

CHILD NUTRITION AND WIC REAUTHORIZATION
AMENDMENTS OF 1998

JULY 20, 1998.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GOODLING, from the Committee on Education and the
Workforce, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3874]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3874) to amend the Child Nutrition Act of 1966 to make improvements to the special supplemental nutrition program for women, infants, and children and to extend the authority of that program through fiscal year 2003, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Child Nutrition and WIC Reauthorization Amendments of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Effective date.

TITLE I—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

- Sec. 101. Provision of commodities.
Sec. 102. Nutritional and other program requirements.
Sec. 103. Special assistance.
Sec. 104. Miscellaneous provisions and definitions.
Sec. 105. Summer food service program for children.
Sec. 106. Commodity distribution program.
Sec. 107. Child and adult care food program.

- Sec. 108. Meal supplements for children in afterschool care.
 Sec. 109. Universal free breakfast pilot projects.
 Sec. 110. Training and technical assistance.
 Sec. 111. Compliance and accountability.
 Sec. 112. Information clearinghouse.
 Sec. 113. Accommodation of the special dietary needs of individuals with disabilities.

TITLE II—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

- Sec. 201. State administrative expenses.
 Sec. 202. Special supplemental nutrition program for women, infants, and children.
 Sec. 203. Nutrition education and training program.

SEC. 2. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on October 1, 1998, or the date of the enactment of this Act, whichever occurs later.

TITLE I—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 101. PROVISION OF COMMODITIES.

Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

- (1) in subsection (b), by striking “authorized under subsection (c)” and inserting “required under subsections (c) and (e)”;
- (2) by striking subsections (c) and (d); and
- (3) by redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively.

SEC. 102. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) STATE OR LOCAL HEALTH AND SAFETY INSPECTIONS.—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

“(h) If the food service operations of 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) are not required by State or local law to undergo health and safety inspections, then the school shall twice during each school year obtain State or local health and safety inspections to ensure that meals provided under such programs are prepared and served in a healthful and safe environment.”

(b) SINGLE PERMANENT AGREEMENTS BETWEEN STATE AGENCIES AND SCHOOL FOOD AUTHORITIES; COMMON CLAIMING PROCEDURES.—Section 9 of such Act (42 U.S.C. 1758), as amended by this Act, is further amended by adding at the end the following:

“(i)(1) If a single State agency administers the school lunch program under this Act, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 13 of this Act, or the child and adult care food program under section 17 of this Act, then such agency—

“(A) shall require each school food authority to submit a single agreement with respect to the operation of such programs by such authority; and

“(B) shall require a common claiming procedure with respect to meals and supplements served under such programs.

“(2) The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.”

SEC. 103. SPECIAL ASSISTANCE.

Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended in the third sentence by striking “to the nearest one-fourth cent” and all that follows through “shall be computed”.

SEC. 104. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ADJUSTMENTS TO REIMBURSEMENT RATES FOR CERTAIN STATES AND TERRITORIES.—Section 12(f) of the National School Lunch Act (42 U.S.C. 1760(f)) is amended—

(1) by striking “school breakfasts and lunches” and inserting “breakfasts, lunches, suppers, and supplements”;

(2) by striking “sections 4 and 11” and inserting “sections 4, 11, 13, and 17”; and

(3) by striking “lunches and breakfasts” each place it appears and inserting “meals”.

(b) BUY AMERICAN REQUIREMENT.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

“(n) BUY AMERICAN REQUIREMENT.—

“(1) IN GENERAL.—For purposes of providing meals 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), the Secretary shall require schools located in the contiguous United States to purchase, to the extent practicable, only food products that are produced in the United States.

“(2) ADDITIONAL REQUIREMENT.—The requirement of paragraph (1) shall also apply to recipient agencies in Hawaii only with respect to food products that are grown in Hawaii in sufficient quantities to meet the needs of meals provided 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).

“(3) DEFINITION.—As used in this subsection, the term ‘food products that are produced in the United States’ means—

“(A) unmanufactured food products that are grown or produced in the United States; and

“(B) manufactured food products that are manufactured in the United States substantially from agricultural products grown or produced in the United States.”

SEC. 105. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) DEFINITION OF PRIVATE NONPROFIT ORGANIZATIONS.—Section 13(a)(7)(B) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended—

(1) in clause (i), to read as follows:

“(i) operate not more than 25 sites, with not more than 300 children being served at any one site (or, with a waiver granted by the State agency under standards developed by the Secretary, not more than 500 children being served at any one site);”;

(2) by striking clauses (ii) and (iii); and

(3) by redesignating clauses (iv), (v), (vi), and (vii) as clauses (ii), (iii), (iv), and (v), respectively.

(b) OFFER VERSUS SERVE.—Section 13(f)(7) of such Act (42 U.S.C. 1761(f)(7)) is amended in the first sentence by striking “attending a site on school premises operated directly by the authority”.

(c) FOOD SERVICE MANAGEMENT COMPANIES.—

(1) CONTRACTING FOR PROVISION OF MEALS OR MANAGEMENT OF PROGRAM.—Section 13(l)(1) of such Act (42 U.S.C. 1761(l)(1)) is amended—

(A) in the first sentence—

(i) by striking “(other than private nonprofit organizations eligible under subsection (a)(7))”; and

(ii) by striking “only with food service management companies registered with the State in which they operate” and inserting “with food service management companies”; and

(B) by striking the last sentence.

(2) REGISTRATION.—Section 13(l)(2) of such Act (42 U.S.C. 1761(l)(2)) is amended—

(A) in the first sentence of the matter preceding subparagraph (A), by striking “shall” and inserting “may”; and

(B) by striking all after the first sentence.

(3) OTHER PROVISIONS.—Section 13(l) of such Act (42 U.S.C. 1761(l)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) REAUTHORIZATION OF PROGRAM.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended by striking “1998” and inserting “2003”.

SEC. 106. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended in the matter preceding paragraph (1) by striking “1998” and inserting “2003”.

SEC. 107. CHILD AND ADULT CARE FOOD PROGRAM.

(a) ELIGIBILITY OF INSTITUTIONS.—Section 17(a)(1) of the National School Lunch Act (42 U.S.C. 1766(a)(1)) is amended to read as follows:

“(1) an institution (except a school or family or group day care home sponsoring organization) or family or group day care home—

“(A)(i) shall be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

“(ii) shall be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, unless the State

has information indicating that the institution or family or group day care home's license will not be renewed;

“(B) if Federal, State, or local licensing or approval is not available—

“(i) shall meet any alternate approval standards established by the appropriate State or local governmental agency; or

“(ii) shall meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

“(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for such institution, shall meet State or local health and safety standards; and”.

(b) CATEGORICAL ELIGIBILITY FOR EVEN START PROGRAM PARTICIPANTS.—Section 17(c)(6)(B) of such Act (42 U.S.C. 1766(c)(6)(B)) is amended by striking “1997” and inserting “2003”.

(c) TAX EXEMPT STATUS OF ELIGIBLE INSTITUTIONS; REMOVAL OF NOTIFICATION REQUIREMENT FOR INCOMPLETE APPLICATIONS.—Section 17(d)(1) of such Act (42 U.S.C. 1766(d)(1)) is amended—

(1) by inserting after the third sentence the following: “An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the program for a period of not more than 6 months unless it can demonstrate to the satisfaction of the State agency that its inability to obtain tax exempt status within the 6-month period is beyond the control of the institution in which case the State agency may grant a single extension not to exceed 90 days.”; and

(2) by striking the last sentence.

(d) USE OF FUNDS FOR AUDITS OF PARTICIPATING INSTITUTIONS.—Section 17(i) of such Act (42 U.S.C. 1766(i)) is amended by striking “2 percent” and inserting “1 percent”.

(e) PERMANENT AUTHORIZATION OF DEMONSTRATION PROJECT.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended by striking paragraphs (4) and (5).

(f) TRANSFER OF HOMELESS PROGRAMS.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following:

“(q) PARTICIPATION BY EMERGENCY SHELTERS.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

“(2) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(1) shall not apply to emergency shelters or sites operated by such shelters under the program.

“(3) ADDITIONAL REQUIREMENTS.—

“(A) HEALTH AND SAFETY STANDARDS.—An emergency shelter and each site operated by such shelter shall comply with State or local health and safety standards.

“(B) MEAL REIMBURSEMENT.—

“(i) LIMITATION.—An emergency shelter may claim reimbursement—

“(I) only for meals and supplements served to children who have not attained the age of 13 and who are residing at an emergency shelter; and

“(II) for not more than 3 meals, or 2 meals and a supplement, per child per day.

“(ii) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

“(iii) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.

“(4) DEFINITION OF EMERGENCY SHELTER.—As used in this subsection, the term ‘emergency shelter’ has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).”.

(2) CONFORMING AMENDMENTS.—(A) Section 13(a)(3)(C) of such Act (42 U.S.C. 1761(a)(3)(C)) is amended—

(i) in clause (i), by adding “or” at the end;

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(B) Section 17B of such Act (42 U.S.C. 1766b) is hereby repealed.

(g) PARTICIPATION BY “AT RISK” CHILD CARE PROGRAMS.—Section 17 of such Act (42 U.S.C. 1766), as amended by this Act, is further amended by adding at the end the following:

“(r) ‘AT RISK’ CHILD CARE.—

“(1) IN GENERAL.—Subject to the conditions in this subsection, institutions that provide care to at risk school children during after-school hours, weekends, or holidays during the regular school year may participate in the program authorized under this section. Unless otherwise specified in this subsection, all other provisions of this section shall apply to these institutions.

“(2) AT RISK SCHOOL CHILDREN.—Children ages 12 through 18 who live in a geographical area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 shall be considered at risk.

“(3) SUPPLEMENT REIMBURSEMENT.—

“(A) LIMITATION.—Only supplements served to at risk school children during after-school hours, weekends, or holidays during the regular school year may be claimed for reimbursement. Institutions may claim reimbursement for only one supplement per child per day.

“(B) RATE.—Eligible supplements shall be reimbursed at the rate for free supplements under subsection (c)(3).

“(C) NO CHARGE.—All supplements claimed for reimbursement shall be served without charge.”

SEC. 108. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

Section 17A of the National School Lunch Act (42 U.S.C. 1766a) is amended—

(1) in subsection (a)(2)(C) to read as follows:

“(C) operate afterschool programs with an educational or enrichment purpose.”; and

(2) in subsection (b), by striking “served to children” and all that follows and inserting “served to children who are not more than 18 years of age.”

SEC. 109. UNIVERSAL FREE BREAKFAST PILOT PROJECTS.

Section 18(i) of the National School Lunch Act (42 U.S.C. 1769(i)) is amended to read as follows:

“(i) UNIVERSAL FREE BREAKFAST PILOT PROJECTS.—

“(1) IN GENERAL.—

“(A) GRANTS TO STATES.—(i) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to not more than 5 States to conduct pilot projects in elementary schools under school food authorities located in each such State—

“(I) to reduce paperwork;

“(II) to simplify meal counting requirements; and

“(III) to make changes that will increase participation in the school breakfast program.

“(ii) The Secretary shall select States to receive grants under clause (i), and make grants to such States, in the first fiscal year for which appropriations are made to carry out this subsection.

“(B) GRANTS TO SCHOOL FOOD AUTHORITIES; DURATION OF PILOT PROJECTS.—(i)(I) A State receiving a grant under subparagraph (A) shall make grants to school food authorities to carry out the pilot projects described in such subparagraph.

“(II) The State shall select school food authorities to receive grants under clause (i), and make grants to such authorities, in the first fiscal year for which the State receives amounts under a grant.

“(ii) A school food authority receiving amounts under a grant to conduct a pilot project described in subparagraph (A) shall conduct such project for the 3-year period beginning in the first fiscal year in which the authority receives amounts under a grant from the State.

“(C) PARTICIPATION LIMITATION.—A school food authority conducting a pilot project under this paragraph shall ensure that some elementary schools under such authority do not participate in the pilot project.

“(2) WAIVER AUTHORITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

“(B) NON-WAIVABLE REQUIREMENTS.—The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

“(3) REQUIREMENTS FOR PARTICIPATION IN PILOT.—To be eligible to participate in a pilot project under this subsection—

“(A) a State—

“(i) shall submit an application to the Secretary at such time and in such manner as the Secretary shall establish; and

“(ii) shall provide such information relative to the operation and results of the pilot as the Secretary may reasonably require; and

“(B) a school food authority—

“(i) shall agree to serve all breakfasts at no charge to all children in participating elementary schools;

“(ii) shall not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

“(iii) shall meet any other requirement that the Secretary may reasonably require.

“(4) SELECTION OF PILOT ELEMENTARY SCHOOLS.—To the extent practicable, a State shall select school food authorities to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of elementary schools:

“(A) Urban and rural elementary schools.

“(B) Elementary schools of varying family income levels.

“(5) REIMBURSEMENT RATES.—A school food authority conducting a pilot project under this subsection shall receive reimbursement for each breakfast served under the pilot in an amount equal to the rate for free breakfasts established under section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)).

“(6) COMMODITY ENTITLEMENT.—A school food authority conducting a pilot project under this subsection shall receive commodities in the amount of at least 5 cents per breakfast served under the pilot. The value of such commodities shall be deducted from the amount of cash reimbursement described in paragraph (5).

“(7) EVALUATION OF PILOT PROJECT.—

“(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot projects in each of the school food authorities selected for participation. Such evaluation shall include—

“(i) a determination of the effect of participation in the pilot project on the academic achievement, tardiness and attendance, and dietary intake of participating children that is not attributable to changes in educational policies and practices; and

“(ii) a determination of the effect that participation by elementary schools in the pilot projects has on the proportion of students who eat breakfast.

“(B) REPORT.—Upon completion of the pilot projects 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 containing the evaluation of the pilot required under subparagraph (A).

“(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.”

SEC. 110. TRAINING AND TECHNICAL ASSISTANCE.

Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(1)) is amended by striking “1998” and inserting “2003”.

SEC. 111. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “1996” and inserting “2003”.

SEC. 112. INFORMATION CLEARINGHOUSE.

(a) AUTHORITY TO ESTABLISH AND MAINTAIN CLEARINGHOUSE.—Section 26(a) of the National School Lunch Act (42 U.S.C. 1769g(a)) is amended by striking “shall” and inserting “may”.

(b) **NONGOVERNMENTAL ORGANIZATION.**—Section 26(b) of such Act (42 U.S.C. 1769g(b)) is amended in the matter preceding paragraph (1) by inserting after “shall be selected on a competitive basis” the following: “, except that, notwithstanding any other provision of law, the Secretary may enter into a contract for the services of any organization with which the Secretary has previously entered into a contract under this section without such organization competing for such new contract, if such organization has performed satisfactorily under such prior contract and otherwise meets the criteria established in this subsection.”.

(c) **LIMITATION ON AMOUNT PROVIDED UNDER THE CONTRACT.**—Section 26 of such Act (42 U.S.C. 1769g) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) **LIMITATION ON AMOUNT PROVIDED UNDER THE CONTRACT.**—The Secretary may provide to the organization described in subsection (b) an amount not to exceed \$150,000 in each of fiscal years 1999 through 2003.”.

(d) **FUNDING.**—Section 26(e) of such Act (42 U.S.C. 1769g(e)) (as so redesignated) is amended to read as follows:

“(e) **FUNDING.**—

“(1) **IN GENERAL.**—There are authorized to be appropriated \$150,000 for each of the fiscal years 1999 through 2003 to carry out this section.

“(2) **REQUIREMENT.**—No amounts may be provided for the clearinghouse under this section unless specifically provided in appropriations Acts.”.

SEC. 113. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

Section 27 of the National School Lunch Act (42 U.S.C. 1769h) is amended to read as follows:

“SEC. 27. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

“(a) **IN GENERAL.**—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program. Such activities may include—

“(1) developing and disseminating to State agencies guidance and technical assistance materials;

“(2) conducting training of State agencies and eligible entities; and

“(3) providing grants to State agencies and eligible entities.

“(b) **DEFINITIONS.**—As used in this section:

“(1) **INDIVIDUALS WITH DISABILITIES.**—The term ‘individuals with disabilities’ has the meaning given the term ‘individual with a disability’ as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

“(2) **COVERED PROGRAM.**—The term ‘covered program’ means—

“(A) the school lunch program authorized under this Act;

“(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except for section 17) that the Secretary determines is appropriate.

“(3) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means a school food authority, institution, or service institution that participates in a covered program.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003 to carry out this section.”.

TITLE II—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 201. STATE ADMINISTRATIVE EXPENSES.

(a) **REALLOCATION OF AMOUNTS.**—Section 7(a)(5)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)) is amended—

(1) by striking “(i)”;

(2) by striking the second sentence and all that follows; and

(3) by adding at the end the following: “The Secretary shall then allocate, for purposes of administration costs, any remaining amounts among States that demonstrate a need for such amounts.”.

