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105TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 105-243

AMEND THE NATIONAL SCHOOL LUNCH ACT

JULY 10, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 2286]

The Committee on Agriculture, Nutrition and Forestry, having considered the bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children increased access to food and nutrition assistance, simplify program operations and improve program management and to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE AND NEED FOR LEGISLATION

Certain child nutrition programs must be reauthorized in fiscal year 1998. Some of the larger programs that must be reauthorized include: (1) the Special Supplemental Nutrition Program for Women, Infants and Children (WIC); (2) the State Administrative Expense program; (3) the WIC Farmer's Market Nutrition Program; (4) the Summer Food Service Program; and (5) the requirement to use certain funds to purchase commodities to maintain commodity assistance for child nutrition programs. In addition,

demonstration and pilot projects contained in the National School Lunch Act expire in fiscal year 1998. This legislation, Child Nutrition and WIC Reauthorization Amendments of 1998, reauthorizes these Acts through fiscal year 2003. The legislation also amends the Commodity Distribution Reform Act and WIC Amendments of 1987 to reform certain commodity provisions as they relate to the child nutrition programs. The Committee bill improves the child nutrition programs by simplifying and streamlining the administration of the programs. The bill also strengthens the anti-fraud and abuse provisions in the WIC program and the Child and Adult Care Food Program. The legislation allows children in low-income areas to participate in the after-school snack program of the child and adult care food program up to age 18. The Committee bill does not create any new programs, does not reverse any decisions made in welfare reform, targets benefits to low-income children and, over the five-year reauthorization period, reduces federal spending.

II. BACKGROUND AND SUMMARY OF LEGISLATION

BACKGROUND

The federal government supports over a dozen child nutrition programs and other activities that reach more than 35 million children. In fiscal year 1998, federal costs are expected to total approximately \$12.8 billion.

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

serving “boarder babies” and children in after-school programs, a commodity supplemental food program, a WIC farmers’ market program and a Food Service Management Institute.

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

SUMMARY OF THE LEGISLATION

1. National School Lunch and Breakfast Program

The Committee bill makes some changes to the National School Lunch and Breakfast Program, many of which have no cost implication. The legislation requires schools to have at least one food safety inspection every year, unless the State or local government has a requirement. The bill also eliminates the requirement that the Secretary directly administer child nutrition programs for a State. The legislation streamlines the administration of programs for school food nutrition programs for a State. The legislation streamlines the administration of programs for school food service personnel by allowing them to operate after-school snack programs through the National School Lunch Program instead of requiring them to operate the programs separately through the Child and Adult Care Food Program. The Committee bill also provides for an evaluation of offering free school breakfasts to elementary school children without regard to family income. There is a great deal of research showing that breakfast is an important factor in determining the performance and behavior of school children. Some believe that offering a free school breakfast for all children will increase the number of children who eat breakfast and will therefore have a positive effect on their school performance and behavior. The legislation will allow six school food authorities to participate in a pilot test to determine the effect of providing free breakfasts on participation, academic achievement, attendance and tardiness and dietary intake over the course of a day. Finally, the bill extends expiring provisions through fiscal year 2003.

2. The Summer Food Service Program

The Committee bill allows the Secretary to adjust Summer Food Service reimbursement rates for non-contiguous States and territories where the cost of providing meals is greater than that in the contiguous United States. The legislation also eliminates many of the provisions put in place in the 1980’s to limit participation by private nonprofit organizations. The bill extends authorization for appropriations for the Summer Food Service Program through fiscal year 2003.

3. The Child and Adult Care Food Program

The legislation revises current licensing and approval conditions by simplifying procedures for schools operating child care programs

and for institutions providing after-school care. The bill includes funding for the Secretary to provide technical assistance and training to assist State agencies in improving their management and oversight of child care centers and family day care homes. The bill also extends a provision in current law which allows certain for-profit child care centers to participate in the Child and Adult Care Food Program if at least 25 percent of the children are eligible for free and reduced price lunches. The Committee bill allows children in low-income areas to participate in the after-school snack program of the Child and Adult Care Food Program until they are 18 years old. The snack will be served free to children living in low-income areas. The bill streamlines the administration of the Homeless Children Nutrition Program by consolidating the authority under the Child and Adult Care Food Program. The legislation also strengthens the anti-fraud and abuse provisions by requiring State agencies to visit sites prior to approval and periodically visit those sites the State agency determines to be high risk.

4. The Special Supplemental Nutrition Program for Women, Infants and Children

The Committee bill made a number of amendments to current law to strengthen anti-fraud and abuse provisions in the WIC program. Specifically, the bill requires that participants be physically present at each certification and provide income documentation prior to participation. The Secretary is required to issue regulations on how a State must verify the income of participants. State agencies are required to design a system to ensure that participants are not collecting benefits from more than one location. The Committee bill also provides State agencies with additional authorities to penalize fraudulent vendors in the WIC program. In response to the concerns raised by State WIC directors regarding their limited ability to use savings generated from cost containment efforts to perform necessary administrative activities, the Committee bill provides States with increased flexibility to convert limited amounts of food funding into nutrition services and administration funding if circumstances warrant the conversion. The Committee bill requires State agencies to offer infant formula contracts to the bidders offering the lowest net price and requires the Secretary to review the infant formula contracts for any anti-competitive provisions. The legislation requires the Secretary to establish a long-range plan for the implementation of management information systems and electronic benefit transfer systems. The Secretary is required to report to Congress on the progress of the plan no later than two years after the enactment of this Act.

The Committee bill improves the administration of the WIC Farmers' Market and extends the authority for appropriations for the Farmers' Market through fiscal year 2003. The Committee bill also calls for the General Accounting Office to do two studies. The first would study the effects of cost containment practices of States on such things as program participation, voucher redemption and program costs. The second study would assess the cost of delivering nutrition services and administrative activities of the WIC program. The Committee bill extends all expiring provisions related to the WIC program through fiscal year 2003.

5. *Additional programs under the jurisdiction of the National School Lunch and Child Nutrition Acts.*

The Committee bill extends the authority through fiscal year 2003 for the: (1) food and nutrition curriculum project; (2) pilot project to provide food and nutrition services to homeless pregnant women and homeless mothers or guardians of infants and the children of the homeless women; (3) information clearinghouse; (4) program that provides guidance and grants for accommodating special dietary needs of children with disabilities; and (5) nutrition education and training program.

