richard B. Russell National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.*

\* \* \* \* \*

(h)(1)(A) \* \* \*

(2)(A) 【For each of the fiscal years 1995 through 2003, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula—

\* \* \* \* \*

(4) \* \* \*

(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding【; and】;

(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program【.】 ; and

(F) partner with communities, State and local agencies, employers, health care professionals, and other entities in the private sector to build a supportive breastfeeding environment for women participating in the program under this section to support the breastfeeding goals of the Healthy People 2010 initiative.

\* \* \* \* \*

(8)(A)(i) \* \* \*

(II) \* \* \*

(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels 【rise】 *change*), such as—

(I) the number of infants who would not be expected to receive the 【contract brand of】 *primary*

*contract* infant formula under a competitive bidding system;

\* \* \* \* \*

(III) \* \* \*

(iii) COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award contracts to bidders offering the lowest net price for a primary contract infant formula unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.

(iv) SIZE OF STATE ALLIANCES.—

(I) IN GENERAL.—Except as provided in subclauses (II) through (IV), no State alliance may exist among States if the total number of infants served by States participating in the alliance as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, would exceed 100,000.

(II) ADDITION OF INFANT PARTICIPANTS.—In the case of a State alliance that exists on the date of enactment of this clause, the alliance may continue and may expand to serve more than 100,000 infants but, except as provided in subclause (III), may not expand to include any additional State agency.

(III) ADDITION OF SMALL STATE AGENCIES AND INDIAN STATE AGENCIES.—Any State alliance may expand to include any State agency that served less than 5,000 infant participants as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, or any Indian State agency, if the State agency requests to join the State alliance.

(IV) SECRETARIAL WAIVER.—The Secretary may waive the requirements of this clause not earlier than 30 days after submitting to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a written report that describes the cost-containment and competitive benefits of the proposed waiver.

(v) FIRST CHOICE OF ISSUANCE.—The State agency shall use the primary contract infant formula as the first choice of issuance (by formula type), with all other infant formulas issued as an alternative to the primary contract infant formula.

(vi) REBATE INVOICES.—Each State agency shall have a system to ensure that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section.

(vii) *SEPARATE SOLICITATIONS.*—In soliciting bids for infant formula under a competitive bidding system, any State agency, or State alliance, that served under the program a monthly average of more than 100,000 infants during the preceding 12-month period shall solicit bids from infant formula manufacturers under procedures that require that bids for rebates or discounts are solicited for milk-based and soy-based infant formula separately.

(viii) *CENT-FOR-CENT ADJUSTMENTS.*—A bid solicitation for infant formula under the program shall require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires—

(I) a cent-for-cent increase in the rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular infant formula; and

(II) a cent-for-cent decrease in the rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular infant formula.

(ix) *LIST OF INFANT FORMULA WHOLESALERS, DISTRIBUTORS, RETAILERS, AND MANUFACTURERS.*—The State agency shall maintain a list of—

(I) infant formula wholesalers, distributors, and retailers licensed in the State in accordance with State law (including regulations); and

(II) infant formula manufacturers registered with the Food and Drug Administration that provide infant formula.

(x) *PURCHASE REQUIREMENT.*—A vendor authorized to participate in the program under this section shall only purchase infant formula from the list described in clause (ix).

\* \* \* \* \*

[(10)(A) For each of fiscal years 1995 through 2003, the Secretary shall use for the purposes specified in subparagraph (B), \$10,000,000 or the amount of nutrition services and administration funds and supplemental foods funds for the prior fiscal year that has not been obligated, whichever is less.

[(B) Funds under subparagraph (A) shall be used for—

[(i) development of infrastructure for the program under this section, including management information systems;

[(ii) special State projects of regional or national significance to improve the services of the program under this section; and

[(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.]

(10) *FUNDS FOR INFRASTRUCTURE, MANAGEMENT INFORMATION SYSTEMS, AND SPECIAL NUTRITION EDUCATION.*—

(A) *IN GENERAL.*—For each of fiscal years 2006 through 2008, the Secretary shall use for the purposes specified in subparagraph (B), \$64,000,000 or the amount of nutrition services and administration funds and supplemental food funds for the prior fiscal year that have not been obligated, whichever is less.