(b) **ELIMINATION OF 10 PERCENT TRANSFER LIMITATION.**—Section 7(a)(6) of such Act (42 U.S.C. 1776(a)(6)) is amended to read as follows:

“(6) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act may be used by State agencies for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21) and the National School Lunch Act without regard to the basis on which such funds were earned and allocated.”.

(c) **REAUTHORIZATION OF PROGRAM.**—Section 7(g) of such Act (42 U.S.C. 1776(g)) is amended by striking “1998” and inserting “2003”.

SEC. 202. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) **ADDITIONAL REQUIREMENTS FOR APPLICANTS.**—

(1) **PHYSICAL PRESENCE REQUIREMENT.**—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

“(C)(i) Except as provided in clause (ii), each applicant to the program shall be physically present at each certification determination in order to determine eligibility under the program.

“(ii) A local agency may waive the requirement of clause (i)—

“(I) if required to do so by requirements under the Americans with Disabilities Act;

“(II) with respect to a child who was present at the initial certification visit and who is receiving on-going health care from a provider other than such local agency, if the agency determines that the requirement of clause (i) would present a barrier to participation; or

“(III) with respect to a child (aa) who was present at the initial certification visit, (bb) who was present at a certification determination within the 1-year period ending on the date of the certification determination described in clause (i), and (cc) who has one or more parents who work, if the agency determines that the requirement of clause (i) would cause a barrier to participation.”.

(2) **INCOME DOCUMENTATION REQUIREMENT.**—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)), as amended by paragraph (1), is further amended by adding at the end the following:

“(D)(i) Except as provided in clause (ii), in order to be eligible for the program, each applicant to the program shall provide—

“(I) documentation of household income; or

“(II) documentation of participation in a program described in clauses (ii) and (iii) of paragraph (2)(A).

“(ii)(I) A State agency may waive the requirement of clause (i)—

“(aa) with respect to an applicant for whom the necessary documentation is not available; or

“(bb) with respect to an applicant, such as homeless women or children, for whom the agency determines the requirement of clause (i) would present a barrier to participation.

“(II) The Secretary shall prescribe regulations to carry out division (aa).”.

(b) **EDUCATION AND EDUCATIONAL MATERIALS RELATING TO EFFECTS OF DRUG AND ALCOHOL USE.**—Section 17(e)(1) of such Act (42 U.S.C. 1786(e)(1)) is amended by adding at the end the following: “A local agency participating in the program shall provide education or educational materials relating to the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman.”.

(c) **DISTRIBUTION OF NUTRITION EDUCATION MATERIALS TO STATE AGENCIES ADMINISTERING THE COMMODITY SUPPLEMENTAL FOOD PROGRAM.**—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) The Secretary may provide nutrition education materials, including breastfeeding promotion materials, developed with funds appropriated to carry out the program under this section in bulk quantity to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 at no cost to that program.”.

(d) **IDENTIFICATION OF RECIPIENTS PARTICIPATING AT MORE THAN 1 SITE.**—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following:

“(23) Each State agency shall implement a system designed to identify recipients who are participating at more than 1 site under the program.”.

(e) **IDENTIFICATION OF HIGH RISK VENDORS; COMPLIANCE INVESTIGATIONS.**—

- (1) IN GENERAL.—Section 17(f) of such Act (42 U.S.C. 1786(f)), as amended by this Act, is further amended by adding at the end the following:
- “(24) Each State agency—
- “(A) shall identify vendors that have a high probability of program abuse; and
- “(B) shall conduct compliance investigations of such vendors.”.
- (2) REGULATIONS.—Not later than March 1, 1999, the Secretary of Agriculture shall promulgate final regulations to carry out section 17(f)(24) of such Act (42 U.S.C. 1786(f)(24)), as added by paragraph (1).
- (f) REAUTHORIZATION OF PROGRAM.—Section 17(g)(1) of such Act (42 U.S.C. 1786(g)(1)) is amended in the first sentence by striking “1995 through 1998” and inserting “1999 through 2003”.
- (g) PURCHASE OF BREAST PUMPS.—Section 17(h)(1)(C) of such Act (42 U.S.C. 1786(h)(1)(C)) is amended—
- (1) by striking “(C)” and inserting “(C)(i)”; and
- (2) by adding at the end the following:
- “(ii)(I) Notwithstanding any other provision of this section, with respect to fiscal year 2000 and subsequent fiscal years, a State agency may use amounts made available under clause (i) for the purchase of breast pumps.
- “(II) A State agency that exercises the authority of subclause (I) shall expend from amounts allocated for nutrition services and administration an amount for the purchase of breast pumps that is not less than the amount expended for the purchase of breast pumps from amounts available for nutrition services and administration for the prior fiscal year.”.
- (h) NUTRITION SERVICES AND ADMINISTRATION.—
- (1) ALLOCATION OF AMOUNTS.—Section 17(h)(2)(A) of such Act (42 U.S.C. 1786(h)(2)(A)) is amended in the first sentence by striking “1995 through 1998” and inserting “1999 through 2003”.
- (2) LEVEL OF PER PARTICIPANT EXPENDITURE.—Section 17(h)(2)(B)(ii) of such Act (42 U.S.C. 1786(h)(2)(B)(ii)) is amended by striking “15 percent” and inserting “10 percent (except that the Secretary may establish a higher percentage for small State agencies)”.
- (i) CONVERSION OF AMOUNTS FOR FOOD BENEFITS TO AMOUNTS FOR NUTRITION SERVICES AND ADMINISTRATION.—Section 17(h)(5)(A) of such Act (42 U.S.C. 1786(h)(5)(A)) is amended in the matter preceding clause (i) by striking “achieves” and all that follows through “such State agency may” and inserting “submits a plan to reduce average food costs per participant and to increase participation above the level estimated for such State agency, such State agency may, with the approval of the Secretary.”.
- (j) INFANT FORMULA PROCUREMENT.—Section 17(h)(8)(A) of such Act (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:
- “(iii) A State agency using a competitive bidding system for infant formula shall award contracts to the bidder offering the lowest net price 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 five percent.”.
- (k) INFRASTRUCTURE AND BREASTFEEDING PROMOTION/SUPPORT ACTIVITIES.—Section 17(h)(10)(A) of such Act (42 U.S.C. 1786(h)(10)(A)) is amended by striking “For each of fiscal years 1995 through 1998,” and inserting “For each fiscal year through 2003.”.
- (l) CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN THE PROGRAM.—
- (1) IN GENERAL.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following:
- “(11)(A) 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 such foods.
- “(B) The State agency shall establish procedures to insure 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 selection in the program.”.
- (2) REGULATIONS.—Not later than March 1, 1999, the Secretary of Agriculture shall promulgate final regulations to carry out section 17(h)(11)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(11)(A)), as added by paragraph (1).
- (m) USE OF FUNDS IN PRECEDING AND SUBSEQUENT FISCAL YEARS.—
- (1) IN GENERAL.—Clauses (i) and (ii) of section 17(i)(3)(A) of such Act (42 U.S.C. 1786(i)(3)(A)(i) and (ii)) are amended to read as follows:
- “(i) not more than 1 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, and not more than 1 percent of the amount of funds allocated to a State agency under this section for nutrition services and administration for a fiscal year, may be expended by the State agency for allowable expenses incurred under this section for supplemental foods and nutrition services and administration, respectively, during the preceding fiscal year; and

“(ii)(I) a State agency may expend, from amounts allocated to the agency for nutrition services and administration, an amount equal to not more than 1 percent of the total amount of funds allocated to the agency under this section for a fiscal year for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

“(II) with the prior approval of the Secretary, a State agency may expend, from amounts allocated to the agency for nutrition services and administration, an amount equal to not more than one-half of 1 percent of the total amount of funds allocated to the agency under this section for a fiscal year for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.”.

(2) CONFORMING AMENDMENTS.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) in subsection (h)(10)(A) (as amended by this Act), by inserting after “nutrition services and administration funds” the following: “and food benefit funds”; and

(B) in subsection (i)(3)—

(i) by striking subparagraphs (C) through (G); and

(ii) by redesignating subparagraph (H) as subparagraph (C).

(n) FARMERS MARKET NUTRITION PROGRAM.—

(1) MATCHING FUND REQUIREMENT.—Section 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is amended in both the first and second sentences by striking “total” each place it appears and inserting “administrative”.

(2) RANKING CRITERIA FOR STATE PLANS.—Section 17(m)(6) of such Act (42 U.S.C. 1786(m)(6)) is amended—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraph (G) as subparagraph (F).

(3) REAUTHORIZATION OF PROGRAM.—Section 17(m)(9)(A) of such Act (42 U.S.C. 1786(m)(9)(A)) is amended by striking “1996 through 1998” and inserting “1999 through 2003”.

(o) DISQUALIFICATION OF CERTAIN VENDORS.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended by adding at the end the following:

“(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

“(1) IN GENERAL.—Except as provided in paragraph (5), the State agency shall permanently disqualify a vendor convicted of trafficking in food instruments (including any voucher, draft, check, or access device, including an electronic benefit transfer card or personal identification number, issued in lieu of a food instrument pursuant to the provisions of this section), or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act) in exchange for food instruments.

“(2) NOTICE OF DISQUALIFICATION.—The State agency shall provide the vendor with notification of the disqualification and shall make such disqualification effective on the date of receipt of the notice of disqualification.

“(3) PROHIBITION ON RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of the disqualification under this subsection.

“(4) HARDSHIP EXCEPTION IN LIEU OF DISQUALIFICATION.—

“(A) IN GENERAL.—A State agency may permit a vendor that would otherwise be disqualified under paragraph (1) to continue to redeem food instruments or otherwise provide supplemental foods to participants if the State agency determines, in its sole discretion according to criteria established by the Secretary, disqualification of the vendor would cause hardship to participants in the program authorized under this section.

“(B) CIVIL MONEY PENALTY.—Whenever a State agency authorizes a vendor that would otherwise be disqualified to redeem food instruments or provide supplemental foods in accordance with subparagraph (A), the State agency shall assess the vendor a civil money penalty in lieu of a disqualification.

“(C) AMOUNT.—The State agency shall determine the amount of the civil penalty according to criteria established by the Secretary.”.

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than March 1, 1999, the Secretary of Agriculture shall promulgate final regulations to carry out section 17(o) of such Act (42 U.S.C. 1786(o)), as added by paragraph (1).

(B) ADDITIONAL REQUIREMENT.—The final regulations described in subparagraph (A) shall include criteria for determining the amount of civil money penalties in lieu of disqualification and for making hardship determinations under such section.

(p) STUDY AND REPORT BY ECONOMIC RESEARCH SERVICE.—Section 17 of such Act (42 U.S.C. 1786), as amended by this Act, is further amended by adding at the end the following:

“(p) STUDY AND REPORT BY ECONOMIC RESEARCH SERVICE.—

“(1) STUDY.—The Secretary, acting through the Administrator of the Economic Research Service, shall conduct a study on the effect of cost containment practices established by States under the program for the selection of vendors and approved food items (other than infant formula) on the following:

“(A) Program participation.

“(B) Access and availability of prescribed foods.

“(C) Voucher redemption rates and actual food selections by participants.

“(D) Participants on special diets or with specific food allergies.

“(E) Participant use and satisfaction of prescribed foods.

“(F) Achievement of positive health outcomes.

“(G) Program costs.

“(2) REPORT.—Not later than 3 years after the date of the enactment of the Child Nutrition and WIC Reauthorization Amendments of 1998, the Administrator shall submit to the Secretary of Agriculture, 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 containing the results of the study conducted under paragraph (1).”

(q) COLLECTION AND USE OF PENALTIES FROM VENDOR AND RECIPIENT FRAUD AND ABUSE.—Section 17 of such Act (42 U.S.C. 1786), as amended by this Act, is further amended by adding at the end the following:

“(q) USE OF PENALTIES FROM VENDOR AND RECIPIENT FRAUD AND ABUSE.—Amounts collected from penalties from vendors and recipients relating to violations of any provision of this section (including any regulation established to carry out this section) for fraud and abuse under the program may be used for nutrition services and administration and food benefits only for the 1-year period beginning on the date on which amounts under the penalty are received.”

(r) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIOLATIONS UNDER THE PROGRAM.—Section 17 of such Act (42 U.S.C. 1786), as amended by this Act, is further amended by adding at the end the following:

“(r) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIOLATIONS UNDER THE PROGRAM.—The maximum amount of a fine with respect to the embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments of funds, assets, or property that are of a value of \$100 or more under the program shall be \$25,000.”

(s) CRIMINAL FORFEITURE.—Section 17 of such Act (42 U.S.C. 1786), as amended by this Act, is further amended by adding at the end the following:

“(s) CRIMINAL FORFEITURE.—

“(1) IN GENERAL.—In imposing a sentence on a person convicted of an offense in violation of any provision of this section (or any regulation promulgated under this section), a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

“(2) PROPERTY SUBJECT TO FORFEITURE.—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of any provision of this section (or any regulation promulgated under this section), or proceeds traceable to a violation of any provision of this section (or any regulation promulgated under this section), shall be subject to forfeiture to the United States under paragraph (1).

“(3) INTEREST OF OWNER.—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

“(4) PROCEEDS.—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

“(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

“(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

“(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

“(D) fourth, by the State agency to carry out the approval, reauthorization, and compliance investigations of vendors.”.

SEC. 203. NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) by striking paragraphs (1) and (2);

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively; and

(3) in paragraph (1) (as redesignated)—

(A) in the paragraph heading, by striking “1997 THROUGH 2002” and inserting “1999 THROUGH 2003”; and

(B) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 1999 through 2003.”.

Amend the title so as to read:

A bill to amend the 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 extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

COMMITTEE ACTION

The Subcommittee on Early Childhood, Youth and Families held two hearings in Washington, DC, on child nutrition: March 10, 1998, and March 17, 1998.

The March 10, 1998, hearing focused on child nutrition programs. The Subcommittee received testimony from Mr. Ed Cooney, Deputy Administrator of Special Nutrition Programs, Food, Nutrition and Consumer Services, U.S. Department of Agriculture, Washington, D.C.; Mr. Bob Robinson, Issue Area Director, General Accounting Office, Washington, D.C.; Ms. Melinda Turner, Director of Food Services, Owsely County Schools, Booneville, Kentucky; Mr. Richard DeBurgh, Director of Food Services, Glendale Unified School District, La Crescenta, California; Ms. Joyce Holmes Benjamin, Associate Superintendent, Oregon Department of Education, Salem, Oregon; Ms. Sharon Cox, President, Montgomery County Council of PTAs, Montgomery County, Maryland; and Mr. John Murphy, Section Chief, North Carolina Department of Public Instruction, Raleigh, North Carolina.

The March 17, 1998, hearing focused on the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The Subcommittee received testimony from Ms. Denise Ferris, President, National Association of WIC Directors, Charleston, West Virginia; Mr. Robert Robinson, Issue Area Director, Government Accounting Office, Washington, D.C.; Ms. Darlene Jenkins, WIC Participant and Breastfeeding Counselor, Dover, Delaware; Ms. Claire Regan, Senior Director, Scientific and Regulatory Affairs, Grocery Manufacturers of America, Washington, D.C.; Mr. Robert Greenstein, Executive Director, Center on Budget and Policy Priorities, Washington, D.C.; and Ms. Betty Touchon, WIC Program Manager, Ukiah, California.

Introduction of the WIC reauthorization amendments of 1998

On May 14, 1998, Mr. Mike Castle (R-DE) introduced H.R. 3874, the WIC Reauthorization Amendments of 1998.

Legislative action

On May 21, 1998, the Subcommittee on Early Childhood, Youth and Families favorably ordered reported the bill to the full Committee on Education and the Workforce by a voice vote.

On June 4, 1998, the Committee on Education and the Workforce assembled to consider H.R. 3874, the WIC Reauthorization Amendments of 1998. H.R. 3874, as amended, was favorably reported by the Committee on Education and the Workforce by a vote of 36-1.

PURPOSE

It is the purpose of this legislation to extend and amend expiring child nutrition programs and to make improvements in Federal child nutrition programs to enhance their effectiveness in providing nutrition services to program participants. H.R. 3874 would primarily accomplish this goal by increasing flexibility for State and local providers, expanding nutrition services in afterschool care programs in order to reduce juvenile crime, drug and alcohol abuse and teen pregnancy and reducing program fraud and abuse in the WIC program.

SUMMARY

Title I of H.R. 3874 modifies the National School Lunch Act. It extends and modifies the Summer Food Service Program and makes modest changes to the Child and Adult Care Food Program. The bill also extends the authorization of the commodity distribution program and modifies an existing demonstration project to provide for a discretionary pilot project on universal breakfasts. This pilot project would be funded out of discretionary funds specifically provided for in Appropriations Acts. This Title also provides additional Federal support for access to snacks for youth participating in afterschool programs. Finally, Title I would provide additional flexibility to States in administering child nutrition programs.