6. *Commodity distribution programs*

The Committee bill amends the Commodity Distribution Reform Act and WIC Amendments of 1987 to simplify and improve the administration of the commodity distribution programs.

7. *Offsets*

The savings to offset the increased spending in the bill come from conforming the way reimbursement rates are calculated for free and reduced-price meals. The savings generated from this provision completely offsets any additional spending in the bill.

III. LEGISLATIVE HISTORY AND COMMITTEE VOTES

The Committee held two hearings to prepare for this legislation. On Thursday, March 12, 1998, the Committee on Agriculture, Nutrition and Forestry met to consider testimony regarding child nutrition and WIC reauthorization.

First to testify was Congressman Joseph P. Kennedy II of Massachusetts. Congressman Kennedy strongly encouraged the Committee to expand summer food programs and the school breakfast program. He noted that despite record highs in the stock market and a seeming prosperity for all in this country, many parents simply do not earn enough to raise a family and provide adequate nutrition for their children.

Next to testify was Shirley Watkins, Under Secretary for Food, Nutrition and Consumer Services. Accompanying Ms. Watkins were George Braley, Associate Administrator for Food and Nutrition Service and Ed Cooney, Deputy Assistant Secretary for Special Nutrition Programs. Ms. Watkins announced that the Administration transmitted to Congress a child nutrition and WIC reauthorization bill on March 10, 1998. The bill reflected suggestions voiced at various roundtables and other forums held around the country. The Administration's proposal included changes and reforms to the National School Lunch Program (NSLP) and the School Breakfast Program (SPB), the Summer Food Service Program and the Child and Adult Care Food Program (CACFP). Noting time limitations and that discussion of the WIC proposals would be reserved for a hearing on March 17, 1998, Ms. Watkins discussed some of the major provisions of the Administration reauthorization legislation relating to the National School Lunch and Breakfast programs, the Summer Food Service Program and the Child and Adult Care Food Program.

Specific to the National School Lunch Program and School Breakfast Program, the Administration's bill would require health and safety inspections, ensure adequate time for children to eat, provide funds for USDA to cover the costs of removing unsafe food from any domestic food program inventory and provide the USDA with authority to accept food donations from other Federal sources for distribution through the domestic food programs.

With regard to the Summer Food Service Program, the Administration's legislation proposed to raise the number of sites that non-profit organizations may serve and lift limits on the total number of children that may be served. Furthermore, the legislation would adjust reimbursement rates for Alaska and Hawaii and outlying territories as done in other programs and would allow commercial vendors to supply meals to non-profit organizations.

In the Child and Adult Care Food Program, the Administration's proposal would make permanent the Kentucky and Iowa demonstration projects, allow after-school facilities that meet health and safety standards to participate in the program, continue to give Even Start participants categorical eligibility in CACFP, delete the audit funding and instead allow States to keep 50% of recovered funds from all child nutrition programs, allow "at-risk" children between the ages of 12 and 18 to participate in CACFP and move the Homeless Children Nutrition Program and the Summer Food Service Program homeless site into the CACFP.

The second panel was comprised of Melinda Turner, President of the American School Food Service Association; Linda Locke, Director of Public Policy, Community Coordinated Child Care; Karen Ford, Director of the Food Bank of Iowa, accompanied by Ellen Teller of Food Research and Action Center; and Bob Greenstein, Executive Director for the Center on Budget and Policy Priorities.

Testifying on behalf of the American School Food Service Association, Ms. Turner offered a number of suggestions reflecting the organization's priorities. First, noting that the time between the end of the school day and dinner represents the most dangerous time of day for teenagers, Ms. Turner encouraged the expansion of the after-school snack program to include all ages in order to take advantage of existing infrastructure and facilities. Second, Ms. Turner encouraged program simplification and streamlining of paperwork requirements to ease the administration burden of school meal programs. Third, she encouraged the expansion of the school breakfast program and supported legislation sponsored by Senator Johnson providing free breakfasts for all elementary school children.

Next, Ms. Locke testified as to her concern for the efficacy of the Child Care Food Program. Concerned about a reduction in funds available for family day care homes, Ms. Locke encouraged Congress to enact changes guaranteeing access to child nutrition programs for all children in out-of-home care. The second issue discussed by Ms. Locke was the family day care home portion of the Child and Adult Care Food Program. Citing the institution of means-testing for this program as the main reason for a decline in the number of participating homes, Ms. Locke encouraged the enactment of language to correct this problem. Finally, Ms. Locke voiced her support and the support of the National Child Care Food

Program Sponsors Forum for the school-age provisions contained in the Administration's proposal.

Next to testify from the panel was Karen Ford. Ms. Ford encouraged the expansion of school food service opportunities to best alleviate hunger. Specifically, she encouraged the Committee to adopt Senator Johnson's universal school breakfast legislation, stating her belief in the need to provide food to children during the summer months and after-school hours.

Last to testify was Bob Greenstein of the Center on Budget and Policy Priorities. Mr. Greenstein testified as to the need, in light of budget realities, for making after-school child nutrition the top priority of reauthorization legislation. Noting limited financial resources, Mr. Greenstein voiced his support for the after-school food service proposal over competing child nutrition proposals such as the expansion of the school breakfast program for non-poor children and a fourth meal for children in day care longer than eight hours.

A second hearing on the reauthorization of the Child Nutrition programs was held on March 17, 1998. The hearing focused on the Special Supplemental Nutrition Program for Women, Infants and Children. In attendance were Senators Lugar, Harkin, Conrad, Baucus and Johnson. The first witness to testify before the Committee was Ms. Shirley Watkins, Under Secretary, Food, Nutrition and Consumer Services, United States Department of Agriculture, who was accompanied by Mr. George Braley, Associate Administrator, Food and Nutrition Service, United States Department of Agriculture, and Mr. Ed Cooney, Deputy Assistant Secretary for Special Nutrition Programs, United States Department of Agriculture.

Ms. Watkins testified that WIC is one of the Federal Government's true success stories and that it serves as the first line of defense for America's infants. Today, the program serves 46 percent of all newborns. She stated that dozens of studies have shown that WIC reduces infant mortality and other medical problems that are associated with childbirth such as low birth weight and anemia. Ms. Watkins also noted that for every \$1 that is invested in prenatal WIC the Federal government saves \$3.50 in other health care costs. The reauthorization proposal submitted by the Administration would: increase program flexibility and improve program integrity of the WIC program by requiring that all applicants be present at each certification visit, that all applications provide documentation of household income or show participation in another low-income program, and that income be verified. Ms. Watkins testified that the Administration's proposal limits the amount States can "spend forward" in the following fiscal.