(B) *PURPOSES.*—Of the amount made available under subparagraph (A) for a fiscal year, not more than—

(i) \$14,000,000 shall be used for—

(I) infrastructure for the program under this section;

(II) special projects to promote breastfeeding, including projects to assess the effectiveness of particular breastfeeding promotion strategies; and

(III) special State projects of regional or national significance to improve the services of the program;

(ii) \$30,000,000 shall be used to establish, improve, or administer management information systems for the program, including changes necessary to meet new legislative or regulatory requirements of the program; and

(iii) \$20,000,000 shall be used for special nutrition education such as breast feeding peer counselors and other related activities.

(C) *PROPORTIONAL DISTRIBUTION.*—In a case in which less than \$64,000,000 is available to carry out this paragraph, the Secretary shall make a proportional distribution of funds allocated under subparagraph (B).

**[(11) CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.—**

**[(A) IN GENERAL.**—For the purpose of promoting efficiency and to contain costs under the program, a State agency shall, in selecting a retail store for participation in the program, take into consideration the prices that the store charges for foods under the program as compared to the prices that other stores charge for the foods.

**[(B) SUBSEQUENT PRICE INCREASES.**—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not subsequently raise prices to levels that would otherwise make the store ineligible for participation in the program.]

**(11) VENDOR COST CONTAINMENT.—**

(A) *PEER GROUPS.*—The State agency of a State shall—

(i) establish a vendor peer group system; and

(ii) in accordance with subparagraphs (B) and (C), establish competitive price criteria and allowable reimbursement levels for each vendor peer group.

(B) *COMPETITIVE PRICING.*—

(i) *IN GENERAL.*—The State agency shall establish competitive price criteria for the selection of vendors for participation in the program that—

(I) ensure that the retail prices charged by vendor applicants for the program are competitive with the prices charged by other vendors; and

(II) consider—

(aa) the shelf prices of the vendor for all buyers; or

(bb) the prices that the vendor bid for supplemental foods, which shall not exceed the shelf prices of the vendor for all buyers.

(ii) *PARTICIPANT ACCESS.*—The State agency shall ensure that the competitive price criteria do not result in inadequate program participant access by geographic area.

(iii) *SUBSEQUENT PRICE INCREASES.*—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not, subsequent to selection, increase prices to levels that would otherwise make the store ineligible for participation in the program.

(C) *ALLOWABLE REIMBURSEMENT LEVELS.*—

(i) *IN GENERAL.*—The State agency shall establish allowable reimbursement levels for supplemental foods for each vendor peer group that ensure—

(I) that payments to vendors in the vendor peer group reflect competitive retail prices; and

(II) that the State agency does not reimburse a vendor for supplemental foods at a level that would otherwise make the vendor ineligible for authorization.

(ii) *PRICE FLUCTUATIONS.*—The allowable reimbursement levels may include a factor to reflect fluctuations in wholesale prices.

(iii) *PARTICIPANT ACCESS.*—The State agency shall ensure that the allowable reimbursement levels do not result in inadequate program participant access in a geographic area.

(D) *EXEMPTIONS.*—The State agency may exempt from competitive price criteria and allowable reimbursement levels established under this paragraph—

(i) pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program; and

(ii) vendors—

(I)(aa) for which more than 50 percent of the annual revenue of the vendor from the sale of food items consists of revenue from the sale of supplemental foods that are obtained with food instruments; or

(bb) who are new applicants under criteria established by the Secretary; and

(II) that are nonprofit.

(E) *COST CONTAINMENT.*—The State agency shall demonstrate to the Secretary, and the Secretary shall certify, that—

(i) the competitive price criteria and allowable reimbursement levels established under this paragraph for vendors described in subparagraph (D)(ii)(I) do not result in higher food costs than if program participants

*redeemed supplemental food vouchers at vendors other than vendors described in subparagraph (D)(ii)(I); and (ii) vendor peer groups established under subparagraph (A)(i) distinguish between vendors described in subparagraph (D)(ii)(I) and other vendors.*

*(F) IMPLEMENTATION.—A State agency shall comply with this paragraph not later than 18 months after the date of enactment of this paragraph.*

**[(12) MANAGEMENT INFORMATION SYSTEM PLAN.—**

**[(A) IN GENERAL.—**In consultation with State agencies, vendors, and other interested persons, the Secretary shall establish a long-range plan for the development and implementation of management information systems (including electronic benefit transfers) to be used in carrying out the program.