Title II of H.R. 3874 extends and amends the Special Supplemental Nutrition Program for Women, Infants and Children and State administrative expenses. It contains important changes that protect the integrity of the WIC program and provides additional flexibility to States in administering the program.

COMMITTEE VIEWS

BACKGROUND

Child nutrition programs are authorized in two acts—the National School Lunch Act (originally enacted in 1946) and the Child Nutrition Act (originally enacted in 1966). Four of the major child nutrition programs are authorized through fiscal year 1998 and would be reauthorized through fiscal year 2003 in the Committee's bill. They are the Special Supplemental Nutrition Program for

Women, Infants, and Children (the WIC program), the Summer Food Service program, assistance for State administrative expenses, and commodity assistance. The three largest entitlement child nutrition programs (the School Lunch program, the School Breakfast program and the Child and Adult Care Food program) are permanently authorized. The most recent child nutrition reauthorization legislation was enacted in 1994: The Healthy Meals for Healthy Americans Act (P.L. 103-448).

Federal involvement with child nutrition originated with the donation of surplus commodities to schools in the 1930s. At the end of World War II, concern over the number of draftees failing their physical examinations due to nutrition related deficiencies prompted Congress to enact the National School Lunch Act. This Act established the School Lunch Program that provided grants to schools to implement and operate lunch programs. These grants, coupled with continued commodity assistance and a school milk program established in the early 1950s, formed the extent of Federal support through 1961. However, many schools with large proportions of poor children could not afford to participate in the School Lunch program. In response to this Congress, in 1962, added special assistance grants targeted on schools drawing children from low-income areas.

In 1966, Congress further extended Federal support for child nutrition with enactment of the Child Nutrition Act, citing the successes achieved in the School Lunch program. This law established a program for children in pre-school programs operated by schools and a pilot School Breakfast program. It also authorized funds for food service equipment assistance and State administrative expenses. The 1966 Act was quickly followed by 1968 amendments authorizing a special food assistance program for children without access to meal service programs in schools, either because they were too young or in summer programs. As with the 1966 law, this program was targeted on low-income areas.

By 1970, Congress had authorized all of the current meal service programs and began a series of adjustments to assure that meals would be available to all children, particularly lower-income children. In 1970, special assistance funding for free and reduced-price school meals was extended to meals served to needy children in all participating schools, and uniform Federal income guidelines were established to determine children's eligibility for free and reduced-price meals. Throughout the 1940s, 1950s and 1960s, Federal assistance to child nutrition programs had been available to States in the form of grants allocated by enrollment and student participation. However, there was no system of guaranteed Federal reimbursements based on the number of meals served.

This changed in 1972-1973, when Congress established the system of "performance funding" that exists today—guaranteed per-meal reimbursements were established, with higher payments for meals served free or at a reduced price. In the remainder of the 1970s, Congress increased meal subsidy rates and required that they be inflation indexed, established a guaranteed minimum level of commodity assistance, made the School Breakfast program permanent, and created separate programs for summer and child care providers with their own guaranteed reimbursement rates. In 1972,

the WIC program was established as a pilot project, which was expanded to a national program in the mid-1970s. However, this period of expansion ended in 1980 and no new major child nutrition programs have been authorized since that time. Major child nutrition amendments in 1980 and 1981 significantly cut back Federal subsidy rates, lowered income eligibility standards for free and reduced-price meals, and scaled back the Summer Food Service and Special Milk programs.

From 1982 through 1993, Congress gradually added to Federal child nutrition support. In six laws, it increased school breakfast subsidies and added a program of school breakfast start-up and expansion grants (both aimed at raising the number of participating schools) and created several small new programs and demonstration projects (including programs for homeless children, disabled adults in day care, and children in after-school programs). These measures also included a number of provisions to ease the administrative and paperwork burden on schools and other providers, require new dietary standards for meals, establish a system to ensure program accountability, and encourage cost containment in the WIC program. In the most recent major child nutrition legislation, amendments in the 1996 welfare reform law significantly restructured the way assistance is provided to day care homes under the Child and Adult Care Food program.

The primary purpose of this legislation is to extend and amend the four major expiring authorizations: WIC, State administrative expenses, the Summer Food Service program and the commodity assistance program. As reported by the Committee on Education and the Workforce, H.R. 3874, the Child Nutrition and WIC Reauthorization Amendments of 1998, also continues efforts to streamline programs, reduce the paperwork burden on local providers, insure program integrity and provide important nutrition services to program participants. The provisions in this bill were developed in a bipartisan manner and included important changes proposed by the nutrition community and the U.S. Department of Agriculture in its authorization proposal. This bill, H.R. 3666, was introduced by Representative Martinez, Ranking Member of the Early Childhood, Youth and Families Subcommittee, along with 14 other Members of Congress, on behalf of the Administration. The Committee believes these changes will improve the effectiveness of Federal child nutrition programs in providing vital nutrition services to our nation's children. The following text outlines the highlights of H.R. 3874 and its changes to our nation's important child nutrition programs.

STATE FLEXIBILITY IN MANAGING WIC FUNDING

Since 1989, the Child Nutrition Act has included three provisions giving States flexibility in managing their WIC funding. The Committee believes that they should be revised to give State WIC agencies more flexibility. In addition, the House Appropriations Committee has limited the amount of unused WIC funding that States may retain and spend in the next fiscal year, and the Administration has requested that similar limits be placed on States' ability to keep unused WIC dollars. When States retain more funding than they actually need to provide support to program participants,

it reduces the ability of the Department of Agriculture to provide such funds to States with additional need. The Committee's bill includes limits on States' authority to retain unused funding for their own use in the next fiscal year.

Current law allows States to convert Federal dollars provided for food to funding for nutrition services and administration (NSA) so that full services (food as well as nutrition education, breastfeeding promotion services, etc.) can be provided to program participants should the number of participating individuals be increased because of lower food costs. This generally happens when a State lowers its WIC food costs through cost containment initiatives (e.g. rebates from food suppliers) and can serve more people with its Federal WIC allocation.

This conversion authority is limited. States can convert food funding to cover nutrition services and administration costs and spend it based on their estimate of the number of new participants they will add due to estimated increased savings on food costs. However, if after having spent the converted funding, they fail (for whatever reason) to add the full number of persons they estimated when they converted funding, a portion of their spending will be "disallowed." This means that State funds will have to make up the difference. As a result, States can be discouraged from using the flexibility provided by the current conversion authority for fear that they will end up with unallowable nutrition services and administration costs that must be covered by State dollars. And States' reluctance to bear the risk of converting food dollars to spending for nutrition services and administration can, in effect, mean that they may not be able to take the steps necessary to increase their case-loads and use all the Federal money provided to them.

The Committee's bill would grant States more flexibility by easing the risk States take if they exercise conversion authority. Under the bill, a State securing an increase in cost containment savings would, with the Secretary's approval of its estimates, be able to convert a portion of any projected increase in food cost savings to nutrition services and administration funding. States that convert a portion of their cost containment savings in food dollars to spending for nutrition services and administration would be held harmless if the increase in WIC participation that the State anticipated did not fully materialize.

However, the Committee recognizes that accountability for this new conversion authority must be ensured. In order to prevent this expanded conversion authority from being used to substantially shift food money to nutrition services and administration spending without increased cost containment savings and participation, the Committee's bill also would give the Secretary authority to reduce a State's nutrition services and administration allocation if its actual nutrition services and administration expenditures exceed its per participant grant for nutrition services and administration by more than 10 percent (as opposed to 15 percent in current law).

The WIC statute presently allows States to retain unused food and nutrition services and administration money and spend it in the subsequent fiscal year. Under this authority, they may retain up to 1 percent of their grant—or up to 3 or 5 percent when implementing new cost containment measures. However, the fiscal year

1998 appropriations act for the WIC program effectively limits this authority to 1 percent of nutrition services and administration money only.

The Committee, the Administration, and the Appropriations Committee are concerned that the current authority to spend money in the next fiscal year is too broad, particularly with regard to States' authority to retain and spend unused food money rather than return it for reallocation among States so that they can serve more women, infants and children. The Committee's bill would repeal this authority, thereby increasing the amount of money that can be reallocated among the States.

The Committee does, however, recognize that authority to spend unused nutrition services and administration money in the next year is important so that States continue to have some flexibility to manage their WIC funds efficiently. The Committee's bill would allow States to spend nutrition services and administration funding only up to an amount equal to one percent of their total WIC grant. States also would be able to spend an additional amount of nutrition services and administration funds (equal to one-half percent of their total grant) for development of management information and electronic benefit transfer systems—with prior approval by the Secretary. Current authority to spend as much as 3 percent or 5 percent of a State's food grant in the next year would be ended.

Current law also allows States to use up to 1 percent of their WIC food grant to cover food expenditures incurred in the prior year. No similar authority exists with regard to nutrition services and administration funds. If a State incurs unexpected nutrition services and administration costs not covered by its grant, the overage must be covered with State funds.

In order to further increase State flexibility, the Committee's bill would extend the authority to spend money to cover prior year costs by allowing States to spend up to 1 percent of their nutrition services and administration grant to cover unanticipated nutrition services and administration costs incurred in the prior year.

The Committee has also given States the flexibility to use food dollars to purchase breast pumps. Studies have demonstrated the benefits of breastfeeding to the long term health of infants. Currently breast pumps can only be purchased using nutrition services and administrative dollars. This limits the number of pumps available for breastfeeding women participating in the WIC program. For those women who return to work after the birth of their child, the lack of a breast pump can result in a decision to stop breastfeeding. This legislation would allow States to purchase additional breast pumps to serve the needs of program participants. However, the Committee remains concerned about the excessive use of food dollars for this purpose. Therefore, the bill would prevent States from using food dollars to purchase breast pumps until the State reached the same level of breast pump expenditures through nutrition services and administration funds as they had in the previous year. The Committee delays the effective date of this provision for one year in order to allow States to establish a baseline date on breast pump purchases with nutrition services and administrative dollars. This provision will provide States with addi-

tional flexibility at the same time it continues to focus food dollars on the purchase of nutritional supplements for participants.

PREVENTING FRAUD AND ABUSE IN THE WIC PROGRAM

In March, 1998, the Surveys and Investigations Staff of the House Committee on Appropriations submitted a critical report on the WIC program. The report makes four major points, particularly regarding the vulnerability of the WIC program to fraud and abuse. It notes that the level of unspent money every year is above a reasonable level. It maintains that the full range of effective controls on the cost of WIC food package has not been implemented in many States. It points out the potential for issuance of benefits to ineligible persons, especially because of the lack of income documentation requirements. Finally, it criticizes the limited extent of investigative oversight of WIC vendors and recipients to prevent trafficking and other abuses.

The report's finding as to the level of unspent funds are addressed in the Committee bill provisions dealing with flexibility for WIC agencies. However, the Committee has several concerns related to fraud and abuse in the WIC program. The Committee has, therefore, included in H.R. 3874 several provisions to ensure that participation in the WIC program is limited to those who are truly eligible and to curb fraud and abuse:

The physical presence of all applicants and recipients would be required at each certification and recertification of eligibility, unless waived under certain limited conditions.

Income documentation would be required, unless waived under certain limited conditions.

State agencies would be required to implement systems to identify individuals participating at more than one WIC site.

State agencies would be required to identify high-risk vendors and follow up with compliance investigations.

Vendors convicted of trafficking would be permanently disqualified from participation in the WIC program (or, in some cases, be subject to a monetary fine).

State agencies would be encouraged to pursue fraud and abuse through a change in rules allowing them to keep and use additional recouped funds.

The maximum fine for WIC program violations would be more than doubled.

Those convicted of trafficking or other serious violations would face forfeiture of any property involved in the violation.

State agencies would be required to take into account the prices charged by vendors when approving them for participation in the program.

It is important to note that the bill's provisions regarding physical presence requirements include specific flexibility to deal with the difficulties encountered by working parents. Under the bill, local agencies are permitted to waive the physical presence requirement for children of working parents, if the children were present at initial certification, have been recertified at least once in the past year, and the requirement would present a barrier to participation. This provision will ensure that children are not denied WIC benefits due to the inability of their parents, due to work con-

straints, transportation difficulties, and other problems, to ensure the physical presence of their children for recertification every six months. However, the Committee does expect children to be present for recertification at least once each year.

The Committee also recognizes the effectiveness of WIC cost containment strategies pursued by State WIC agencies. In addition to the changes governing the WIC program noted above, the Committee's bill would require a study of cost containment practices so that those that are most useful can be identified. This study will examine the impact of cost containment practices such as State selection of vendors and approved food items on program participation, access and availability of prescribed foods, voucher redemption rates and actual food selections by participants, achievement of positive health outcomes and program costs.

MISCELLANEOUS WIC ISSUES

There are several other WIC issues which are not addressed in this legislation but which the Committee believes deserve additional attention.

The Committee recognizes that WIC helps to assure normal growth in children, reduced levels of anemia, increased immunization rates, improved access to regular health care and strengthened diets. WIC blood work testing is currently required at certification, which generally does not coincide with the usual schedule of well-child pediatric care visits. This results in enrollment and recertification delays, duplicative testing, and extra physical visits.

The Committee endorses the Department's current effort to conform WIC's blood work requirements to the Centers for Disease Control and Prevention's periodicity schedule. The Committee expects the final rules on the coordination of blood work schedules to be issued by March 1, 1999 and will be closely monitoring the Department's progress on these regulations.

The Committee also recognizes the importance of addressing the ethnic and cultural eating patterns of WIC participants and strongly endorses the Department's current effort to provide guidelines to local agencies regarding food substitutions to accommodate ethnic and cultural eating patterns. Such guidelines should assure that the food substitutions will accommodate the supplemental nutritional needs of WIC participants. The Committee urges the Department to proceed expeditiously to complete its final guidelines regarding this matter.

STATE AND LOCAL FLEXIBILITY PROVISIONS

This bill includes language to require States, where a single State agency administers multiple child nutrition programs, to provide a single permanent agreement between the State and the school food authority to provide meals under all such programs. The bill also requires a single form for school food authorities to claim reimbursements for meals served through these programs.

It is the intent of the Committee to simplify and streamline local administration of child nutrition programs. Under current law, school districts can be required to apply separately to provide school breakfasts and lunches, child care nutrition and summer food service program meals. This often duplicative process is time

consuming and inefficient. It is the opinion of the Committee that the flexibility provisions outlined above will have a significant and positive impact on cost savings at the local level.

Under the Committee bill, State agencies administering school meal programs will develop a single agreement for school districts to participate in the several programs. This agreement will be permanent and subject only to amendment if service factors change. For example, a school food authority providing meals under the Summer Food Service Program will need only to submit updates of service site information each year as a continuing sponsor.

The Committee's amendment would also require the use of a single claim form that incorporates sections for claims for all meals served. At its simplest, this would mean adding sections from each current form to a single form.

The Committee believes that the consolidated agreements and single claim forms provided in the bill allow additional flexibility for States and school districts. States may consolidate program accountability reviews for schools running multiple programs. This will result in savings at the State level in that State agency staff will be able to coordinate reviews among the programs. States may conduct additional reviews as necessary where there is a concern about compliance or for new sponsors, as current law provides.

School districts could operate all programs under the same meal pattern requirements. Schools would also have the same menu planning options for the Summer Food Service Program that school meals enjoy. This simplifies the menu planning process and maintains consistency among programs. It also simplifies program oversight at the State level.

The bill also provides States with greater flexibility in how they use Federal funds for State administrative expenses. Currently there is a 10 percent cap on the amount of funds that can be transferred between nutrition programs. The Committee removes this cap in order to allow States to move funds where they are needed most. The demand for audits, compliance reviews and technical assistance change from program to program from year to year. Providing States with flexibility to move funds to where they are needed most will allow them to operate programs more efficiently. The Committee urges States to use caution in transferring funds between programs.

SUMMER FOOD SERVICE PROGRAM

The Summer Food Service Program provides important nutrition services to our nation's low-income children. For many years, sponsor participation in this program has been limited due to past program abuse by certain types of sponsors. As a result, some low income areas have been unserved or underserved and children do not have access to nutritious meals. This legislation modifies current law to encourage additional private non-profit organizations to become sponsors of summer food service programs.

In April, 1997, the General Accounting Office (GAO) issued a study on the Summer Food Service Program that reported substantial problems among program operators. GAO found evidence of food waste caused by inadequate storage and spoilage, deliberate dumping, poor quality food, adult food consumption or offsite con-

sumption by children, improper bidding procedures and indications of kickbacks and bribes, failure to meet meal pattern requirements, and payments for unserved meals. Most of the abuses appeared to involve private, nonprofit program operators that served substantial numbers of children at many sites and who used private food service companies for food delivery.