She next discussed improvement in vendor management through stricter national standards so that USDA can improve the program's integrity and the effectiveness of vendor management. Ms. Watkins, addressing a mandate in the welfare reform legislation, stated that the regulations will require the disqualification of any WIC vendor who has been disqualified from the Food Stamp Program. Along with this she proposed permanent disqualification of WIC vendors who have been convicted of trafficking in WIC food checks or food vouchers, or for the sale of firearms, ammunition,

explosives, or any controlled substances in exchange for WIC food vouchers.

In addition, Ms. Watkins discussed the Administration's legislative changes for the WIC Farmers' Market Nutrition Program which currently operates in 32 States, on two Indian reservations, and in the District of Columbia. Ending her testimony, Ms. Watkins stated that the Administration's fiscal year 1999 budget request for the WIC program is \$4 billion, which would serve approximately 7.5 million participants.

Chairman Lugar questioned Ms. Watkins about the present benchmark for full funding of the WIC program. Mr. Braley responded with information on how the 7.5 million "full funding" participant number was derived. The Chairman also asked how possible participants are notified about these programs. Ms. Watkins answered that States do this in various ways and that they are working to make certain that hard-to-reach populations are informed. Mr. Lugar inquired as to how one would guarantee the integrity of the program in regards to verification of participants' income. Mr. Braley answered that the Administration's legislative proposal would require income documentation of participants applying for the program, but noted that about 60 percent of the participants in the program are determined eligible through participation in other programs.

Senator Baucus asked how what role WIC played in achieving the goal of welfare-to-work? Ms. Watkins responded that the WIC program helps to supplement the food budget.

Senator Harkin indicated that under present regulations, military families who qualify can get WIC in the United States but they cannot get benefits overseas. Ms. Watkins said that military families were not calculated in the funding formulas. Senator Harkin also asked about the records that are kept to provide information on the percentage of mothers breast feeding as opposed to those using infant formula? Mr. Braley responded that there has been a substantial increase in the rate of breast feeding among WIC mothers as well as the duration.

The second panel of witnesses included Robert Robinson, Director of Food and Agriculture, General Accounting Office; Denise Ferris Hemmings, President of the National Association of WIC Directors, Washington, D.C.; and Joan Trendell, American Dietetic Association, Director from Marion County WIC, Indianapolis, Indiana.

Mr. Robinson addressed issues such as: (1) why States have unspent grant funds that are returned to USDA; (2) working women's access to WIC benefits; (3) the practices States use to contain program costs; and (4) how States ensure that participants meet eligibility requirements.

Mr. Robinson pointed out that some efforts to reduce food costs increase administrative burdens. Restrictions on how a State can use savings resulting from the cost containment efforts pose practical obstacles and disincentives to save food costs.

Mr. Robinson finished his testimony talking about State efforts to ensure that program participants meet income and residency requirements. Thirty-two of 48 State WIC directors, responding to a USDA survey on this question, said that their States require applicants to provide documentation of income eligibility, but 14 States

allow applicants to self-declare income. Mr. Robinson stated that GAO was concerned that these practices may permit ineligible applicants to participate.

Next to testify was Denise Ferris Hemmings who is President of the National Association of WIC Directors (NAWD), Washington, DC. Ms. Hemmings stated that NAWD represents the Nation's 1,900 State and local WIC programs. She testified that NAWD is committed to ensuring program integrity and supports States' efforts to provide for adequate levels of income documentation for those clients who do not automatically meet the income requirements by virtue of participation in Food Stamps, Medicaid, or TANF. Ms. Hemmings also indicated that NAWD encourages States to adopt a variety of strategies to assist working women.

Included in Ms. Hemmings' testimony was NAWD's proposal to allow States to use food funds for the purchase of breast pumps as food aids because they assist breast-feeding mothers in providing breast milk for their infants when they are at work, at school, or otherwise separated from their infant. Additionally she proposed allowing the certification of breast-feeding women for up to one year after delivery or until they stop breast feeding.

Ms. Hemmings indicated that nutrition services and administrative fund shortfalls prevent States from addressing infrastructure needs including new clinics, extended clinic hours to serve working families, updated management information systems, and adequate staffing levels to ensure the integrity of program services. NAWD proposes to allow States to allocate a portion of their rebate savings or revenues to ensure appropriate levels of nutrition services and administration. Ms. Hemmings expressed concern that the Department's proposal to fund EBT development by retaining up to 4 percent of nutrition services and administrative funds places an undue pressure on an already tight pool of nutrition services and administrative funds.

Next to testify was Ms. Joan Trendell, Director of Marion County WIC programs in Indianapolis, Indiana on behalf of the American Dietetic Association (ADA), the world's largest organization of food and nutrition professionals promoting optimal nutritional health and well-being. Ms. Trendell urged the committee to support full funding for WIC and to enact changes in the program which give WIC administrators the flexibility to optimize resources, plan ahead, and maintain the important nutrition education focus for all those in need. She was concerned about the plight of the Nutrition Education and Training (NET) Program, the only federally funded nutrition education program which directly reaches children, teachers, parents, and food service operators in schools and other child nutrition settings. Ms. Trendell reminded the committee that welfare reform changed the NET program from mandatory to discretionary, creating a schism between the authorizing and appropriations committees and that the uncertainties of its funding have nearly crippled the program.

The last panel of witnesses was started with the testimony of Mr. Joseph T. Williams, the Electronic Benefits Transfer/Health Passport Manager for the State of Wyoming. Mr. Williams suggested Electronic Benefit Transfer (EBT) systems as a management tool that would help improve the integrity of the WIC program. He re-

lated the success of EBT in Wyoming and some of the difficulties that were faced in initiating the system.

Mr. Williams listed several challenges to EBT service in the WIC programs. First, the WIC program benefit is a prescription for specific quantities and types of foods and each purchase, unlike food stamps or welfare benefits, must be determined to be in accord with the individual's prescription. Second, most WIC EBT systems use an online approach, which requires a telephone link to a central computer to authorize each purchase or cash withdrawal. In contrast, the smart card system in Wyoming places the benefit account balance on the card itself, thus enabling off-line transactions. Mr. Williams stated that the Wyoming system represents the first time that a single card has been used to simultaneously perform the electronic benefit transfer functions and to support the sharing of health data to improve health-related services.