**[(B) REPORT.—**Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on actions taken to carry out subparagraph (A).

**[(C) INTERIM PERIOD.—**Prior to the date of submission of the report of the Secretary required under subparagraph (B), a State agency may not require retail stores to pay the cost of systems or equipment that may be required to test electronic benefit transfer systems.]

*(12) IMPOSITION OF COSTS ON RETAIL STORES.—The Secretary may not impose, or allow a State agency to impose, the costs of any equipment, system, or processing required for electronic benefit transfers on any retail store authorized to transact food instruments, as a condition for authorization or participation in the program.*

*(13) UNIVERSAL PRODUCT CODES DATABASE.—The Secretary shall—*

*(A) establish a national universal product code database for use by all State agencies in carrying out the program; and*

*(B) make available from appropriated funds such sums as are required for hosting, hardware and software configuration, and support of the database.*

*(14) INCENTIVE ITEMS.—A State agency shall not authorize or make payments to a vendor described in paragraph (11)(D)(ii)(I) that provides incentive items or other free merchandise to program participants unless the vendor provides to the State agency proof that the vendor obtained the incentive items or merchandise at no cost.*

(i)(1) \* \* \*

(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B)—

(i)(I) not more than **[1]** 3 percent (except as provided in subparagraph (C)) of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for al-

lowable expenses incurred under this section for supplemental foods during the preceding fiscal year; and

\* \* \* \* \*

(j)(1) \* \* \*

[(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

[(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

[(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.]

[(5)] (4) As used in this subsection:

\* \* \* \* \*

(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets *and (at the option of a State) roadside stands*, as defined in the State plans submitted under this subsection.

\* \* \* \* \*

(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the [total] *administrative* cost of the program, which may be satisfied from program income or State contributions that are made for similar programs. The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the [total] *administrative* cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.

\* \* \* \* \*

(5) \* \* \*

(C) \* \* \*

(ii) more than [\$20] \$30 per year.

\* \* \* \* \*

(9) FUNDING.—

(A) IN GENERAL.—

[(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$8,000,000 for fiscal year 1994, \$10,500,000 for

fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 2003.】

(i) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2008.*

\* \* \* \* \*

【(r) DEMONSTRATION PROJECT RELATING TO USE OF THE WIC PROGRAM FOR IDENTIFICATION AND ENROLLMENT OF CHILDREN IN CERTAIN HEALTH PROGRAMS.—

【(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall establish a demonstration project in not more than 20 local agencies in one State under which costs of nutrition services and administration (as defined in subsection (b)(4)) shall include the costs of identification of children eligible for benefits under, and the provision of enrollment assistance for children in—

【(A) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

【(B) the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.).

【(2) STATE-RELATED REQUIREMENTS.—The State in which a demonstration project is established under paragraph (1)—

【(A) shall operate not fewer than 20 pilot site locations;

【(B) as of the date of establishment of the demonstration project—

【(i) with respect to the programs referred to in subparagraphs (A) and (B) of paragraph (1)—

【(I) shall have in use a simplified application form with a length of not more than two pages;

【(II) shall accept mail-in applications; and

【(III) shall permit enrollment in the program in a variety of locations; and

【(ii) shall have served as an original pilot site for the program under this section; and

【(C) as of December 31, 1998, shall have had—

【(i) an infant mortality rate that is above the national average; and

【(ii) an overall rate of age-appropriate immunizations against vaccine-preventable diseases that is below 80 percent.