As a result of this report, Congress enacted legislation that placed restrictions on participation of private, nonprofits in 1977. This legislation was intended to improve program administration, increase monitoring and tighten program requirements. The 1977 amendments placed restrictions on the operation of programs that used private food service management companies, or vendors for meal service. In 1981, the Omnibus Budget Reconciliation Act barred these sponsors from the program completely by restricting the sponsorship of summer programs to public and private nonprofit school food authorities, local municipal or county governments, and public and private nonprofit residential summer camps. As a result of changes enacted in 1981, program participation dropped by approximately 500,000 children—from 1.9 million in 1981 to 1.4 million in 1982.

Beginning in 1988, Congress amended the law to allow private non-profit summer food program sponsors to participate in the program. This was done as part of the Hunger Prevention Act of 1988. One provision of this law created a five State demonstration project for private, nonprofit summer food program sponsors. Their participation, in these five States, was limited to low-income areas where public sponsors did not operate programs. Additional restrictions were placed on these sponsors to insure there were no recurrences of the fraud and abuse outlined in the 1977 GAO report. In 1989, Congress permitted all States to allow private, nonprofit summer food sponsors to participate in the program as long as they met the restrictions set forth in the demonstration project.

Additional restrictions have been lifted over the years in recognition of the fact that States are doing a better job of overseeing Summer program sponsors and past abuses committed by this group of sponsors have not reappeared. The legislation reported by the Committee removes the last barriers to full participation by these sponsors through the following changes to the law:

Allows private, nonprofit organizations participating in the Summer Food Program to operate 25 sites with a maximum total of 300 children at each site. Removes the current limitation, which prohibits them from serving more than 2500 children.

Eliminates the March 1 "indication of interest" requirement which allows private nonprofit sponsors to participate in the Summer Food Program only in an area where school or government sponsors have not indicated an interest in running a program by March 1. The Committee does, however, retain the priority for schools should more than one sponsor apply to operate a Summer Food Program.

Removes the restriction that prevents private nonprofit organizations in the Summer Food Program from contracting with commercial or nonprofit entities for meal services. Currently they can only self-prepare meals or buy them from public entities.

Revises the vendor registration requirement under the Summer Food Program. Currently all commercial entities that wish to provide meals to sponsors must register with State agencies. This provision makes registration allowable, but not mandatory.

It is the intent of the Committee that the removal of these barriers will increase access of low income children to nutritious meals during the summer months when they are not in school. The Committee wants to make it clear that the performance of private, non-profit sponsors will be closely monitored once these restrictions have been removed. Should past abuses be repeated, the Committee will move swiftly to reinstate these barriers.

BUY AMERICAN PROVISIONS

The Committee bill incorporates language similar to that proposed by the U.S. Department of Agriculture which requires schools in the contiguous States participating in the National School Lunch and School Breakfast Programs to purchase, whenever possible, only food products that are produced in the United States for those programs. The Committee believes this is an important addition to the law in view of health concerns that have been raised regarding imported foods.

Although Hawaii is exempt from "Buy American" provisions, the bill eliminates this exemption with respect to food products that are grown in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch and breakfast programs.

Finally, the bill includes a definition of "food products that are produced in the United States." The Committee included this definition for a variety of reasons. First, we felt it was important to assist local schools in determining which products qualify under this new requirement. Second, the Committee believes it is important to make sure that "food products that are produced in the United States" means products are produced 'substantially' from agricultural products grown in the United States. Under the "Buy America Act" substantially means over 51 percent from American products. However, the Department of Agriculture has been using a definition of "food products that are produced in the United States" that includes products which are canned and labeled in the United States, but may have 100 percent foreign ingredients. By adding this definition, the bill serves both the needs of schools that purchase these products and American agriculture.

IMPROVEMENTS TO THE CHILD AND ADULT CARE FOOD PROGRAM

The Committee bill also includes several improvements to the Child and Adult Care Food Program.

First, the Committee has tightened language that permits institutions in the Child and Adult Care Food Program moving towards tax-exempt status to participate in the program. Under current law, such institutions can "move toward" tax-exempt status for years. The Committee believes institutions seeking such status should do so as quickly as possible. As such, participation for such institutions is limited to no more than six months unless they can demonstrate that failure to get tax-exempt status is beyond their control.

Second, the Committee has removed a provision in current law that has discouraged schools from operating day care programs. Under current law, schools operating day care programs were required to meet any Child and Adult Care Food Program licensing or approve requirements, or alternative approval standards where no State or local licensing or approval requirements exist. Since schools are already trusted to care for children throughout the school day, the Committee believes this extra requirement is unnecessary and burdensome. It has, therefore, eliminated this requirement for schools.

This Committee believes the Child and Adult Care Food program provides important nutritional supplements to children in child care settings. The Committee wants to point out that it will be closely monitoring this program. Recent reports by the Inspector General of the U.S. Department of Agriculture raise serious concerns regarding program integrity. For example, Operation "Kiddie Care," a program operated by the Inspector General to determine the extent of fraud in the child care program, uncovered significant weaknesses in program delivery. During the first phase of their reviews, they found 11 of 12 sponsors seriously deficient in their delivery of services. Out of 43 audits and investigations in 21 States, they found 33 sponsors to be so seriously deficient in program administration that they will be subject to termination from the program if they fail to correct deficiencies. Finally, as the result of 26 investigations for program fraud, 10 sponsors were terminated from the program. The Committee strongly encourages States to step up their efforts to eliminate fraud and abuse in this important program, especially by redirecting their audit funds to compliance investigations.

AFTERSCHOOL CARE PROVISIONS

The Committee is very concerned about the problem of juvenile crime facing our nation. Earlier this year, the Committee reported, and the House passed, H.R. 1818, the Juvenile Crime Control and Delinquency Prevention Act. This legislation focused primarily on the prevention of juvenile crime. During Subcommittee hearings on this legislation, it became clear that afterschool programs not only prevented juvenile crime, they contributed to reduced drug and alcohol abuse and prevented teen pregnancy.

The Committee believes afterschool programs, which operate between the end of the school day and the time when parents return home from work, provide a quality alternative to juveniles with too much time on their hands. The Committee also recognizes that children involved in such programs may need a snack to hold them over until their evening meal. Therefore, the Committee, in an effort to encourage afterschool programs, has made several modifications to current law to allow for Federal support for the provision of a snack to children participating in such programs.

The first provision would allow for Federal reimbursements for a snack for children up to age 18 who are participating in afterschool care programs operated by schools. In addition, more schools will be able to offer snacks because participation in the afterschool snack program will no longer be limited to schools that were operating afterschool programs prior to May 15, 1989. This is a modi-

fication of a provision currently contained in the School Lunch Act which provides snacks for children up through age 12 who are participating in afterschool care programs operated by schools prior to May 15, 1989. The Committee believes such afterschool care programs need to address some of the factors related to youth involvement in juvenile activities, such as educational difficulties. As such only those programs which have an educational or enrichment purpose and which are organized primarily for the purpose of providing child care services would qualify under this section.

The second provision would amend the Child and Adult Care Food Program to permit schools and public and non-profit organizations operating afterschool programs for at-risk youth in low-income areas to be reimbursed for a snack. Such programs can also serve youth up through age 18. The Committee believes the main purpose of such programs shall be the care and supervision of participating youth.

DEMONSTRATION PROJECTS

H.R. 3874, as reported by the Committee, makes permanent one demonstration project and modifies another.

Under current law, a demonstration project has been operating in Iowa and Kentucky. This project allows for-profit child care providers to participate in the Child and Adult Care Food Program as long as 25 percent of their children are eligible for free and reduced-price meals under the School Lunch Program. In other States, only those for-profit child care providers with twenty-five percent of their children receiving subsidies under Title XX of the Social Security Act are eligible to participate in this program. H.R. 3874 makes permanent this demonstration project.

Section 18 of the National School Lunch Act also contains a discretionary pilot project to examine the impact of a universal lunch and breakfast demonstration project on paperwork reduction, reducing application and meal counting requirements, and increasing program participation. H.R. 3874 modifies this provision to focus it on the School Breakfast program. The Committee believes that breakfast is an important meal for students. There have been studies that suggest eating breakfast improves students' academic achievement and classroom behavior. Should a majority of Congress decide to expand the Federal School Breakfast Program, the Committee believes we must examine the effect of this policy. In addition to examining the impact of achievement and classroom behavior, the Committee expects this pilot project to examine the impact of universal breakfast on the dietary intake of participants and on over-all program participation. Specifically, the Committee will want to know if a universal breakfast program has an impact on the number of children who actually eat breakfast as opposed to simply encouraging those children who already eat breakfast at home to eat at school. In addition, the Committee expects the evaluation of the pilot project to take into account other factors that could impact any of these areas, such as schoolwide educational reforms.

The Committee expects any school operating a pilot project as part of this demonstration program to receive a total Federal reimbursement under the school breakfast program in an amount equal

to the total Federal reimbursement for the school in the prior year under such program (adjusted for inflation and fluctuations in enrollment). Funds required for the pilot project in excess of such reimbursements may be taken from any non-Federal source or from amounts specifically provided for this project in appropriations acts. If appropriations for the pilot projects are not specifically provided for in appropriations Acts, the Committee does not expect the Department of Agriculture to conduct, or schools to participate in, such pilot projects.

H.R. 3874, the “Child Nutrition and WIC Reauthorization Amendments of 1998” as reported by the Committee on Education and the Workforce on June 4, 1998.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title and table of contents.

Section 2 sets forth the effective date of this Act and amendments to it, to be October 1, 1998.

TITLE I—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

Section 101 makes technical amendments to Section 6 of the Act relating to the provision of commodity assistance.

Section 102(a) amends Section 9 of the Act to require that schools participating in the school lunch or school breakfast program and preparing meals on-site obtain, twice during each school year, State or local health and safety inspections—if they are not required to undergo health and safety inspections by State or local law.

Section 102(b) further amends Section 9 of the Act to require that, to the extent that a single State agency administers the school lunch program, the school breakfast program, the summer food service program, and the child and adult care food program in a State, school food authorities submit a single agreement with respect to the programs they operate and use a common procedure when claiming reimbursement for meals and snacks served. The single agreement is to be permanent, but is to be amended as necessary.

Section 103 amends Section 11 of the Act to require that, when reimbursement rates are indexed for inflation, all resultant rates will be rounded down to the nearest whole cent.

Section 104(a) amends Section 12(f) of the Act to permit, in Alaska and Hawaii, the adjustment of reimbursement rates for the summer food service program to take into account differing costs.

Section 104(b) amends Section 12 of the Act to add a new subsection (n) containing a “Buy American” requirement. The new subsection would require schools in the contiguous States participating in the school lunch and breakfast programs to purchase, to the extent practicable, only food products produced in the United States. It also requires that schools in Hawaii purchase, to the extent practicable, food products grown in Hawaii in sufficient quantities to meet schools’ needs.

Section 105(a) amends Section 13 of the Act to permit private nonprofit summer food service program sponsors that operate not more than 25 sites, with not more than 300 children served at any

one site—unless a waiver is granted by the State agency under standards developed by the Secretary.

Section 105(b) amends Section 13 of the Act to permit schools operating a summer food service program off school grounds to receive reimbursement for meals served when the child does not take an item offered as part of the meal.

Section 105(c) amends Section 13 of the Act to permit private nonprofit summer food service program sponsors to contact with private vendors, to make registration of private vendors in the summer food service program a State option, and to remove a requirement that private nonprofit summer food service program sponsors may participate only in areas where a public entity has not indicated it will run a program by March 1 of any year.

Section 105(d) amends Section 13 of the Act to extend the appropriations authorization for the summer food service program through fiscal year 2003.

Section 106 amends Section 14 of the Act to extend the appropriations authorization for commodity distribution assistance through fiscal year 2003.

Section 107(a) amends section 17 of the Act to allow, in those instances in which State or local licensing or approval is not required, outside school hours care institutions to participate in the child and adult care food program if they meet State or local health and safety standards.

Section 107(b) amends Section 17 of the Act to extend Even Start participants' categorical eligibility under the child and adult care food program.

Section 107(c) amends Section 17 of the Act to allow private institutions participating in the child and adult care food program and moving towards tax-exempt status to participate for not more than six months. If they can demonstrate that failure to obtain tax-exempt status is beyond their control, they may receive a single extension of up to 90 days. This subsection also removes a requirement that institutions applying for the child and adult care food program receive a notice of an incomplete application within 15 days.

Section 107(d) amends Section 17 of the Act to reduce the set-aside of money to be granted States for audits under the child and adult care food program—from 2% to 1% of program dollars.

Section 107(e) amends Section 17 of the Act to permanently authorize a demonstration project—operating in Iowa and Kentucky—under which for-profit child care centers are allowed to participate in the child and adult care food program if their enrollment is at least 25% children eligible for free and reduced-price meals.

Section 107(f) amends Sections 17 and 17B of the Act to add a new subsection (q), which would combine all nutrition programs for homeless children under the aegis of the child and adult care food program.

Section 107(g) amends Section 17 of the Act to add a new subsection (r), which would allow reimbursements under the child and adult care food program for snacks served free in afterschool programs to at-risk children through age 18 in lower-income areas.

Section 108 amends Section 17A of the Act to allow schools to receive reimbursements for snacks served to children through age 18

in afterschool programs. Programs would be required to have an education or enrichment purpose.

Section 109 amends Section 18(i) of the Act to remove from the demonstration project authorized under subsection (i) provisions relating to school lunches and establish a discretionary elementary school breakfast demonstration project.

Section 110 amends Section 21 of the Act to extend the appropriations authorization for training and technical assistance through fiscal year 2003.

Section 111 amends Section 22 of the Act to extend the appropriations authorization for program compliance and accountability operations through fiscal year 2003.

Section 112 amends Section 26 of the Act to extend and make discretionary the appropriations authorization for an information clearinghouse.

Section 113 amends Section 27 of the Act to revise provisions governing the Secretary in carrying out activities to help accommodate the special dietary needs of individuals with disabilities and authorizes appropriations for these activities.

TITLE II—AMENDMENTS TO THE CHILD NUTRITION ACT

Section 201(a) amends Section 7 of the Act to make provisions dealing with assistance for State administrative expenses consistent with provisions combining nutrition programs for homeless children in the child and adult care food programs contained in Section 107(f) of the bill.

Section 201(b) amends Section 7 of the Act to eliminate the 10% limit on transferring funds provided for State administrative expenses among child nutrition programs.

Section 201(c) amends Section 7 of the Act to extend the appropriations authorization for assistance for State administrative expenses through fiscal year 2003.

Section 202(a) amends Section 17 of the Act to require the physical presence of each applicant for the WIC program at each certification determination and allows local WIC agencies to waive the requirement in certain instances when it would create a barrier to participation. It also amends Section 17 to require program applicants to provide documentation of household income or participation in an income-tested program and allows State WIC agencies to waive the requirement in certain instances where the requirement would present a barrier to participation.

Section 202(b) amends Section 17 of the Act to require WIC agencies to provide education or educational materials relating to the effects of drug and alcohol abuse by a pregnant, postpartum, or breastfeeding woman on the woman's developing child.

Section 202(c) amends Section 17 of the Act to allow the distribution of nutrition education materials (including breastfeeding promotion materials) developed for the WIC program to State agencies administering the commodity supplemental food program.

Section 202(d) amends Section 17 of the Act to require State WIC agencies to implement systems designed to identify recipients participating at more than one site.

Section 202(e) amends Section 17 of the Act to require State WIC agencies to identify vendors with a high probability of program

abuse and to monitor these vendors through follow-up compliance investigations.

Section 202(f) amends Section 17 of the Act to extend the authorization of appropriations for the WIC program through fiscal year 2003.

Section 202(g) amends Section 17 of the Act to allow State agencies to purchase breast pumps, beginning in fiscal year 2000, with food benefit funds—so long as they do not reduce their purchase of breast pumps from nutrition services and administration funds.

Section 202(h)(1) amends Section 17 of the Act to extend the authority for the formula allocation of WIC funds by the Secretary among the States through fiscal year 2003.

Section 202(h)(2) amends Section 17 of the Act to allow the Secretary to reduce a State's nutrition services and administration grant if actual expenditures on nutrition services and administration exceed the State's grant for nutrition services and administration by more than 10%. An exception is allowed for small State agencies.

Section 202(i) amends Section 17 of the Act to revise provisions of law that allow State WIC agencies to convert funds provided for food benefits to funds for nutrition services and administration. States would be allowed to convert funds based on their estimates of increased participation and increased cost containment savings—as approved by the Secretary—without a penalty if the estimates are not fully realized.

Section 202(j) amends Section 17 of the Act to require that State WIC agencies grant infant formula rebate contracts to bidders with the lowest net price offer.

Section 202(k) (as supplemented by Section 202(m)(2)) amends Section 17 of the Act to extend, through fiscal year 2003, the requirement to use up to \$10 million of unspent WIC funding to support infrastructure and breastfeeding support activities.