Robert Greenstein, Executive Director of the Center on Budget and Policy Priorities in Washington, D.C., was the next witness. He reported that the WIC program is probably the single Federal program for which we have the strongest evidence of efficacy. A GAO report estimated that WIC reduces the incidence of low-birth weight by a quarter and very low-birth weight by 44 percent. The GAO concluded that each \$1 invested in the prenatal component of WIC ultimately saves \$3.50, much of it in Medicaid costs. He indicated that there is strong evidence from the Centers for Disease Control and Prevention of the powerful effects of WIC in reducing anemia among children.

Mr. Greenstein also testified that the Committee should encourage States to offer an infant formula contract to the company offering the lowest net price. He also supported a provision in current law requiring USDA to reserve the first \$10 million in unspent nutrition services and administration funds it recovers for infrastructure and breast-feeding promotion. In addition he supported the Department's proposal to allow States to retain and carry forward a somewhat larger amount of unspent nutrition services and administrative funds, as distinguished from food funds, to the extent that a State can use the money for the development of a WIC Electronic Benefit Transfer system.

Mr. Greenstein noted that, although current law allows States to convert some food money to administrative money, there is a one to two year lag until the current system enables the State to use the rebate savings for administrative dollars. He suggested trying to solve this problem in the reauthorization bill. Mr. Greenstein's last comments concerned the administration's proposals to tighten up on program integrity.

The last witness was A. K. Hawley Botchford, Executive Director of the Harry Chapin Food Bank in Fort Myers, Florida. Mr. Botchford indicated that last year his food bank provided more than 1,300,000 pounds of food and grocery items to an estimated 150 local charitable agencies that served an estimated 36,000 needy Floridians each month. He shared that a national research report by Second Harvest showed that despite the strong economy, low unemployment, and declining welfare rolls, more than 21 million Americans relied on emergency food assistance. Mr. Botchford testified that the school lunch and summer feeding programs are

the basic nutrition safety nets for all too many of our country's children. He emphasized that the TEFAP and food stamp programs must be fully funded and that the Federal child nutrition programs are extremely successful and vitally important to preventing childhood hunger.

COMMITTEE VOTE

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

MOTION TO REPORT THE BILL

The Committee bill was unanimously ordered reported by voice vote. Those members present were: Mr. Lugar, Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Coverdell, Mr. Santorum, Mr. Roberts, Mr. Grassley, Mr. Gramm, Mr. Craig, Mr. Harkin, Mr. Leahy, Mr. Conrad, Mr. Daschle, Mr. Kerrey, Mrs. Landrieu, and Mr. Johnson.

IV. REGULATORY IMPACT STATEMENT

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

Individuals and businesses affected.—Average daily participation in the National School Lunch Program was 26.3 million children in fiscal year 1997. Breakfast participation, on average, was 6.9 million school-age children in that same fiscal year. Approximately 89,000 schools participate in the school lunch program and 63,000 schools participate in the school breakfast program. The Committee believes that the bill will directly or indirectly affect all children and schools participating in the school lunch and breakfast programs. The Committee believes that, overall, the changes made in the school meals programs will modestly reduce the administrative burden for schools. The Committee acknowledges that the requirement to have one food safety inspection during a school year may increase administrative responsibilities, but believes this addition to be appropriate in light of the increased number of reported foodborne illness outbreaks. The Committee believes that changes made in the bill will improve access to after-school snacks for low-income school age children. The change in the way reimbursement rates are calculated will have an effect on schools by slightly reducing reimbursement rates to schools for free and reduced-price meals. The Committee believes that changes made to reduce administrative burdens will offset the small reduction in reimbursement rates to schools.

In fiscal year 1997, 33,000 child care centers, with 13,000 sponsors, participated in the Child and Adult Care Food Program. Average daily attendance in child care centers was 1.4 million children. Participation of family day care homes in the Child and Adult Care Food Program was 190,000 homes, with 1,100 sponsors. Average daily attendance in family day care homes was 970,000 children.

Participation in the Summer Food Service Program was 3,500 sponsors with 30,000 sites. Approximately 2.3 million children participated in the program in fiscal year 1997. The Committee believes that changes made to the Summer Food Service Program will improve management and increase access for eligible children. The Committee believes that changes made to the Child and Adult Care Food Program, in particular, will improve program integrity and improve access for low-income children.

The WIC program served approximately 7.4 million women, infants and children in fiscal year 1997. The Committee expects that the additional requirements put upon WIC recipients, i.e., the requirement to be physically present at each certification and the requirement to provide income documentation, will disqualify ineligible individuals. The Committee bill will disqualify those vendors who are not following program requirements. The Committee believes that the bill's increase in requirements for State agencies to oversee the program is mostly offset by the increased flexibility to convert certain food funds for nutrition service and administration use.

Economic impact of regulations on individuals, consumers, and businesses.—The Committee believes that the economic effect of the bill will be mostly limited to those individuals or businesses fraudulently participating in the WIC or Child and Adult Care Food Program. The Committee understands that the savings generated in this bill will have modest economic impact on schools, but believes that the bill's provisions to streamline the administration of school programs will mostly offset the change in how reimbursement rates are calculated.

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

Amount of additional paperwork.—The Committee believes that the bill will reduce paperwork for schools due to provisions that streamline program operations. The Committee acknowledges that the evaluation of the school breakfast pilot program will increase paperwork for those schools participating in the project. The Committee acknowledges that there may be some increased paperwork for State agencies as they implement the Child and Adult Care Food Program and the WIC anti-fraud provisions.

V. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1998.

Hon. RICHARD G. LUGAR,
*Chairman, Committee on Agriculture, Nutrition, and Forestry,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Child Nutrition and WIC Reauthorization Amendments of 1998, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on June 25, 1998.

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

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

Child Nutrition and WIC Reauthorization Amendments of 1998—As ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on June 25, 1998

Summary: The bill would reauthorize child nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The legislation 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, the bill would change the National School Lunch Act and the Child Nutrition Act to provide reimbursement for snacks served to youth in after-school programs in schools and low-income areas and lower reimbursement rates for meals served free and at a reduced price in schools and child care centers. Those changes would slightly increase direct spending in 1999 and slightly decrease direct spending 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 would affect both direct spending and receipts, pay-as-you go procedures would apply.

The bill 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 with costs totaling \$8 million in fiscal 1999 and \$175 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 these new costs by amending the programs.