【(3) TERMINATION OF AUTHORITY.—The authority provided by this subsection terminates September 30, 2003.】

(r) *DEMONSTRATION PROJECT RELATING TO OFFERING FRESH, FROZEN, OR CANNED FRUITS AND VEGETABLES TO WIC PARTICIPANTS.—*

(1) *IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Secretary shall award grants for demonstration projects involving not more than 5 local agencies to not more than 5 State agencies to evaluate the feasibility and acceptance of offering fresh, frozen, or canned fruits and vegetables to participants in the program established under this section.*

(2) *LOCAL SITES.—In making grants under this subsection, the Secretary shall ensure that State agencies select sites deter-*

*mined to be geographically and culturally representative of local and Indian agencies.*

(3) *ADDITIONAL FOOD.*—*The provision of fruits and vegetables to program participants under this subsection shall be in addition to the food package offered to the participants under other provisions of this section and not in lieu of any food item in the food package.*

(4) *REPORT.*—*Not later than 1 year after funds are first made available to carry out this subsection, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of carrying out this subsection.*

(5) *AUTHORIZATION OF APPROPRIATIONS.*—*There are authorized to be appropriated such sums as are necessary to carry out this subsection.*

(6) *TERMINATION OF AUTHORITY.*—*The authority provided by this subsection (other than paragraph (4)) terminates September 30, 2005.*

\* \* \* \* \*

【SEC. 19. [42 U.S.C. 1788] (a) Congress finds that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.

#### 【PURPOSE

【(b) It is the purpose of this section to establish a system of grants to State educational agencies for the development of comprehensive nutrition education and training programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

#### 【DEFINITIONS

【(c) For purposes of this section, the term “nutrition education and training program” means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training child nutrition program personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; (D) developing and using classroom materials and curricula; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health.

#### 【NUTRITION INFORMATION AND TRAINING

【(d)(1) The Secretary is authorized to formulate and carry out a nutrition education and training through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) training school

food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the Richard B. Russell National School Lunch Act, and (C) the conduct of nutrition education activities in schools, child care institutions, and institutions offering summer food service programs under section 13 of the Richard B. Russell National School Lunch Act, and the provision of nutrition education to parents and caregivers.

【(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of State educational agencies, the Department of Health and Human Services, and other interested groups and individuals concerned with improvement of child nutrition.

【(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health and Human Services, the Secretary may make funds authorized in this section available to the Department of Health and Human Services to fund the nutrition education component of the State program without requiring an additional grant application.

【(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational, school food service, child care, and summer food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management, in coordination with the activities authorized under section 21 of the Richard B. Russell National School Lunch Act. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

【(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools, and in child care institutions and summer food service institutions,

with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

#### 【AGREEMENTS WITH STATE AGENCIES

【(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

#### 【USE OF FUNDS

【(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for—

【(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

【(B) undertaking an assessment of the nutrition education needs of the State;

【(C) developing a State plan of operation and management for nutrition education;

【(D) applying for and carrying out planning and assessment grants;

【(E) pilot projects and related purposes;

【(F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel;

【(G) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

【(H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section;

【(I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials; and

【(J) other appropriate related activities, as determined by the State.

【(2) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.

#### 【ACCOUNTS, RECORDS, AND REPORTS

【(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Sec-

retary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

[(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.]

[STATE COORDINATORS FOR NUTRITION; STATE PLAN

[(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State, prepare a State plan, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.]

[(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education and training needs of the State.]

[(i) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—

[(A) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2003.]

[(B) GRANTS.—

[(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than \$75,000 per fiscal year.]

[(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.]

[(2) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.]

[(3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Department of Education.]

**SEC. 19. TEAM NUTRITION NETWORK.**

(a) *PURPOSES.*—*The purposes of the team nutrition network are—*

*(1) to promote the nutritional health of school children of the United States through nutrition education and the use of team nutrition messages and materials developed by the Secretary, and to encourage physical activity and other activities that support healthy lifestyles for children, based on 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);*

*(2) to provide assistance to States for the development of nutrition education and active living programs in schools and facilities that participate in child nutrition programs through the*

*use of team nutrition messages and materials developed by the Secretary;*

*(3) to provide training and technical assistance to States, school and community nutrition programs, and child nutrition food service professionals; and*

*(4) to coordinate and collaborate with other nutrition education and active living programs that share similar goals and purposes.*

*(b) DEFINITION OF TEAM NUTRITION NETWORK.—In this section, the term ‘team nutrition network’ means a multidisciplinary program to promote healthy eating to children based on scientifically valid information and sound educational, social, and marketing principles.*