Section 202(l) amends Section 17 of the Act to require State WIC agencies to consider the prices that stores charge for foods provided under the WIC program when selecting retailers as approved vendors for the program.

Section 202(m) amends Section 17 of the Act to allow State WIC agencies to use not more than 1 percent of funds provided for food and not more than 1 percent of funds provided for nutrition services and administration for expenses incurred in the preceding fiscal year. This subsection also amends Section 17 to allow State WIC agencies to retain funds for nutrition services and administration and use them in the subsequent fiscal year—up to an amount equal to 1 percent of their total grant. State agencies also would be allowed to retain nutrition services and administration funds—up to an additional one-half of 1 percent of their total grant, with the Secretary's approval—for use in the subsequent fiscal year to develop management information and electronic benefit transfer systems.

Section 202(n)(1) amends Section 17 of the Act to revise the State matching requirements for the WIC farmers' market nutrition program. The required match would be 30 percent of the administrative portion of the farmers' market nutrition program grant—as opposed to 30 percent of the total grant.

Section 202(n)(2) amends Section 17 of the Act to eliminate legislatively stipulated ranking criteria for States' farmers' market nutrition program applications.

Section 202(n)(3) amends Section 17 of the Act to extend the appropriations authorization for the WIC farmers' market nutrition program through fiscal year 2003.

Section 202(o) amends Section 17 of the Act to require the permanent disqualification of vendors convicted of trafficking in WIC food benefits or selling firearms, ammunition, explosives, or controlled substances. Civil money penalties would be allowed if permanent disqualification would harm WIC program recipients.

Section 202(p) amends Section 17 of the Act to add a new subsection (p) that would require the Secretary, through the Economic Research Service, to conduct a study on the effect of State cost containment practices for the selection of vendors on program participation, access to and availability of prescribed foods, voucher redemption rates and food selections by recipients, participants with special diets or food allergies, participant use of and satisfaction with prescribed foods, achievement of positive health outcomes, and program costs.

Section 202(q) amends Section 17 of the Act to add a new subsection (q) that would allow State WIC agencies to use funds collected from penalties and claims against recipients and vendors through the one-year period following the date the funds are received.

Section 202(r) amends Section 17 of the Act to add a new subsection (r) raise maximum fine for WIC violations from \$10,000 to \$25,000.

Section 202(s) amends Section 17 of the Act to add a new subsection (s) that would provide for forfeiture of property involved in serious violation of WIC program rules.

Section 203 amends Section 17 of the Act to extend the appropriations authorization for the nutrition education and training program through fiscal year 2003 at such sums as are necessary.

EXPLANATION OF AMENDMENTS

The Amendment in the Nature of a Substitute is explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. This bill amends and reauthorizes the National School Lunch Act and the Child Nutrition Act of 1966. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill amends and reauthorizes the National School Lunch Act and the Child Nutrition Act of 1966. The bill does not contain any unfunded mandates.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 2(1)(3)(A) of rule XI and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

STATEMENT OF OVERSIGHT FINDINGS OF THE COMMITTEE ON
GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3874.

CONSTITUTIONAL AUTHORITY

The National School Lunch Act, the Child Nutrition Act of 1966, and this bill, H.R. 3874, are constitutional under the spending clause of the constitution, Article 1, section 8, clause 1.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3874. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 2(1)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 2(1)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3874 from the Director of the Congressional Budget Act:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1998.

Hon. WILLIAM F. GOODLING,
*Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3874, the Child Nutrition and WIC Reauthorization Amendments of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sheila Dacey.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3874—Child Nutrition and WIC Reauthorization Amendments of 1998

Summary: H.R. 3874 would reauthorize child nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). H.R. 3874 would provide authorizations of \$3.9 billion for fiscal year 1999 and about \$19.6 billion over the 1999–2003 period, not including adjustments for inflation.

In addition, H.R. 3874 would newly provide reimbursement for snacks served to youth in after-school programs in schools and low-income areas, lower reimbursement rates for meals served free and at a reduced price in schools and child care centers, and reduce funding to states for conducting audits of nutrition programs in child care centers. Those changes would slightly increase direct spending for 1999 but decrease direct spending by \$68 million over the 1999–2003 period. Enactment of the bill also would result in increased revenues, although the amount is likely to be insignificant. Because the bill's enactment would affect both direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 3874 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would, however, impose new requirements on state and local governments that administer child nutrition programs totaling \$8 million in fiscal 1999 and \$202 million for the 1999–2003 period. Under UMRA, such requirements would not be mandates because they are a result of complying with grant conditions or because states have the ability to offset their costs by amending the programs.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3874 is summarized in Table 1. The costs of this legislation fall within budget function 600 (income security).

TABLE 1. SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF H.R. 3874

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Without Adjustments for Inflation						
Authorization under current law:						
Estimated authorization level ¹	4,000	82	82	82	82	72
Estimated outlays	3,985	354	82	82	82	74
Proposed changes:						
Estimated authorization level ¹		3,936	3,922	3,922	3,922	3,932
Estimated outlays		3,650	3,924	3,927	3,927	3,931
Authorizations under H.R. 3874:						
Estimated authorization level ¹	4,000	4,018	4,004	4,004	4,004	4,004
Estimated outlays	3,985	4,004	4,006	4,009	4,009	4,005
With Adjustments for Inflation						
Authorizations under current law:						
Estimated authorization level ¹	4,000	85	88	90	93	86
Estimated outlays	3,985	356	87	89	92	87

TABLE 1. SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF H.R. 3874—Continued

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Proposed changes:						
Estimated authorization level ¹		4,019	4,096	4,192	4,287	4,399
Estimated outlays		3,725	4,092	4,191	4,285	4,392
Authorizations under H.R. 3874:						
Estimated authorization level ¹	4,000	4,104	4,184	4,282	4,380	4,485
Estimated outlays	3,985	4,081	4,179	4,280	4,377	4,478
DIRECT SPENDING						
Baseline spending under current law:						
Budget Authority	8,779	9,266	9,786	10,333	10,383	11,464
Estimated outlays	8,702	9,176	9,689	10,231	10,789	11,358
Change:						
Budget authority		-8	-32	-27	-27	-27
Estimated outlays		4	-21	-18	-17	-16
Spending under H.R. 3874:						
Budget authority	8,779	9,258	9,754	10,306	10,866	11,437
Outlays	8,702	9,180	9,668	10,213	10,772	11,342
CHANGES IN REVENUES						
Estimated revenues		(²)	(²)	(²)	(²)	(²)

¹The 1998 level is the amount appropriated for that year.²Less than \$500,000.

Basis of estimate: Tables 2 and 3 detail the effects of H.R. 3874 on authorizations of appropriations.

TABLE 2. ESTIMATED EFFECTS OF H.R. 3874 ON APPROPRIATIONS, WITHOUT ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Authorizations Under Current Law						
WIC:						
Budget authority	3,924					
Estimated outlays	3,914	273				
Economic Research Service:						
Estimated authorization level ¹	72	72	72	72	72	72
Estimated outlays	68	72	72	72	72	72
Nutritional Education and Training Program:						
Estimated authorization level ¹	4	10	10	10	10	0
Estimated outlays	3	9	10	10	10	2
Universal Breakfast Pilot:						
Estimated authorization level						
Estimated outlays						
Total authorizations under current law:						
Estimated authorization level ¹	4,000	82	82	82	82	72
Estimated outlays	3,985	354	82	82	82	74
Changes Under H.R. 3874						
WIC:						
Estimated authorization level		3,928	3,928	3,928	3,928	3,928
Estimated outlays		3,654	3,928	3,928	3,928	3,928
Economic Research Service:						
Estimated authorization level		2	0	0	0	0
Estimated outlays		1		0	0	0
Nutritional Education and Training Program:						
Estimated authorization level		-6	-6	-6	-6	4
Estimated outlays		-5	-6	-6	-6	3
Universal Breakfast Pilot:						
Estimated authorization level		13				
Estimated outlays		(²)	2	5	5	1

TABLE 2. ESTIMATED EFFECTS OF H.R. 3874 ON APPROPRIATIONS, WITHOUT ADJUSTMENTS FOR INFLATION—Continued

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Total changes:						
Estimated authorization level		3,936	3,922	3,922	3,922	3,932
Estimated outlays		3,650	3,924	3,927	3,927	3,931
Total Authorization Under H.R. 3874						
Estimated authorization level ¹	4,000	4,018	4,004	4,004	4,004	4,004
Estimated outlays	3,985	4,004	4,006	4,009	4,009	4,005

¹ The 1998 level is the amount appropriated for that year.² Less than \$500,000.

TABLE 3. ESTIMATED EFFECTS OF H.R. 3874 ON APPROPRIATIONS, WITH ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Authorizations Under Current Law						
WIC:						
Budget authority	3,924					
Estimated outlays	3,941	273				
Economic Research Service:						
Estimated authorization level	72	75	78	80	83	86
Estimated outlays	68	74	77	79	82	85
Nutritional Education and Training Program:						
Estimated authorization level	4	10	10	10	10	0
Estimated outlays	3	9	10	10	10	2
Universal Breakfast Pilot:						
Estimated authorization level						
Estimated outlays						
Total authorizations under current law :						
Estimated authorization level	4,000	85	88	90	93	86
Estimated outlays	3,985	356	87	89	92	87
Changes Under H.R. 3874						
WIC:						
Estimated authorization level		4,010	4,102	4,198	4,293	4,395
Estimated outlays		3,729	4,096	4,191	4,286	4,388
Economic Research Service:						
Estimated authorization level		2	0	0	0	0
Estimated outlays		1	(¹)	0	0	0
Nutritional Education and Training Program:						
Estimated authorization level		-6	-6	-6	-6	4
Estimated outlays		-5	-6	-6	-6	3
Universal Breakfast Pilot:						
Estimated authorization level		13				
Estimated outlays		(¹)	2	5	5	1
Total changes:						
Estimated authorization level		4,019	4,096	4,192	4,287	4,399
Estimated outlays		3,725	4,092	4,191	4,285	4,392
Total Authorizations Under H.R. 3874						
Estimated authorization level	4,000	4,104	4,184	4,282	4,380	4,485
Estimated outlays	3,985	4,081	4,179	4,280	4,377	4,478

¹ Less than \$500,000.

Spending subject to appropriations: Title I would authorize such sums as are necessary for a universal free breakfast pilot project. The project would examine the effect of serving all breakfasts free for three years in selected elementary schools. Breakfasts would be reimbursed at the rate for meals served free. A pilot project involv-

ing 36 schools for a 3-year period would cost \$3 million for meals and \$10 million for evaluation over the 1999–2003 period according to information provided by the Food and Nutrition Service. Significantly more than 36 schools could participate if more funds were appropriated. A similar pilot project was authorized for 1996 to 1998 but was not funded.

Title II of the bill would extend the authorization of the Special Supplemental Nutritional Program for Women, Infants, and Children at such sums as may be necessary for fiscal years 1999 through 2003. The WIC program provides food and other support to low-income pregnant, post-partum and breast-feeding women, infants, and children up to age five. The bill would make several changes to the underlying authorization of WIC. However, most of these changes would not have significant budgetary effects.

In reauthorizing the farmers’ market nutrition program within the WIC program, the bill would reduce the state match rate required for participation from 30 percent of total costs to 30 percent of administrative costs. Currently, about \$12 million of the total \$3.9 billion WIC appropriation is set aside for the farmers’ market nutrition program. Although data on the administrative portion of this program are not available, CBO estimates that in order to maintain the current level of funding from both federal and non-federal sources, about \$3.5 million more than the 1998 amount would need to be authorized annually for the program.

The bill would require the Economic Research Service to study and prepare a report on the effect of cost-containment practices employed by the states. This report would be due three years after the bill’s enactment. Based on information from the Economic Research Service, the costs of this study are estimated at \$1.5 million from 1999–2003.

Finally, the bill would amend the Nutritional Education and Training program, which provides funds to train food service personnel and to instruct students, teachers, and parents about nutrition and health. The program is currently authorized through fiscal year 2002 at \$10 million per year. H.R. 3874 would authorize such sums as may be necessary for fiscal years 1999 through 2003. In fiscal year 1998, \$4 million was appropriated for this program. CBO assumes that, under the new authorization provision, this level of funding would continue for 1999–2003.

Direct spending and revenues: H.R. 3874 would make several changes to the National School Lunch Act and the Child Nutrition Act resulting in a net decrease in direct spending over the 1999–2003 period. These programs provide subsidies to schools and child care programs to help provide meals to children. CBO’s estimates of the bill’s effects on direct spending, by provision, are detailed in Table 4 and explained below.

TABLE 4. ESTIMATED EFFECTS OF H.R. 3874 ON DIRECT SPENDING
[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	5-year total	10-year total
Round down reimbursement rates:												
Budget authority	-6	-38	-42	-44	-45	-46	-47	-48	-48	-49	-175	-413

TABLE 4. ESTIMATED EFFECTS OF H.R. 3874 ON DIRECT SPENDING—Continued

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	5-year total	10-year total
Outlays	-2	-35	-41	-44	-45	-46	-47	-48	-48	-49	-167	-404
Adjust Summer Food Program reimbursement rates for Alaska and Hawaii:												
Budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	3
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	3
Expand private, nonprofit participation in the Summer Food Program:												
Budget authority	(1)	(1)	1	1	1	1	1	1	1	1	3	7
Outlays	(1)	(1)	1	1	1	1	1	1	1	1	2	6
Expand offer versus serve:												
Budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	3
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	3
Reinstate categorical eligibility for Even Start participants:												
Budget authority	1	1	1	1	1	0	0	0	0	0	5	5
Outlays	1	1	1	1	1	(1)	0	0	0	0	5	5
Reduce 2 percent audit funds to 1 percent:												
Budget authority	-15	-15	-16	-17	-18	-19	-19	-21	-22	-23	-80	-183
Outlays	-5	-6	-6	-6	-7	-7	-7	-8	-8	-8	-29	-67
Make Kentucky-Iowa demonstration permanent:												
Budget authority	4	4	4	4	4	4	4	4	5	5	20	42
Outlays	3	4	4	4	4	4	4	4	5	5	19	41
Transfer homeless programs to CACFP:												
Budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	1	2	4
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	1	1	2	4
Provide snacks for teens in low-income areas:												
Budget authority	1	1	1	1	1	2	2	2	2	2	6	14
Outlays	(1)	1	1	1	1	1	2	2	2	2	6	14
Provide after-school snacks through the School Lunch Program:												
Budget authority	7	14	24	26	28	30	32	35	38	40	98	273
Outlays	5	13	22	25	27	30	32	34	37	40	93	266
Spending from WIC fines and penalties:												
Budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Interactions:												
Budget authority	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	-1	-2
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	-1	-2
Total:												
Budget authority	-8	-32	-27	-27	-27	-27	-26	-26	-24	-23	-120	-246
Outlays	4	-21	-18	-17	-16	-16	-14	-13	-11	-9	-68	-130

¹ Less than \$500,000.

Note.—Details may not sum to totals due to rounding.

Round Down Reimbursement Rates. Section 103 would lower the reimbursement rate for meals served free or for a reduced price in schools and day care centers. Under current law, the reimbursement rates for those meals are adjusted for inflation each year and then rounded to the nearest quarter cent. The bill would require those rates (except for lunches) to be rounded down to the nearest whole cent. The reimbursement rate for free and reduced lunches

has two components: the reimbursement rate for a full-price meal plus a special assistance rate. Each of those rates would be rounded down to the nearest cent and then summed. On average, schools would receive one cent less reimbursement for each lunch served and one-half cent less reimbursement for every other meal served. The provision would take effect July 1, 1999, and would reduce federal outlays by \$2 million in 1999, and \$49 million by 2008.

Adjust Summer Food Reimbursement Rates for Alaska and Hawaii. Section 104 would allow the Secretary of Agriculture to set higher reimbursement rates for the Summer Food Service program in Alaska, Hawaii, and territories where the cost of providing meals is greater than in the rest of the states. Under current law, the Secretary may set higher rates in all the other Child Nutrition programs. The authority to adjust rates is currently used only in Alaska and Hawaii. Based on the number of meals served in Alaska and Hawaii and the size of the adjustment the Secretary makes in the other child nutrition programs, the provision would cost less than \$500,000 a year.

Expand Private, NonProfit Participation in the Summer Food Program. Section 105(a) would allow private, nonprofit sponsors to operate more sites in the Summer Food Service program. Current law limits a private, nonprofit sponsor to 5 urban sites, 20 rural sites, and 20 sites in total. The proposal would raise the limit to 25 sites of any type. In 1997 there were about 600 private, nonprofit sponsors operating 2,200 sites. Only 13 percent of sponsors operate more than 5 sites, and only 6 percent of sponsors operate more than 10 sites, according to a Food and Nutrition Service (FNS) internal study. FNS officials report that about a dozen rural sponsors and a couple of urban sponsors have expressed interest in exceeding the limits under current law. The estimate assumes that 10 rural sponsors add 5 additional sites and 4 urban sponsors add 5 to 10 sites for a total of 80 new sites serving 5,000 new participants by 2001. The provision would increase outlays by less than \$500,000 in 1999 and 2000 and by about \$1 million each year thereafter.