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

TABLE 1.—SUMMARY OF ESTIMATED BUDGETARY EFFECTS

[By fiscal years in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Without Adjustments for Inflation						
Authorizations for WIC and nutritional education and training under current law:						
Estimated authorization level ¹	3,928	10	10	10	10	0
Estimated outlays	3,917	284	10	10	10	2
Proposed changes:						
Estimated authorization level	0	3,919	3,921	3,919	3,918	3,928
Estimated outlays	0	3,645	3,920	3,919	3,918	3,927
Authorizations under the bill:						
Estimated authorization level ¹	3,928	3,929	3,931	3,929	3,928	3,928
Estimated outlays	3,917	3,929	3,930	3,929	3,928	3,928

TABLE 1.—SUMMARY OF ESTIMATED BUDGETARY EFFECTS—Continued
[By fiscal years in millions of dollars]

	1998	1999	2000	2001	2002	2003
With Adjustments for Inflation						
Authorizations for WIC and nutritional education and training under current law:						
Estimated authorization level ¹	3,928	10	10	10	10	0
Estimated outlays	3,917	284	10	10	10	2
Proposed changes:						
Estimated authorization level	0	4,005	4,101	4,198	4,295	4,411
Estimated outlays	0	3,725	4,095	4,191	4,289	4,403
Authorizations under the bill:						
Estimated authorization level ¹	3,928	4,015	4,111	4,208	4,305	4,411
Estimated outlays	3,917	4,009	4,105	4,201	4,299	4,404
DIRECT SPENDING						
Spending for child nutrition under current law:						
Budget authority	8,779	9,266	9,786	10,333	10,893	11,464
Estimated outlays	8,702	9,176	9,689	10,231	10,789	11,358
Proposed changes:						
Budget authority	0	22	-14	-7	-7	-5
Estimated outlays	0	6	-9	-2	(²)	-4
Spending under the bill:						
Budget authority	8,779	9,288	9,772	10,326	10,886	11,459
Outlays	8,702	9,182	9,680	10,229	10,789	11,354
CHANGES IN REVENUES						
Estimated revenues	0	(²)	(²)	(²)	(²)	(²)

¹ The 1998 level is the amount appropriated for that year.

² Less than \$500,000.

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

Basis of Estimate: Tables 2 and 3 detail the effects of the bill on authorizations of appropriations.

TABLE 2.—ESTIMATED EFFECTS 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	0	0	0	0	0
Estimated outlays	3,914	275	0	0	0	0
Nutritional Education and Training Program:						
Estimated authorization level ¹	4	10	10	10	10	0
Estimated outlays	3	9	10	10	10	2
Total authorizations under current law:						
Estimated authorization level ¹	3,928	10	10	10	10	0
Estimated outlays	3,917	284	10	10	10	2
Changes Under the Bill						
WIC:						
Estimated authorization level ¹	0	3,925	3,927	3,925	3,924	3,924
Estimated outlays	0	3,650	3,926	3,925	3,924	3,924
Nutritional Education and Training Program:						
Estimated authorization level ¹	0	-6	-6	-6	-6	4
Estimated outlays	0	-5	-6	-6	-6	3
Total changes:						
Estimated authorization level ¹	0	3,919	3,921	3,919	3,918	3,928
Estimated outlays	0	3,645	3,920	3,919	3,918	3,927
Total Authorizations Under the Bill						
WIC:						
Estimated authorization level ¹	3,924	3,925	3,927	3,925	3,924	3,924

TABLE 2.—ESTIMATED EFFECTS ON APPROPRIATIONS, WITHOUT ADJUSTMENTS FOR INFLATION—
Continued

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Estimated outlays	3,914	3,925	3,926	3,925	3,924	3,924
Nutritional Education and Training Program:						
Estimated authorization level ¹	4	4	4	4	4	4
Estimated outlays	3	4	4	4	4	4
Total authorizations under the bill:						
Estimated authorization level ¹	3,928	3,929	3,931	3,929	3,928	3,928
Estimated outlays	3,917	3,929	3,930	3,929	3,928	3,928

¹The 1998 level is the amount appropriated for that year.

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

TABLE 3.—ESTIMATED EFFECTS 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	0	0	0	0	0
Estimated outlays	3,914	275	0	0	0	0
Nutritional Education and Training Program:						
Estimated authorization level ¹	4	10	10	10	10	0
Estimated outlays	3	9	10	10	10	2
Total authorizations under current law:						
Estimated authorization level ¹	3,928	10	10	10	10	0
Estimated outlays	3,917	284	10	10	10	2
Changes Under the Bill						
WIC:						
Estimated authorization level ¹	0	4,011	4,107	4,204	4,301	4,407
Estimated outlays	0	3,730	4,100	4,197	4,294	4,400
Nutritional Education and Training Program:						
Estimated authorization level ¹	0	-6	-6	-6	-6	4
Estimated outlays	0	-5	-6	-6	-6	3
Total changes:						
Estimated authorization level ¹	0	4,005	4,101	4,198	4,295	4,411
Estimated outlays	0	3,725	4,095	4,191	4,289	4,403
Total Authorizations Under the Bill						
WIC:						
Estimated authorization level ¹	3,924	4,011	4,107	4,204	4,301	4,407
Estimated outlays	3,914	4,005	4,100	4,197	4,294	4,400
Nutritional Education and Training Program:						
Estimated authorization level ¹	4	4	4	4	4	4
Estimated outlays	3	4	4	4	4	4
Total authorizations under the bill:						
Estimated authorization level ¹	3,928	4,015	4,111	4,208	4,305	4,411
Estimated outlays	3,917	4,009	4,105	4,201	4,299	4,404

¹The 1998 level is the amount appropriated for that year.

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

Spending subject to appropriations

Title II of the bill would extend the authorization of the Special Supplemental Nutritional Program for Women, Infants, and Children (WIC) 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.

Section 203 would increase federal administrative responsibilities in two ways. The first responsibility is the review and approval of all solicitations for contracts in the infant formula rebate program. In this program, manufacturers bid to supply infant formula at a reduced cost for WIC. The bill would require the Secretary of Agriculture to review all solicitations under this program to ensure that the contracts do not contain any anticompetitive provisions. Based on discussions with the Food and Nutrition Service, we estimate this activity would require five full-time equivalents (FTEs) each year. The other administrative responsibility would be the development of a plan for a management information system, including electronic benefits transfer. The Secretary would present the plan to Congress within two years of enactment of the bill. We estimate that this activity would require five FTEs for the two years of developing the plan and preparing the report. Together, these activities would cost about \$1 million a year in 1999 and 2000, and less than \$500,000 for each subsequent year.