*(c) GRANTS.—*

*(1) IN GENERAL.—Subject to the availability of funds for use in carrying out this section, in addition to any other funds made available to the Secretary for team nutrition purposes, the Secretary may make grants to State agencies for each fiscal year, in accordance with this section, to establish team nutrition networks to promote nutrition education through—*

*(A) the use of team nutrition network messages and materials developed by the Secretary; and*

*(B) the promotion of active lifestyles as part of food service programs under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).*

*(2) FORM.—A portion of the grants provided under this subsection may be in the form of competitive grants.*

*(3) FUNDS FROM NONGOVERNMENTAL SOURCES.—In carrying out this subsection, the Secretary may accept cash contributions from nongovernmental organizations made expressly to further the purposes of this section, to be managed by the Food and Nutrition Service, for use by the Secretary and the States in carrying out this section.*

*(d) ALLOCATION.—Subject to the availability of funds for use in carrying out this section, the total amount of funds made available for a fiscal year for grants under this section shall equal not more than the sum of—*

*(1) the product obtained by multiplying 1/2 cent by the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs; and*

*(2) the total value of funds received by the Secretary in support of this section from nongovernmental sources.*

*(e) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive a grant under this section, a State agency shall submit to the Secretary a plan that—*

*(1) is subject to approval by the Secretary; and*

*(2) is submitted at such time and in such manner, and that contains such information, as the Secretary may require, including—*

*(A) a description of the goals and primary healthy eating and physical activity messages of the proposed team nutrition network;*

(B) *an analysis of the means by which the State agency will use and disseminate the team nutrition messages and materials developed by the Secretary;*

(C) *an explanation of the ways in which the State agency will use the funds from the grant to promote healthy eating and physical activity and fitness in schools throughout the State;*

(D) *a description of the ways in which team nutrition network messages and materials developed by the Secretary will be used to coordinate nutrition and physical activities at the State level with other health promotion and education activities;*

(E) *an annual summary of the team nutrition network activities;*

(F) *a description of the ways in which the total school environment will support healthy eating and physical activity; and*

(G) *a description of how all communications to parents and legal guardians of students who are members of a household receiving or applying for assistance under the program shall be in an understandable and uniform format and, to the extent practicable, in a language that parents and legal guardians can understand.*

(f) *STATE COORDINATOR.—Each State that receives a grant under this section shall appoint a team nutrition network coordinator who shall—*

(1) *administer and coordinate the team nutrition network within and across schools, school food authorities, and other child nutrition program providers in the State; and*

(2) *coordinate activities of the Secretary, acting through the Food and Nutrition Service, and State agencies responsible for other children's health, education, and wellness programs to implement a comprehensive, coordinated team nutrition network program.*

(g) *AUTHORIZED ACTIVITIES.—A State agency that receives a grant under this section may use funds from the grant—*

(1)(A) *to collect, analyze, and disseminate data regarding the extent to which children and youths in the State are overweight, physically inactive, or otherwise suffering from nutrition-related deficiencies or disease conditions; and*

(B) *to identify the programs and services available to meet those needs;*

(2) *to implement model elementary and secondary education curricula using team nutrition network messages and materials developed by the Secretary to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;*

(3) *to implement pilot projects in schools to promote physical activity and to enhance the nutritional status of students;*

(4) *to improve access to local foods through farm-to-cafeteria activities that may include the acquisition of food and the provision of training and education;*

(5) *to implement State guidelines in health (including nutrition education and physical education guidelines) and to emphasize regular physical activity during school hours;*

- (6) to establish healthy eating and lifestyle policies in schools; and
- (7) to provide training and technical assistance to teachers and school food service professionals consistent with the purposes of this section.

(h) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out this section.

\* \* \* \* \*

**FOOD STAMP ACT OF 1977**

\* \* \* \* \*

**SEC. 11 \* \* \***

(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)).

\* \* \* \* \*

**COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS OF 1987**

**SEC. 15. \* \* \***

\* \* \* \* \*

[(e) *TERMINATION DATE.*—The authority provided by this section terminates effective July 1, 2004.]