Expand Offer versus Serve. Section 105(b) would allow all school-sponsored Summer Food Service program sites to receive reimbursement for a meal even if a child does not accept every component of the meal. Current law allows such reimbursement only if the program is sited at a school. This provision would extend the authority to programs that schools operate at other sites, such as parks or community centers. Based on discussions with federal officials, we assume that the provision would make the program marginally more attractive to sponsor. We assume a 1 percent increase in participation in school-sponsored programs that are not school-based. This change would result in an increase of less than \$500,000 a year.

Reinstate Categorical Eligibility for Even Start Participants. Section 107(b) reinstates categorical eligibility for free meals in the Child and Adult Care Food Program (CACFP) for Even Start participants. Under this provision, children would not have to meet income guidelines because the Even Start Program does not have any specific income guidelines. Program data show that while most families enrolled in Even Start have very low incomes, 8 percent

of families have an annual income of between \$15,000 and \$20,000, and an additional 9 percent have income over \$20,000. Most of the children in those families would not meet the income eligibility limit for free meals. Program data indicates that between 10 and 15 percent of the approximately 50,000 children enrolled in Even Start would be eligible for free meals under the provision despite having incomes that exceed the program limits. The provision would increase federal outlays by \$1 million annually.

Reduce 2 Percent Audit Funds to 1 Percent. Section 107(d) would reduce the funds available to states to conduct audits of CACFP. Under current law, each state receives an annual payment equaling 2 percent of the CACFP funds it spent in the second preceding fiscal year. The proposal would halve that payment. The funding is used by the states to conduct audits of participating CACFP institutions. Generally, states do not spend all of the funding available to them: in 1995 states spent \$15 million out of \$23 million available; in 1996 states spent \$15 million out of \$26 million available. The proposal would cut the funds available to states by \$15 million in 1999 rising to \$23 million by 2008. Because a portion of that funding would not have been used anyway, spending would decrease by only an estimated \$5 million in 1999 and \$8 million by 2008.

Make Kentucky-Iowa Demonstration Permanent. Section 107(e) would permanently authorize a demonstration project that allows expanded participation by for-profit providers in CACFP in Kentucky and Iowa. Current law allows most for-profit providers to participate in CACFP only if at least 25 percent of the children at the center receive Title XX funds. In Kentucky and Iowa, a for-profit provider can also participate if at least 25 percent of the children enrolled meet the income eligibility criteria for free and reduced meals (185 percent of poverty). The pilot project was funded at \$3.7 million in 1998. We estimate that funding would increase each year by 2.7 percent, the projected increase in the CACFP reimbursement rate. The provision would increase federal costs by \$4 million to \$5 million a year.

Transfer Homeless Programs to CACFP. Section 107(f) would consolidate two programs that provide meals to homeless children into CACFP. The Homeless Children Nutrition program serves children under age 7 in homeless shelters up to three meals and one snack per day. About 1 million meals were served through that program in 1997. The Summer Food Homeless program serves children under age 19 in homeless shelters up to two meals a day during summer months. About 100,000 meals were served through that program in 1997. The consolidated program would serve homeless children under age 13 up to three meals a day through CACFP. On balance, this program would provide reimbursement for more meals, mostly due to additional meals served to children between the ages of 6 and 12 year-round instead of just in the summer. The provision would cost less than \$500,000 a year through 2006, and about \$1 million in 2007 and 2008.

Provide Snacks for Teens in Low-Income Areas. Section 107(g) would allow centers that care for youth between the ages of 12 and 18 in low-income areas to participate in CACFP. Centers in areas where at least 50 percent of the enrolled students are certified eli-

gible for free or reduced meals could be reimbursed for one snack per child per day. Reimbursement would be at the rate for free snacks and all snacks would be served free. Reimbursement would be available for snacks served after school, on holidays, and on weekends.

CBO estimates that, after the initial year, about 10,000 youths would participate in the programs, rising to 15,000 by 2008. About 500,000 children between the ages of 6 and 12 currently participate in CACFP. Data from the Survey of Income and Program Participation indicate that for every 20 children between the ages of 6 and 12 who are in care, one child between the ages of 13 and 18 is in care. If after-school programs serving children ages 13–18 participate at the same rate as those serving younger children, then 25,000 additional youths could participate daily. Because the program could operate only in low-income areas, CBO estimates that only 40 percent of those children (10,000) would be eligible to participate. This number is assumed to grow by 5.5 percent a year, the projected rate of growth for snacks served in CACFP.

After-school programs would be reimbursed for 1 million snacks in 1999, 2 million in 2000, and 3 million by 2008. The estimate assumes that programs would operate 200 days a year on average. The school lunch program operates 180 days, but this program can also operate on weekends and holidays. Each snack would be reimbursed at about 50 cents for an annual cost of \$1 million to \$2 million once the provision is phased-in.

Provide After-School Snacks through the School Lunch Program. Section 108 would allow schools that operate a school lunch program to receive reimbursement for snacks served to children in after-school care programs. Under current law, a school can receive reimbursement for after-school snacks only if it establishes a child care center and participates in CACFP. Many school-based after-school programs do not participate in CACFP, partly because they are not willing or able to meet state requirements for child care centers. The provision would make it significantly easier for schools to receive reimbursement for snacks served to children after school, because schools would not have to apply as child care centers through a separate federal program. Only after-school programs which have an educational or enrichment purpose and are organized primarily for the purpose of providing care could participate.

In 1999, about 16,000 after-school programs could potentially participate in the new snack program. In 1991, there were about 13,500 after-school programs in public and private schools according to a Department of Education (ED) study. About 97 percent of public schools and 45 percent of private schools participate in the school lunch program. CBO estimates that 10,600 sites had both a school lunch program and an after-school program. Participation in CACFP by after-school programs has grown by 9 percent each year in recent years. School enrollment grew about 2 percent a year in the early 1990s. CBO projects that the number of after-school programs would grow by the average of those two rates, or 5.5 percent a year.

The estimate assumes that 60 percent of eligible programs, or 9,600 programs, would participate. This is slightly less than the 70 percent rate at which schools participate in the school breakfast

program. Wealthier schools are generally somewhat less likely to participate in the child nutrition programs, and ED data indicate that the schools with after-school programs are somewhat wealthier than average. About 2,800 school-based after-school programs already receive reimbursement for snacks through the CACFP, so 6,800 additional after-school programs would participate.

The new program could serve 60 million new snacks in 1999, and 95 million by 2008. If the new programs are the average size of programs already participating in CACFP (45 children) and operate the same number of days a year as lunch and breakfast programs (180 days) then the program would subsidize 56 million snacks in 1999. Because children between the ages of 13 to 18 could also participate in the new program, the number of new snacks would be 5 percent higher. CBO projects the number of snacks would grow at the same rate projected for all snacks in CACFP.

Assuming the income of the new participants is the same as for CACFP, 58 percent of the snacks would receive reimbursement at the free rate, 8 percent at the reduced-price rate, and the remainder at the paid rate. CBO assumes that participation would increase gradually so the first year cost would be \$6 million, about one-third of the cost of a fully implemented program. By 2001, the first year we expect the program would be fully phased in, the cost would be \$23 million; the cost would rise to \$39 million by 2008.

Spending from WIC Fines and Penalties. Section 202 would require state agencies to permanently disqualify from participating in the WIC program vendors who are convicted of trafficking in food instruments or selling firearms in exchange for food instruments. If disqualifying a vendor would pose a hardship to program participants, the vendor could remain in the program but would be assessed a civil money penalty by the state. In addition, states could impose fines on vendors and participants who are found guilty of fraud against the program. These penalties and fines could be spent by the state on nutrition services, administrative expenses, and food benefit assistance. Finally, the bill would require courts to order persons convicted of violating any WIC provisions to forfeit all property used in the transaction that resulted in the violation. The proceeds from a sale of the forfeited property would be used to reimburse federal and state agencies for costs incurred in the forfeiture proceedings. This section would increase both direct spending and receipts, but the amount is likely to be insignificant.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in Table 5. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

TABLE 5. SUMMARY OF PAY-AS-YOU-GO EFFECTS OF H.R. 3874

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	-	4	-21	-18	-17	-16	-16	-14	-13	-11	-9

TABLE 5. SUMMARY OF PAY-AS-YOU-GO EFFECTS OF H.R. 3874—Continued
 [By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in receipts	—	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)	(¹)

¹ = Less than \$500,000.

Estimated impact on State, local, and tribal governments: Although Title I of the bill, which would reauthorize child nutrition programs, would impose new requirements on states and local education agencies, these requirements would not be mandates as defined in UMRA. Specifically, the bill would:

Require local food service operations to undergo two annual health and safety inspections if state or local laws did not require it. Information from the American School Food Service Association (ASFSA) indicates that such inspections are required in all but two or three states. CBO estimates that local education agencies in the affected states would incur new costs of approximately \$1 million a year.

Require inflation adjustments for free and reduced price meals served in schools and day care centers to be rounded down to the nearest whole cent. CBO estimates that local education agencies would receive \$2 million less in fiscal 1999 and \$167 million less over the 1999–2003 period as the result of this provision.

Reduce funds allocated for state audits under the Child and Adult Care Food Programs from 2 percent to 1 percent of funds spent on the program in the second preceding fiscal year. CBO estimates that states would receive \$5 million less in fiscal 1999 and \$30 million less for the 1999–2003 period as the result of this provision.

Section 421(5)(B)(ii) of UMRA provides that new grant conditions and reductions in federal funding for certain entitlement programs, including child nutrition programs, are mandates if the state, local, or tribal governments that participate in the program lack the authority to amend their financial or programmatic responsibilities to continue providing required services under the program. Based on information from ASFSA and the Congressional Research Service, CBO assumes that states and local education agencies do, in general, have the authority to amend their financial and programmatic responsibilities to offset the costs imposed on them by this legislation. In addition to the flexibility under current law, the bill would grant additional flexibility by consolidating certain administrative requirements on states and local education agencies.

Title II of the bill, which would reauthorize the Special Supplemental Nutrition Program for Women, Infants, and Children, would also impose new requirements on the state and local agencies that administer the program. CBO estimates that the net costs of these new requirements, which would be the result of complying with grant conditions, would not be significant because many states are already complying. The bill would also reduce the state match rate requirement for participation in the Farmer's Market Nutrition program from 30 percent of total costs to 30 percent of administrative costs. CBO estimates that this change could save states \$3.5 million annually.

Estimated impact on the private sector: H.R. 3874 contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Valerie Baxter, Sheila Dacey, and Christina Hawley Sadoti; revenues: Hester Grippando; impact on State, local, and tribal governments: Marc Nicole; impact on the private sector: Bruce Vavrichek.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ROLLCALL VOTES

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1

BILL H.R. 3874
PASSED 36 - 1

DATE June 4, 1998

SPONSOR/AMENDMENT Mr. Ballenger / motion to report the bill with an amendment and with the recommendation that the amendment be agreed to and that the bill as amended do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mrs. ROUKEMA	X			
Mr. FAWELL	X			
Mr. BALLENGER	X			
Mr. BARRETT	X			
Mr. HOEKSTRA				X
Mr. McKEON				X
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. KNOLLENBERG				X
Mr. RIGGS	X			
Mr. GRAHAM	X			
Mr. SOUDER	X			
Mr. McINTOSH				X
Mr. NORWOOD				X
Mr. PAUL		X		
Mr. SCHAFFER	X			
Mr. PETERSON	X			
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. PARKER				X
Mr. CLAY	X			
Mr. MILLER				X
Mr. KILDEE	X			
Mr. MARTINEZ	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mrs. MINK	X			
Mr. ANDREWS	X			
Mr. ROEMER	X			
Mr. SCOTT	X			
Ms. WOOLSEY	X			
Mr. ROMERO-BARCELO	X			
Mr. FATTAH				X
Mr. HINOJOSA	X			
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Ms. SANCHEZ	X			
Mr. FORD	X			
Mr. KUCINICH	X			
TOTALS	36	1		8

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

NATIONAL SCHOOL LUNCH ACT

* * * * *

DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) * * *

(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance **authorized** under subsection (c) *required under subsections (c) and (e)* for each school year for the school lunch program in the State, not later than September 30 of the following school year.

[(c)] Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

[(d)] Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

[(e)] (c)(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

* * * * *

[(f)] (d) Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.

[(g)] (e)(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 4, this section, and section 11 shall be in the form of commodity assistance provided under this section, in-

cluding cash in lieu of commodities and administrative costs for procurement of commodities under this section.

* * * * *

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a) * * *

* * * * *

(h) If the food service operations of 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) are not required by State or local law to undergo health and safety inspections, then the school shall twice during each school year obtain State or local health and safety inspections to ensure that meals provided under such programs are prepared and served in a healthful and safe environment.

(i)(1) If a single State agency administers the school lunch program under this Act, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 13 of this Act, or the child and adult care food program under section 17 of this Act, then such agency—

(A) shall require each school food authority to submit a single agreement with respect to the operation of such programs by such authority; and

(B) shall require a common claiming procedure with respect to meals and supplements served under such programs.

(2) The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.

* * * * *

SPECIAL ASSISTANCE

SEC. 11. (a)(1) * * *

* * * * *

(3)(A) * * *

* * * * *

(B) The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available. The adjustments made under this paragraph shall be computed [to the nearest one-fourth cent, except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed] to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period.

* * * * *

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) * * *

* * * * *

(f) In providing assistance for **school breakfasts and lunches** *breakfasts, lunches, suppers, and supplements* served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under **sections 4 and 11** *sections 4, 11, 13, and 17* of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing **lunches and breakfasts** *meals* in those States and the costs of providing **lunches and breakfasts** *meals* in all other States.

* * * * *

(n) *BUY AMERICAN REQUIREMENT.*—

(1) *IN GENERAL.*—*For purposes of providing meals 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), the Secretary shall require schools located in the contiguous United States to purchase, to the extent practicable, only food products that are produced in the United States.*

(2) *ADDITIONAL REQUIREMENT.*—*The requirement of paragraph (1) shall also apply to recipient agencies in Hawaii only with respect to food products that are grown in Hawaii in sufficient quantities to meet the needs of meals provided 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).*

(3) *DEFINITION.*—*As used in this subsection, the term “food products that are produced in the United States” means—*

(A) *unmanufactured food products that are grown or produced in the United States; and*

(B) *manufactured food products that are manufactured in the United States substantially from agricultural products grown or produced in the United States.*

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. (a)(1) * * *

* * * * *

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) * * *

* * * * *

(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; *or*

conduct a regularly scheduled food service primarily for homeless children; or

qualify as camps; and

* * * * *

(7)(A) * * *

(B) As used in this paragraph, the term “private nonprofit organizations” means those organizations that—

【(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or

【(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);

【(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university) or a school participating in the school lunch program under this Act;

【(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;】

(i) operate not more than 25 sites, with not more than 300 children being served at any one site (or, with a waiver granted by the State agency under standards developed by the Secretary, not more than 500 children being served at any one site);

【(iv) *(ii)* exercise full control and authority over the operation of the program at all sites under their sponsorship;

【(v) *(iii)* provide ongoing year-around activities for children or families;

【(vi) *(iv)* demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

【(vii) *(v)* meet applicable State and local health, safety, and sanitation standards.

* * * * *

(f)(1) * * *

* * * * *

(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child 【attending a site on school premises operated directly by the authority】 to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

* * * * *

(1)(1) Service institutions 【(other than private nonprofit organizations eligible under subsection (a)(7))】 may contract on a competitive basis 【only with food service management companies registered with the State in which they operate】 *with food service management companies* for the furnishing of meals or management

of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. **【The State shall, upon award of any bid, review the company's registration to calculate how many remaining meals the food service management company is equipped to prepare.】**

(2) Each State **【shall】** *may* provide for the registration of food service management companies. **【For the purposes of this section, registration shall include, at a minimum—**

【(A) certification that the company meets applicable State and local health, safety, and sanitation standards;

【(B) disclosure of past and present company owners, officers, and directors, and their relationship, if any, to any service institution or food service management company that received program funds in any prior fiscal year;

【(C) records of contract terminations or disallowances, and health, safety, and sanitary code violations, in regard to program operations in prior fiscal year; and

【(D) the addresses of the company's food preparation and distribution sites.

No food service management company may be registered if the State determines that such company (i) lacks the administrative and financial capability to perform under the program, or (ii) has been seriously deficient in its participation in the program in prior fiscal years.