The section would also require the Comptroller General to undertake two studies of WIC. The first is a study on the effect of cost-containment practices employed by the states. This report would be due two years after the bill's enactment. Based upon estimates by the U.S. Department of Agriculture's Economic Research Service for a similar study, CBO estimates this requirement would cost \$1.5 million. In the second study, the General Accounting Office would examine the cost and quality of WIC services, with a report due no later than three years after enactment of the bill. Given the scope of the intended study, CBO estimates its cost to be similar to that of the other required study. Thus, the costs of these studies are estimated at \$3 million over the 1999–2003 period.

Section 204 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 a year. The bill 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, this level of funding would continue for 1999–2003.

Direct spending and revenues

The bill would make several changes to the National School Lunch Act and the Child Nutrition Act. 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.

Round Down Reimbursement Rates.—Section 106 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 May 1, 1999, and would reduce federal outlays by \$7 million in 1999 and \$49 million by 2008.

Adjust Summer Food Program Reimbursement Rates for Alaska and Hawaii.—Section 107 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.

Integrate Food and Nutrition Projects with Elementary School Curricula.—Section 109 would continue the authority to provide grants in support of projects that integrate food and nutrition projects into the elementary school curriculum. Under current law, grants of \$100,000 a year have been made since fiscal year 1995. We assume that the projects would continue to be funded at this level and that total outlays would total less than \$500,000 over the 1999–2003 period.

TABLE 4.—ESTIMATED EFFECTS 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	-13	-38	-42	-44	-45	-46	-47	-48	-48	-49	-182	-420
Outlays	-7	-35	-41	-44	-45	-46	-47	-48	-48	-49	-171	-409
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
Integrate food and nutrition projects with elementary school curricula:												
Budget authority	(1)	(1)	(1)	(1)	(1)	0	0	0	0	0	1	1
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	0	0	0	0	(1)	1
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
Extend Kentucky-Iowa demonstration project:												
Budget authority	4	4	4	4	4	0	0	0	0	0	20	20
Outlays	3	4	4	4	4	1	0	0	0	0	19	20
Technical and training assistance:												
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
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	5	14
Transfer homeless assistance 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 after-school snacks through the School Lunch Program:												
Budget authority	7	16	26	28	31	33	36	38	41	44	107	300
Outlays	6	14	24	28	30	33	35	38	41	44	102	291
Boarder babies pilot project:												
Budget authority	(1)	(1)	(1)	(1)	(1)	0	0	0	0	0	2	2
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	0	0	0	0	2	2
Universal free breakfast pilot:												
Budget authority	20	0	0	0	0	0	0	0	0	0	20	20
Outlays	1	4	7	7	2	0	0	0	0	0	20	20

Expand Private, Nonprofit Participation in the Summer Food Program.—Section 113 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.

Extend Kentucky-Iowa Demonstration Project.—Section 115(f) would extend until 2003 a demonstration project that allows expanded participation by for-profit providers in the Child and Adult Care Food Program (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 received 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 means (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 a year through 2003.

Technical and Training Assistance.—Section 115(g) would provide assistance to states for program management and oversight. The bill would fund assistance at \$1 million each year through 2003.

Provide Snacks for Teens in Low-Income Areas.—Section 115(r) 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 eligible 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 care 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. After the initial year in which the program is phased-in, 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.

Transfer Homeless Assistance Programs to CACFP.—Section 116 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 estimated to be 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 After-School Snacks Through the School Lunch Program.—Section 117 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.

In general, after-school programs that serve children up to age 12 could participate. Programs in low-income areas would receive reimbursement for snacks served to children up to age 18. Only after-school programs which have an educational or enrichment purpose and are organized primarily for the purpose of providing care could participate. In low-income areas, all snacks would be reimbursed at the rate for free snacks in the CACFP program, and all snacks would be served free. In all other areas the price and reimbursement rates for snacks would vary with family income. Low-income areas are areas where at least 50 percent of the children enrolled in school are certified as eligible to receive free or reduced price school meals.

In 1991, there were about 13,500 after-school programs in public and private schools according to a Department of Education (ED) study. By 1999, CBO estimates that about 16,000 after-school programs could potentially participate in the new snack program.

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 a 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 about 30 percent of the eligible programs would be in low-income areas. That estimate is based on the percentage of schools that participate in the school lunch program that would meet the low-income criteria.

The estimate assumes that 95 percent of eligible programs in low-income areas, about 4,600 programs, and 50 percent of programs in other areas, about 5,600 programs, would participate. This rate of participation is slightly less, on average, than the 70 percent rate at which schools participate in the school breakfast program. Wealthier schools are generally 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 7,400 additional after-school programs would participate, 45 percent from low-income areas.

The new program could serve 62 million new snacks in 1999 and 100 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 60 million snacks in 1999. Because children between the ages of 13 to 18 in low-income areas could also participate in the new program, the number of new snacks would be 5 percent higher in those areas. CBO projects the number of snacks would grow at the same rate projected for all snacks in CACFP. About 45 percent of the new snacks would be served in low-income areas.

Schools in low-income areas would be reimbursed at the free rate of about 50 cents a snack in 1999. In other areas, 35 percent of the snacks would be reimbursed at the free rate, 5 percent at the reduced rate (26 cents in 1999), and the remainder at the paid rate (4 cents in 1999). Those rates assume that the income of participants would be similar to that of school lunch participants in non-low-income areas. CBO assumes that participation would increase gradually so the first-year cost would be only \$7 million. By 2001, the first year we expect the program would be fully phased-in, the cost would be \$26 million; the cost would rise to \$44 million by 2008.

Boarder Babies Pilot Project.—Section 118 would extend the boarder babies pilot project through fiscal year 2003. This project provides food and nutrition services to homeless mothers and children. These pilot projects would be funded at \$400,000 per year; outlays would total \$2 million over the 1999–2003 period.

Universal Free Breakfast Pilot.—Section 119 would provide \$20 million 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. Up to \$12 million of the funds appropriated could be used for the evaluation of the pilot. The remaining funds would be used to provide meals in the selected schools.

Food Service Management Institute.—Section 121 would increase funding for the Food Service Management Institute. The Institute was established for research on food service in federally assisted food programs as well as for training and technical assistance for food service personnel. The Institute has been funded at \$2 million a year since fiscal year 1996. This bill would increase funding to \$3 million a year beginning in fiscal year 1999. This new level of funding would increase outlays by \$5 million over the 1999–2003 period.

Information Clearinghouse.—An information clearinghouse, which provides information on federal nutrition programs and self-help activities for low-income individuals, was funded at \$100,000 in fiscal year 1998. Section 123 would fund the program at \$166,000 a year through fiscal year 2003.

Special Dietary Needs.—Section 124 would extend the Secretary of Agriculture's authority to provide grants and guidance to states on how to accommodate special dietary needs of disabled students. Based on current funding levels, CBO estimates that these activities would be funded at \$100,000 a year over the 1999–2003 period.

Spending From WIC Fines and Penalties.—Section 203 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 states on nutrition services, administrative expenses, and food benefit assistance. Finally, the bill would allow courts to order persons convicted of violating any WIC provision 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.

Reimbursement for Removal of Hazardous Commodities.—Section 302 give the Secretary the authority to use funds from section 32 (Funds for Strengthening Markets, Income, and Supply) to reimburse states for costs associated with the removal of commodities that pose a health or safety hazard. Section 32 is a permanent account funded through customs duties, and most of the funds are appropriated to the child nutrition programs. The remaining funds can be used for a variety of purposes, including commodity distribution and emergency surplus removal. This section of the bill would allow the Secretary to use section 32 funds to reimburse states for costs, such as transportation and disposal, associated with the removal of the unsafe commodities, as well as to purchase replacement commodities. Currently, the Secretary's ability to re-

place commodities can be limited if liability is not immediately established. This section would allow the Secretary to immediately replace the commodities, and any funds subsequently collected from the suppliers of the hazardous commodities would be deposited into the section 32 account. Assuming that one or two incidents with unsafe food occurs each year, we estimate that the costs of this new authority would be insignificant. If the donation of a hazardous commodity occurred on a widespread scale, costs in a specific year could be much higher.

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
[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlay	0	6	-9	-2	(1)	-4	-8	-8	-6	-3	-1
Changes in receipts	0	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

¹ Less than \$500,000.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental 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 with costs totaling \$8 million in fiscal 1999 and \$175 million for the 1999–2003 period. Title I of the bill would:

Require local food service operations to undergo an annual health and safety inspection if state or local laws did not already 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 totaling approximately \$500,000 a year.

Require inflation adjustments for free and reduced-price meals served in schools and day care centers to be rounded down the nearest whole cent. CBO estimates that local education agencies would receive \$7 million less in fiscal 1999 and \$172 million less over the 1999–2003 period as the result of this provision.

Require state agencies administering the Child and Adult Care Food Program to visit certain facilities with a high probability of program abuse and to distribute information provided by the Department of Agriculture (USDA) about the WIC program to participants of CACFP. Based on information from ASFSA and USDA, we estimate that the costs of such requirements are not likely to be significant because similar activities are currently being done in some form.

Require states to administer all child nutrition programs beginning in fiscal year 2002. (The bill would provide for a two-year extension under certain circumstances.) The eight states affected by

this provision would be reimbursed for the costs of administering these programs. In fiscal 1998, USDA spent slightly more than \$2 million administering these programs. These programs would no longer be available in states that choose not to administer them.

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 waiving the requirement for weighted averages for nutrient analysis and would make available additional funds for technical and training assistance under CACFP.

Title II of the bill would impose new requirements on the state and local agencies that administer the Special Supplemental Nutrition Program for Women, Infants, and Children. CBO estimates that the costs of these new grant conditions would not be significant because many states already comply with several of them. The bill would allow states to offset some of these costs by granting them additional time to recover claims against vendors and participants. States would also be given additional time in which to spend these recoveries.

Title III of the bill would allow the USDA to reimburse states for the costs of disposing of commodities that pose a health or safety hazard. Based on information from USDA, CBO estimates that the benefits of this provision to states would not be significant.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995.

Previous CBO estimates: CBO submitted a cost estimate for H.R. 3874 on June 23, 1998, and estimated that direct spending would decrease by about \$68 million over the 1999–2003 period. The Senate bill saves less than the House bill for three main reasons. First, the Senate bill does not contain a House provision that would reduce the funds available to states for audits of CACFP. Second, it includes the Universal Free Breakfast Pilot as direct spending. Third, the bill's provisions providing after-school snacks is somewhat more expensive.

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.

VI. SECTION-BY-SECTION ANALYSIS

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

Section 101. Technical amendments to commodity provisions

Makes technical amendments deleting subsections made unnecessary with the passage of the Healthy Meals for Healthy Children Act of 1994 (P.L. 103-448).

Section 102. Waiver of requirement for weighted averages for nutrient analysis

Requires the Secretary of Agriculture to waive, through fiscal year 2003, any regulatory requirement for using weighted averages for nutrient analysis of menu items and foods offered or served as part of a reimbursable meal under the school breakfast or lunch program.

Section 103. Requirement for food safety inspections

Requires schools participating in the school lunch program or school breakfast program to obtain a food safety inspection at least once during each school year if the state or local authority does not otherwise require food safety inspections.

It is the intent of the Committee that schools which have a requirement for food safety inspections, regardless of the time frame, are in compliance with this provision.

The Committee also understands that, in certain localities, local offices of the State Health Department conduct voluntary health and safety inspections in schools. It is the Committee's interpretation of this provision that any such voluntary inspection performed at least once a year fulfills the school's obligation to complete annual health and safety inspections.

Section 104. Elimination of administration of programs by regional offices

Removes the requirement that the Secretary of Agriculture directly administer local level child nutrition programs authorized under the National School Lunch Act. Beginning fiscal year 2002, States would be required to assume administration of the child nutrition programs being administered by the Department of Agriculture. If a State begins administering (in whole or in part) any program before September 30, 2001, the State is not required to match the funds disbursed by the Secretary during the period between when the State begins administering the programs and September 30, 2001. Also during the period between October 1, 1998 and September 30, 2001, the Secretary is required to provide States that assume administrative responsibility, training and technical assistance to allow for an efficient and effective transfer of responsibility. The Secretary may extend the time frame by not more than two years if the State demonstrates that it will not be able to assume administrative responsibility by fiscal year 2002 and submits to the Secretary a plan describing when and how the State will assume administrative responsibility.