【(3) In order to ensure that only qualified food service management companies contract for services in all States, the Secretary shall maintain a record of all registered food service management companies that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies, for the purpose of making such information available to the States.】

【(4) (3) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

【(5) (4) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of \$100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

* * * * *

(q) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, **[1998] 2003**, 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. (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, **[1998] 2003**, shall—

(1) * * *

* * * * *

CHILD AND ADULT CARE FOOD PROGRAM

SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term “institution” means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with handicaps; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term “institution” shall include programs developed to provide day care outside school hours for school-children, and public or nonprofit private organizations that sponsor family or group day care homes. Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with handicaps). The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

[(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution’s license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; and]

(1) an institution (except a school or family or group day care home sponsoring organization) or family or group day care home—

(A)(i) shall be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

(ii) shall be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, unless the State has information indicating that the institution or family or group day care home's license will not be renewed;

(B) if Federal, State, or local licensing or approval is not available—

(i) shall meet any alternate approval standards established by the appropriate State or local governmental agency; or

(ii) shall meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for such institution, shall meet State or local health and safety standards; and

* * * * *

(c)(1) * * *

* * * * *

(6)(A) * * *

(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, [1997] 2003.

(d)(1) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (A) has tax exempt status under the Internal Revenue Code of 1986 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (B) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. *An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the program for a period of not more than 6 months unless it can demonstrate to the satisfaction of the State agency that its inability to obtain tax exempt status within the 6-month period is beyond the control of the institution in which case the State agency may grant a single extension not to exceed 90 days.* An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. [If an institution submits an incomplete application to the State, the State shall so

notify the institution within fifteen days of receipt of the application.】

* * * * *

(i) 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 **【2】** 1 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

* * * * *

(p)(1) * * *

* * * * *

【(4) Such project shall—
【(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and
【(B) terminate on September 30, 1998.
【(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1998, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.】

(q) **PARTICIPATION BY EMERGENCY SHELTERS.—**
(1) IN GENERAL.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).
(2) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(1) shall not apply to emergency shelters or sites operated by such shelters under the program.
(3) ADDITIONAL REQUIREMENTS.—
(A) HEALTH AND SAFETY STANDARDS.—An emergency shelter and each site operated by such shelter shall comply with State or local health and safety standards.
(B) MEAL REIMBURSEMENT.—
(i) LIMITATION.—An emergency shelter may claim reimbursement—
(I) only for meals and supplements served to children who have not attained the age of 13 and who are residing at an emergency shelter; and
(II) for not more than 3 meals, or 2 meals and a supplement, per child per day.
(ii) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).
(iii) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.
(4) DEFINITION OF EMERGENCY SHELTER.—As used in this subsection, the term “emergency shelter” has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).
(r) “AT RISK” CHILD CARE.—

(1) *IN GENERAL.*—Subject to the conditions in this subsection, institutions that provide care to at risk school children during after-school hours, weekends, or holidays during the regular school year may participate in the program authorized under this section. Unless otherwise specified in this subsection, all other provisions of this section shall apply to these institutions.

(2) *AT RISK SCHOOL CHILDREN.*—Children ages 12 through 18 who live in a geographical area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 shall be considered at risk.

(3) *SUPPLEMENT REIMBURSEMENT.*—

(A) *LIMITATION.*—Only supplements served to at risk school children during after-school hours, weekends, or holidays during the regular school year may be claimed for reimbursement. Institutions may claim reimbursement for only one supplement per child per day.

(B) *RATE.*—Eligible supplements shall be reimbursed at the rate for free supplements under subsection (c)(3).

(C) *NO CHARGE.*—All supplements claimed for reimbursement shall be served without charge.

SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) *GENERAL AUTHORITY.*—

(1) * * *

(2) *ELIGIBLE SCHOOLS.*—For the purposes of this section, the term “eligible elementary and secondary schools” means schools that—

(A) * * *

* * * * *

[(C) are participating in the child care food program under section 17 on May 15, 1989.]

(C) *operate afterschool programs with an educational or enrichment purpose.*

(b) *ELIGIBLE CHILDREN.*—Reimbursement may be provided under this section only for supplements [served to children—

[(1) who are not more than 12 years of age; or

[(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.] served to children who are not more than 18 years of age.

* * * * *

[SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

[(a) *IN GENERAL.*—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

[(b) *AGREEMENTS TO PARTICIPATE IN PROJECTS.*—

[(1) *IN GENERAL.*—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

[(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section. The requirements shall include the following:

[(A) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

[(B) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

[(c) PROJECT REQUIREMENTS.—

[(1) IN GENERAL.—A project conducted under this section shall—

[(A) use the same meal patterns and receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements; and

[(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project.

[(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

[(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

[(d) FUNDING PRIORITIES.—From the amount described in subsection (g), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the “current fiscal year”) in the following order of priority, to the maximum extent practicable:

[(1) The Secretary shall first provide the funding to entities and organizations, each of which—

[(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

[(B) is eligible to receive funding under this section to carry out the project for the current fiscal year; to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

[(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

[(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

[(f) PLAN TO ALLOW PARTICIPATION IN THE CHILD AND ADULT CARE FOOD PROGRAM.—Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

[(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child and adult care food program authorized under section 17 by September 30, 1998; and

[(2) the advantages and disadvantages of the action described in paragraph (1).

[(g) FUNDING.—

[(1) IN GENERAL.—In addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) and any amounts that are 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 to carry out this section \$1,800,000 for fiscal year 1995, \$2,600,000 for fiscal year 1996, \$3,100,000 for fiscal year 1997, \$3,400,000 for fiscal year 1998, and \$3,700,000 for fiscal year 1999 and each succeeding fiscal year. The Secretary shall be entitled to receive the funds and shall accept the funds.

[(2) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in paragraph (1) for a fiscal year if there is an insufficient number of suitable applicants to carry out projects under this section for the fiscal year. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

[(h) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term “emergency shelter” has the meaning provided the term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).]

PILOT PROJECTS

SEC. 18. (a) * * *

* * * * *

[(i)(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

[(A) reduce paperwork;

[(B) reduce application and meal counting requirements; and

[(C) make changes that will increase participation in the school lunch and school breakfast programs.

[(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

[(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

[(C) No child otherwise eligible for free or reduced price meals under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively.

[(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

[(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

[(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 11(a)(1);

[(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

[(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

[(iv) describing the funding, if any that the school will receive from non-Federal sources to carry out the pilot project;

[(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

[(vi) describing the policy of the school on a la carte and competitive foods;

[(B) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

[(C) meet any other requirement that the Secretary may reasonably require.

[(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

[(A) Urban and rural schools.

[(B) Elementary, middle, and high schools.

[(C) Schools of varying income levels.

[(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this Act and under the school breakfast program under section 4 of the Child Nutrition Act of 1966, adjusted for inflation and fluctuations in enrollment.

[(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

[(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

[(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

[(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

[(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

[(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

[(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

[(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

[(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

[(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

[(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

[(i) a description of the pilot projects approved by the Secretary under this subsection;

[(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and

[(iii) an evaluation of the program by the Secretary.

[(8) There are authorized to be appropriated to carry out this subsection \$9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.]

(i) *UNIVERSAL FREE BREAKFAST PILOT PROJECTS.*—

(1) *IN GENERAL.*—

(A) *GRANTS TO STATES.*—(i) *Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to not more than 5 States to conduct pilot projects in elementary schools under school food authorities located in each such State—*

(I) to reduce paperwork;

(II) to simplify meal counting requirements; and

(III) to make changes that will increase participation in the school breakfast program.

(ii) *The Secretary shall select States to receive grants under clause (i), and make grants to such States, in the first fiscal year for which appropriations are made to carry out this subsection.*

(B) *GRANTS TO SCHOOL FOOD AUTHORITIES; DURATION OF PILOT PROJECTS.*—(i)(I) *A State receiving a grant under subparagraph (A) shall make grants to school food authorities to carry out the pilot projects described in such subparagraph.*

(II) The State shall select school food authorities to receive grants under clause (i), and make grants to such authorities, in the first fiscal year for which the State receives amounts under a grant.

(ii) *A school food authority receiving amounts under a grant to conduct a pilot project described in subparagraph (A) shall conduct such project for the 3-year period beginning in the first fiscal year in which the authority receives amounts under a grant from the State.*

(C) *PARTICIPATION LIMITATION.*—*A school food authority conducting a pilot project under this paragraph shall ensure that some elementary schools under such authority do not participate in the pilot project.*

(2) *WAIVER AUTHORITY.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).*

(B) *NON-WAIVABLE REQUIREMENTS.*—*The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or*

a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

(3) *REQUIREMENTS FOR PARTICIPATION IN PILOT.*—To be eligible to participate in a pilot project under this subsection—

(A) a State—

(i) shall submit an application to the Secretary at such time and in such manner as the Secretary shall establish; and

(ii) shall provide such information relative to the operation and results of the pilot as the Secretary may reasonably require; and

(B) a school food authority—

(i) shall agree to serve all breakfasts at no charge to all children in participating elementary schools;

(ii) shall not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(iii) shall meet any other requirement that the Secretary may reasonably require.

(4) *SELECTION OF PILOT ELEMENTARY SCHOOLS.*—To the extent practicable, a State shall select school food authorities to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of elementary schools:

(A) Urban and rural elementary schools.

(B) Elementary schools of varying family income levels.

(5) *REIMBURSEMENT RATES.*—A school food authority conducting a pilot project under this subsection shall receive reimbursement for each breakfast served under the pilot in an amount equal to the rate for free breakfasts established under section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)).

(6) *COMMODITY ENTITLEMENT.*—A school food authority conducting a pilot project under this subsection shall receive commodities in the amount of at least 5 cents per breakfast served under the pilot. The value of such commodities shall be deducted from the amount of cash reimbursement described in paragraph (5).

(7) *EVALUATION OF PILOT PROJECT.*—

(A) *IN GENERAL.*—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot projects in each of the school food authorities selected for participation. Such evaluation shall include—

(i) a determination of the effect of participation in the pilot project on the academic achievement, tardiness and attendance, and dietary intake of participating children that is not attributable to changes in educational policies and practices; and

(ii) a determination of the effect that participation by elementary schools in the pilot projects has on the proportion of students who eat breakfast.

(B) *REPORT.*—Upon completion of the pilot projects 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 containing the evaluation of the pilot required under subparagraph (A).

(8) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.*

* * * * *

SEC. 21. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

(a) * * *

* * * * *

(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 [1998] 2003.

* * * * *

SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

(a) * * *

* * * * *

(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 [1996] 2003.

* * * * *

SEC. 26. INFORMATION CLEARINGHOUSE.

(a) **IN GENERAL.—**The Secretary [shall] *may* enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

(b) **NONGOVERNMENTAL ORGANIZATION.—**The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis, *except that, notwithstanding any other provision of law, the Secretary may enter into a contract for the services of any organization with which the Secretary has previously entered into a contract under this section without such organization competing for such new contract, if such organization has performed satisfactorily under such prior contract and otherwise meets the criteria established in this subsection, and shall—*

(1) * * *

* * * * *

(c) *LIMITATION ON AMOUNT PROVIDED UNDER THE CONTRACT.*—The Secretary may provide to the organization described in subsection (b) an amount not to exceed \$150,000 in each of fiscal years 1999 through 2003.

[(c)] (d) *AUDITS.*—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

[(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, and \$100,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.]

(e) *FUNDING.*—

(1) *IN GENERAL.*—There are authorized to be appropriated \$150,000 for each of the fiscal years 1999 through 2003 to carry out this section.

(2) *REQUIREMENT.*—No amounts may be provided for the clearinghouse under this section unless specifically provided in appropriations Acts.

[SEC. 27. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

[(a)] *DEFINITIONS.*—As used in this section:

[(1)] *CHILDREN WITH DISABILITIES.*—The term “children with disabilities” means individuals, each of whom is—

[(A)] a participant in a covered program; and

[(B)] an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

[(2)] *COVERED PROGRAM.*—The term “covered program” means—

[(A)] the school lunch program established under this Act;

[(B)] the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

[(C)] any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

[(3)] *ELIGIBLE ENTITY.*—The term “eligible entity” means a school food service authority, or an institution or organization, that participates in a covered program.

[(b)] *GUIDANCE.*—

[(1)] *DEVELOPMENT.*—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidance for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

[(2)] *TIMING.*—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42

U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 150 days after the date of enactment of this section.

[(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

[(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidances to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

[(c) GRANTS.—

[(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

[(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

[(3) ALLOCATION BY SECRETARY.—

[(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

[(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

[(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

[(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

[(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

[(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

[(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788)

or by the food service management institute established under section 21.

【(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

【(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

【(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

【(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

【(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for each of fiscal years 1995 through 1998 to carry out this subsection.】

SEC. 27. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

(a) *IN GENERAL.*—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program. Such activities may include—

- (1) *developing and disseminating to State agencies guidance and technical assistance materials;*
- (2) *conducting training of State agencies and eligible entities;*
- and*
- (3) *providing grants to State agencies and eligible entities.*

(b) *DEFINITIONS.*—As used in this section:

(1) *INDIVIDUALS WITH DISABILITIES.*—The term “individuals with disabilities” has the meaning given the term ‘individual with a disability’ as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(2) *COVERED PROGRAM.*—The term “covered program” means—

- (A) *the school lunch program authorized under this Act;*
- (B) *the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);*
- and*
- (C) *any other program authorized under this Act or the Child Nutrition Act of 1966 (except for section 17) that the Secretary determines is appropriate.*

(3) *ELIGIBLE ENTITY.*—The term “eligible entity” means a school food authority, institution, or service institution that participates in a covered program.

(c) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003 to carry out this section.*

CHILD NUTRITION ACT OF 1966

* * * * *

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a)(1) * * *

* * * * *

(5)(A) * * *

(B)(i) In the fiscal year 1991 and each succeeding fiscal year, any amounts appropriated that are not obligated or expended during such fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary. From any amounts returned to the Secretary under the preceding sentence:

(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private non-profit organizations participating in projects under section 17B of the National School Lunch Act, not more than \$4,000,000 in fiscal year 1995 and each subsequent fiscal year. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of fiscal year 1995 and each subsequent fiscal year, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than \$1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects from funds available under this section that have not been otherwise allocated to States.

(II) After making the allocations under subclause (I), the Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for such amounts.

(ii) In any fiscal year in which amounts returned to the Secretary under the first sentence of clause (i) are insufficient to provide the complete allocation described in clause (i)(I), all of such amounts shall be allocated for the purpose described in clause (i)(I). *The Secretary shall then allocate, for purposes of administration costs, any remaining amounts among States that demonstrate a need for such amounts.*

(6) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

(6) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act may be used by State agencies for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21) and the National School Lunch Act without regard to the basis on which such funds were earned and allocated.

* * * * *

(g) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [1998] 2003, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

* * * * *

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 17. (a) * * *

* * * * *

(d)(1) * * *

* * * * *

(3)(A) * * *

* * * * *

(C)(i) Except as provided in clause (ii), each applicant to the program shall be physically present at each certification determination in order to determine eligibility under the program.

(ii) A local agency may waive the requirement of clause (i)—

(I) if required to do so by requirements under the Americans with Disabilities Act;

(II) with respect to a child who was present at the initial certification visit and who is receiving on-going health care from a provider other than such local agency, if the agency determines that the requirement of clause (i) would present a barrier to participation; or

(III) with respect to a child (aa) who was present at the initial certification visit, (bb) who was present at a certification determination within the 1-year period ending on the date of the certification determination described in clause (i), and (cc) who has one or more parents who work, if the agency determines that the requirement of clause (i) would cause a barrier to participation.

(D)(i) Except as provided in clause (ii), in order to be eligible for the program, each applicant to the program shall provide—

(I) documentation of household income; or

(II) documentation of participation in a program described in clauses (ii) and (iii) of paragraph (2)(A).

(ii)(I) A State agency may waive the requirement of clause (i)—

(aa) with respect to an applicant for whom the necessary documentation is not available; or

(bb) with respect to an applicant, such as homeless women or children, for whom the agency determines the requirement of clause (i) would present a barrier to participation.

(II) *The Secretary shall prescribe regulations to carry out division (aa).*

(e)(1) The State agency shall ensure that nutrition education and drug abuse education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education and drug abuse education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. *A local agency participating in the program shall provide education or educational materials relating to the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman.*

* * * * *

(4) *The Secretary may provide nutrition education materials, including breastfeeding promotion materials, developed with funds appropriated to carry out the program under this section in bulk quantity to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 at no cost to that program.*

[(4)] (5) The State agency—

(A) * * *

* * * * *

[(5)] (6) Each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.

(f)(1) * * *

* * * * *

(23) *Each State agency shall implement a system designed to identify recipients who are participating at more than 1 site under the program.*

(24) *Each State agency—*

(A) *shall identify vendors that have a high probability of program abuse; and*

(B) *shall conduct compliance investigations of such vendors.*

(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 1998)] 1999 through 2003**. As authorized by section 3 of the 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) * * *

* * * * *

(C)(i) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from

amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

(ii)(I) *Notwithstanding any other provision of this section, with respect to fiscal year 2000 and subsequent fiscal years, a State agency may use amounts made available under clause (i) for the purchase of breast pumps.*

(II) *A State agency that exercises the authority of subclause (I) shall expend from amounts allocated for nutrition services and administration an amount for the purchase of breast pumps that is not less than the amount expended for the purchase of breast pumps from amounts available for nutrition services and administration for the prior fiscal year.*

(2)(A) For each of the fiscal years **1995 through 1998** *1999 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—

(i) * * *

* * * * *

(B)(i) * * *

(ii) If a State agency's per participant expenditure for nutrition services and administration is more than **15 percent** *10 percent (except that the Secretary may establish a higher percentage for small State agencies)* higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

* * * * *

(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency **achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may** *submits a plan to reduce average food costs per participant and to increase participation above the level estimated for such State agency, such State agency may, with the approval of the Secretary,* convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

(i) * * *

* * * * *

(8)(A)(i) * * *

* * * * *

(iii) *A State agency using a competitive bidding system for infant formula shall award contracts to the bidder offering the lowest net price 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 five percent.

* * * * *

(10)(A) **【**For each of fiscal years 1995 through 1998,**】** *For each fiscal year 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 food benefit funds for the prior fiscal year that has not been obligated, whichever is less.*

* * * * *

(11)(A) *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 such foods.*

(B) The State agency shall establish procedures to insure 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 selection in the program.

(i)(1) * * *

* * * * *

(3)(A) Notwithstanding paragraph (2) and subject to subparagraphs (B) and (C)—

【(i) not more than 1 percent (except as provided in subparagraph (H)) 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 expenses incurred under this section for supplemental foods during the preceding fiscal year; and

【(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section maybe expended by the State agency during the subsequent fiscal year.**】**

(i) not more than 1 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, and not more than 1 percent of the amount of funds allocated to a State agency under this section for nutrition services and administration for a fiscal year, may be expended by the State agency for allowable expenses incurred under this section for supplemental foods and nutrition services and administration, respectively, during the preceding fiscal year; and

(ii)(I) a State agency may expend, from amounts allocated to the agency for nutrition services and administration, an amount equal to not more than 1 percent of the total amount of funds allocated to the agency under this section for a fiscal year for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

(II) with the prior approval of the Secretary, a State agency may expend, from amounts allocated to the agency for nutrition services and administration, an amount equal to not more than one-half of 1 percent of the total amount of funds allocated to

the agency under this section for a fiscal year for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.

* * * * *

[(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.

[(D) For State agencies implementing cost containment measures as defined in subsection (h)(9), not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and not more than 3 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.

[(E) Notwithstanding any other provision in this paragraph and paragraph (2) a State agency may, subject to the approval of the Secretary under subparagraph (F), expend not more than 3 percent of the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991 for expenses incurred under this section for supplemental foods during the fiscal year 1990.

[(F) Each State agency which intends to use the authority provided in subparagraph (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

[(G) No State can use the authority provided under subparagraph (E) to increase the caseload level above the highest level to date in fiscal year 1990.]

[(H) (C) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.

* * * * *

(m)(1) * * *

* * * * *

(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 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.

* * * * *
 (6)(A) * * * * *
 * * * * *

[(F)] In approving and ranking State plans submitted under this paragraph, the Secretary shall—

[(i)] favorably consider a State’s prior experiences with this or similar programs;

[(ii)] favorably consider a State’s operation of a similar program with State or local funds that can present data concerning the value of the program;

[(iii)] require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

[(iv)] give preference to State plans that would serve areas in the State that have—

[(I)] the highest concentration of eligible persons;

[(II)] the greatest access to farmers’ markets;

[(III)] broad geographical area;

[(IV)] the greatest number of recipients in the broadest geographical area within the State; and

[(V)] any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

[(v)] take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.】

[(G)] (F)(i) An amount equal to 75 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

* * * * *

(9)(A) 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 1998]** *1999 through 2003*.

* * * * *

(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

(1) IN GENERAL.—Except as provided in paragraph (5), the State agency shall permanently disqualify a vendor convicted of

trafficking in food instruments (including any voucher, draft, check, or access device, including an electronic benefit transfer card or personal identification number, issued in lieu of a food instrument pursuant to the provisions of this section), or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act) in exchange for food instruments.

(2) *NOTICE OF DISQUALIFICATION.—The State agency shall provide the vendor with notification of the disqualification and shall make such disqualification effective on the date of receipt of the notice of disqualification.*

(3) *PROHIBITION ON RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of the disqualification under this subsection.*

(4) *HARDSHIP EXCEPTION IN LIEU OF DISQUALIFICATION.—*

(A) *IN GENERAL.—A State agency may permit a vendor that would otherwise be disqualified under paragraph (1) to continue to redeem food instruments or otherwise provide supplemental foods to participants if the State agency determines, in its sole discretion according to criteria established by the Secretary, disqualification of the vendor would cause hardship to participants in the program authorized under this section.*

(B) *CIVIL MONEY PENALTY.—Whenever a State agency authorizes a vendor that would otherwise be disqualified to redeem food instruments or provide supplemental foods in accordance with subparagraph (A), the State agency shall assess the vendor a civil money penalty in lieu of a disqualification.*

(C) *AMOUNT.—The State agency shall determine the amount of the civil penalty according to criteria established by the Secretary.*

(p) *STUDY AND REPORT BY ECONOMIC RESEARCH SERVICE.—*

(1) *STUDY.—The Secretary, acting through the Administrator of the Economic Research Service, shall conduct a study on the effect of cost containment practices established by States under the program for the selection of vendors and approved food items (other than infant formula) on the following:*

(A) *Program participation.*

(B) *Access and availability of prescribed foods.*

(C) *Voucher redemption rates and actual food selections by participants.*

(D) *Participants on special diets or with specific food allergies.*

(E) *Participant use and satisfaction of prescribed foods.*

(F) *Achievement of positive health outcomes.*

(G) *Program costs.*

(2) *REPORT.—Not later than 3 years after the date of the enactment of the Child Nutrition and WIC Reauthorization Amendments of 1998, the Administrator shall submit to the Secretary of Agriculture, 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*

containing the results of the study conducted under paragraph (1).

(q) *USE OF PENALTIES FROM VENDOR AND RECIPIENT FRAUD AND ABUSE.*—Amounts collected from penalties from vendors and recipients relating to violations of any provision of this section (including any regulation established to carry out this section) for fraud and abuse under the program may be used for nutrition services and administration and food benefits only for the 1-year period beginning on the date on which amounts under the penalty are received.

(r) *MAXIMUM AMOUNT OF FINE FOR CERTAIN VIOLATIONS UNDER THE PROGRAM.*—The maximum amount of a fine with respect to the embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments of funds, assets, or property that are of a value of \$100 or more under the program shall be \$25,000.

(s) *CRIMINAL FORFEITURE.*—

(1) *IN GENERAL.*—In imposing a sentence on a person convicted of an offense in violation of any provision of this section (or any regulation promulgated under this section), a court shall order, in addition to any other sentence imposed under this section, that the person forfeit to the United States all property described in paragraph (2).

(2) *PROPERTY SUBJECT TO FORFEITURE.*—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of any provision of this section (or any regulation promulgated under this section), or proceeds traceable to a violation of any provision of this section (or any regulation promulgated under this section), shall be subject to forfeiture to the United States under paragraph (1).

(3) *INTEREST OF OWNER.*—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

(4) *PROCEEDS.*—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the State agency to carry out the approval, reauthorization, and compliance investigations of vendors.

* * * * *

NUTRITION EDUCATION AND TRAINING

SEC. 19. (a) * * *

* * * * *

APPROPRIATIONS AUTHORIZED

(i) [(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than \$75,000 per year.

[(2)(A) Out of any moneys in the Treasury not otherwise appropriated, and in addition to any amounts otherwise made available for fiscal year 1995, the Secretary of the Treasury shall provide to the Secretary \$1,000 for fiscal year 1995 and \$10,000,000 for fiscal year 1996 for making grants under this section to each State for the conduct of nutrition education and training programs. The Secretary shall be entitled to receive the funds and shall accept the funds.

[(B)(i)(I) Subject to clause (ii), grants to each State from the amounts appropriated under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within such State.

[(II) If the amount appropriated for any fiscal year is insufficient to pay the amount to which each State is entitled under subclause (I), the amount of each grant shall be ratably reduced. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

[(ii) No State shall receive an amount that is less than—

[(I) \$50,000, in any fiscal year in which the amount appropriated for purposes of this section is less than \$10,000,000;

[(II) \$62,500, in any fiscal year in which the amount appropriated for purposes of this section is \$10,000,000 or more but is less than \$15,000,000;

[(III) \$68,750, in any fiscal year in which the amount appropriated for purposes of this section is \$15,000,000 or more but is less than \$20,000,000; and

[(IV) \$75,000 in any fiscal year in which the amount appropriated for purposes of this section is \$20,000,000 or more.]

[(3) (1) FISCAL YEARS [1997 THROUGH 2002] 1999 THROUGH 2003.—

[(A) IN GENERAL.—There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1997 through 2002.]

(A) IN GENERAL.—*There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 1999 through 2003.*

* * * * *

[(4) (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.

[(5) (3) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Department of Education.

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ADDITIONAL VIEWS

I am compelled to respond to concerns with my amendment to allow the federal U.S. Department of Agriculture to purchase the lower priced non-quota peanuts for the school lunch and other food assistance programs raised during full Committee consideration of H.R. 3874. Allegations made during discussion of the amendment reflected the fear that the purchasing of non-quota peanuts would result in the infiltration of foreign foods into the school lunch program. However, Federal nutrition law has longstanding "Buy American" provisions that require the government to purchase U.S.-produced commodities. U.S. grown non-quota peanuts are no different than U.S. quota peanuts, except that they are grown without a license and they are available at approximately \$350 per ton as compared to quota peanuts at about \$650 per ton. The proposed amendment to the National School Lunch Act had absolutely nothing to do with the importation of foreign peanuts, nor food safety.

Contrary to the rhetoric of peanut quota program proponents, the Depression era peanut quota system was not phased out in the Federal Agriculture Improvement and Reform ("FAIR") Act, Some food commodities were transitioned to the free market under the provisions of the Farm Bill of 1996. However, the peanut quota system was left untouched by the new law. Therefore, U.S. peanuts continue to be subject to severe restrictions on production with artificial price supports that are almost twice the world market price.

The proposed amendment to the National School Lunch Act to allow USDA to buy non-quota peanuts for the school lunch program would not "kill the American peanut farmer" as suggested during consideration of the amendment. The amount of non-quota peanuts purchased for USDA food assistance programs is less than 2% of the national peanut quota production. In 1997, the Secretary of Agriculture set the national peanut quota at 1,133,000 tons, while the USDA purchases of peanuts totaled 19,200 tons. Thus, to have the USDA buy non-quota peanuts would hardly kill the American peanut farmer. In fact, it may help U.S. farmers that grow peanuts who are just as "American" as farmers and quota holders that have an exclusive federal license to grow peanuts at a support price that is almost twice the world price.

The amendment I proposed to the National School Lunch Act simply provided a mechanism for the U.S. government to buy non-quota peanuts at the same price that we sell American peanuts to foreign countries. While current law requires U.S. peanut growth without a quota to be exported or crushed into oil or meal, my amendment would have made these peanuts available at the same lower price for consumption by American school children. If we were to allow the Federal government to purchase peanuts for American school children for the same price we sell American peanuts to consumers in other countries, we could have saved at least

\$5 million to purchase a greater amount of nutritious food through government feeding programs. It is now particularly clear that peanut quota holders want the federal government to support their pocketbooks, even if its at the expense of enhanced nutrition for American school children.

DONALD M. PAYNE.

DISSENTING VIEWS

I. INTRODUCTION

Congress should reject HR 3874, a bill reauthorizing the Women's, Infant, and Children's (WIC) program and other childhood nutrition programs, and the flawed redistributionist, welfare state model that lies behind this bill. Although the goals of this legislation are noble, the means toward achieving the goals embodied therein are unconstitutional and ineffective.

Providing for the care of the poor is a moral responsibility of every citizen, however, it is not a proper function of the federal government to plunder one group of citizens and redistribute those funds to another group of citizens. Nowhere in the United States Constitution is the federal government authorized to provide welfare services. If any government must provide welfare services, it should be state and local governments. However, the most humane and efficient way to provide charitable services are through private efforts. Among their other virtues, private charities are much more likely to provide short-term assistance rather than fostering long-term dependency upon government programs.

Private charities are also much better able to target assistance to the truly needy than government programs, which are burdened with bureaucratic rules of eligibility, as well as procedures designed to protect the "due process" rights of recipients, which cannot be adequately changed to meet unique individual circumstances. Thus many people who are genuinely needy do not receive needed help. In fact, more than 40% of all families living below the poverty level receive no government assistance. Private charities can also be more effective because they do not have to fulfill administrative requirements, such as the WIC's program rebate system, which actually divert resources from the needy.

II. GOVERNMENT WELFARE PROGRAMS VIOLATE THE PRIVACY AND OTHER RIGHTS OF THE RECIPIENTS

Private charities are also able to place an emphasis upon reformation of personal behavior while not imposing the controls on personal life that government programs, such as WIC, impose on the program recipients. When a pregnant woman signs up to receive WIC vouchers, she is trading away a large amount of her personal freedom. Her choices of where to shop will be restricted to WIC-approved vendors and her choice of what foods to buy will be restricted to those foods which match the WIC nutrition specifications. WIC recipients are also required to participate in WIC parenting and nutrition classes.

As an OB/GYN I certainly recognize the importance of proper nutrition for pregnant women and young children. However, as a constitutionalist, I strenuously object to the federal government coerc-

ing pregnant women into accepting such services and restricting their choices of food products. The founders of this country would be flabbergasted if they knew that the federal government had monopolized the provisions of charitable services to low-income women, but they would be horrified if they knew the federal government was forbidding poor women from purchasing Post Raisin Bran for their children because some federal bureaucrats had determined that it contains too much sugar!

III. THE PROGRAMS IN HR 2646 ARE CORPORATE WELFARE MASQUERADING AS COMPASSION

The fact that the manufacture of foods such as Raisin Bran battle to get their products included in this program reveals the extent to which WIC is actually corporate welfare. Many corporations have made a tidy profit from helping to feed the poor and excluding their competitors in the process. For example, thanks to the WIC program, the federal government is the largest purchaser of infant formula in the nation.

According to the Congressional Research Service, food vendors participating in WIC received \$9.86 billion in Fiscal Year 1997—75% of the total funds spent on the WIC program! This fiscal year, producers of food products approved by the federal government for purchase by WIC participants are expected to receive \$10 billion in taxpayer dollars! Small wonder the lobbyists who came to my office to discuss WIC were not advocates for the poor, but rather well-healed spokespersons for corporate interests!

Anyone who doubts that these programs serve the interests of large corporations should consider that one of the most contentious issue debated at Committee mark-up was opposition to an attempt to allow USDA to purchase non-quota peanuts (currently the only peanuts available for sale are farmers who have a USDA quota all other farmers are forbidden to sell peanuts in the US) for school nutrition programs. Although this program would have saved the American taxpayers \$5 million this year, the amendment was rejected at the behest of supporters of the peanut lobby. A member of my staff, who appropriately asked why this amendment could not pass with overwhelming support, was informed by a staffer for another member, who enthusiastically supports the welfare state, that the true purpose of this program is to benefit producers of food products, not feed children.

III. FEDERAL WELFARE PROGRAMS CROWD OUT MORE COMPASSIONATE AND EFFICIENT PRIVATE EFFORTS

The main reason supporters of a free and moral society must oppose this bill is because federal welfare programs crowd out the more efficient private charities for two reasons. First, the taxes imposed on the American people in order to finance these programs leave taxpayers with fewer resources to devote to private charity. Secondly, the welfare state erodes the ethic of charitable responsibility as citizens view aiding the poor as the government's role, rather than a moral obligation of the individual.

The best way to help the poor is to dramatically cut taxes thus allowing individuals to devote more of their own resources to those charitable causes which better address genuine need. I am a co-

sponsor of H.R. 1338, which raises the charitable deduction and I believe Congress should make awakening the charitable impulses of the American people by reducing their tax burden one of its top priorities. In fact, Congress should seriously consider enacting a dollar-per-dollar tax credit for donations to the needy. This would do more to truly help the disadvantaged than a tenfold increase in spending on the programs in H.R. 3874.

IV. CONCLUSION

Congress should reject H.R. 3874 because the programs contained therein lack constitutional foundation, allow the federal government to control the lives of program recipients, and serve as a means of transferring monies from the taxpayers to big corporations. Instead of funding programs, Congress should return responsibility for helping those in need to those best able to effectively provide assistance, the American people acting voluntarily.

RON PAUL.