Section 105. Special assistance

Amends the time periods of a provision in current law which allows schools to use alternative provisions to the normal requirements for annual determinations of eligibility for free and reduced price school meals and daily counts of meals by type (free, reduced price, paid meals). Under current law, after a base year determination of eligibility and daily meal counts by type, a school electing this provision must serve meals free to all children for a period of 3 years. At the end of 3 years, State agencies may approve a 2-year extension provided that socioeconomic data approved by the Secretary show that the income level of the school's population has remained stable. At the end of the 2-year extension, subsequent extensions of 5 years each may be authorized as long as the income level of the school's population remains stable. A school electing this alternative must pay the difference between the Federal reimbursement and the cost of providing all meals free from sources other than Federal funds. Section 105 changes the initial and extension periods to 4 years each. The new time frames are applicable for schools upon initial application and, for those schools already utilizing this provision, upon application for extension.

Section 106. Adjustments to payment rates

Section 106 amends the way in which reimbursement rates are calculated. Current law calculates inflation adjustments to school meal reimbursement rates for paid meals by rounding them down to the nearest whole cent. Inflation adjustments to school meal reimbursement rates for free and reduced-price meals are currently rounded to the nearest quarter cent. Section 106 conforms the round down procedures for free and reduced price school meals to round down procedures for paid meals.

The Committee intends that, under this section, reimbursements for all breakfasts, including severe need breakfasts, will, when adjusted for inflation, be rounded down to the nearest whole cent.

Section 107. Adjustments to reimbursement rates

Allows the Secretary to adjust Summer Food Service Program reimbursement rates in non-contiguous States and territories where the cost of providing meals is greater than that in the contiguous States. Under current law, the Secretary may make adjustments in reimbursement rates in all the other child nutrition programs to reflect the difference in the cost of providing meals in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands when compared to the contiguous States.

Section 108. Criminal penalties

Increases the maximum fine, from \$10,000 to \$25,000, for whomsoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under the Child Nutrition Act or the National School Lunch Act if such funds, assets or property are of the value of \$100 or more.

Section 109. Food and nutrition projects

Extends the authorization of food and nutrition projects through 2003. These projects are designed for private non-profit organizations and educational institutions in each of 3 states to integrate food and nutrition projects with elementary school curricula.

Section 110. Establishment of an adequate meal service period

Encourages schools to make every effort to establish meal service periods that provide children adequate time to fully consume their meals and provide an environment conducive to eating these meals. The Committee does not intend to specify how this provision will be implemented by individual schools nor does the Committee expect the Secretary to issue regulations or guidance to schools specifying how this provision will be implemented.

Section 111. Buy American

Requires schools in the contiguous States participating in the National School Lunch and Breakfast Programs to purchase, whenever possible, only food products that are produced in the United States for those programs. The domestic food products referred to in the section apply to agricultural commodities that are produced in the United States and food products that are processed in the United States substantially using agricultural commodities that are produced in the United States. The Committee does not intend to specify how this provision will be implemented by individual schools nor does the Committee expect the Secretary to issue regulations or guidance to schools specifying how this provision will be implemented.

Section 112. Procurement contracts

Allows a State, State agency or school to enter into a contract with a person that has assisted the State, State agency or school in drafting contract specifications for participation in the school lunch program.

Section 113. Summer Food Service Program (SFSP) for children

Section 113 (a) establishes a 25 site limit on private nonprofit organizations participating in the Summer Food Service Program (current law limits sites to 5 urban and 20 rural). This section also removes the limitation on the total number of children (currently 2500) that a private nonprofit organization may serve. As in current law, this subsection maintains the limit on the number of children that may be served at any one site at 300 children unless a waiver is granted by a state to increase that number to 500 children.

Section 113(b) eliminates the Summer Food Service Program March 1st Indication of Interest requirement. Current law requires that private nonprofit sponsors only be allowed to participate in the Summer Food Service Program in areas where school or government sponsors have not indicated an interest in running the program by March 1. Schools will continue to have priority over other sites when more than one eligible institution proposes to serve the same area. This subsection also eliminates the requirement that private non-profit organizations use self-preparation facilities to

prepare meals or obtain meals from a public facility or school. This subsection also allows private non-profit organizations to contract on a competitive basis with food service management companies and eliminates the requirement that service institutions contract only with food service management companies registered with the States. States are no longer required to register food service management companies, but are authorized to do so. This subsection deletes the specific requirements of registration as well as the requirement that the Secretary maintain a record of all registered food service management companies that have been seriously deficient in their participation in the program.

Section 113(c) extends the authorization for appropriation for the Summer Food Service Program through fiscal year 2003.

Section 114. Commodity Distribution Program

Extends through fiscal year 2003 the requirement to use Commodity Credit Corporation funds and funds available under section 32 of the Act of August 24, 1935 for commodity purchases for programs under the National School Lunch Act, the Child Nutrition Act of 1966 and the Older Americans Act.

Section 115. Child and Adult Care Food Program (CACFP)

Section 115(a) makes a technical amendment to conform to changes made in the after school care component of the National School Lunch Program.

Section 115(b) revises current law licensing and approval conditions by: (1) removing requirements that schools operating programs under CACFP meet child care licensing and approval standards; and (2) allowing institutions, located in States where Federal, State or local licensing or approval is not required, that provide care to school children outside of school hours to participate in the CACFP as long as the institution meets State and local health and safety standards.

Section 115(c) deletes the provision providing automatic eligibility for CACFP benefits for children enrolled in the Even Start program. This provision expired September 30, 1997.

Section 115(d) requires State agencies to perform a site visit to a private institution prior to approval for participation in the child care food program. The State agency is also required to conduct periodic site visits to private institutions that the State agency determines have a high probability of program abuse.

Section 115(e) requires an institution moving towards tax exempt status be allowed to participate in the Child and Adult Care Food Program for a period of not more than 180 days, except that a State agency may grant a single extension not to exceed 90 days if the institution demonstrates its inability to obtain tax exempt status within the 180 day period is due to circumstances beyond the control of the institution. This subsection also deletes the requirement that the State notify an institution within fifteen days of submission if the application for participation in the CACFP is incomplete. The Committee understands that an institution must have feedback from the State as to whether the application is complete. Therefore, the Committee encourages State agencies to re-

spond to institutions, in a timely fashion, as to the completeness of an application.

Section 115(f) Extends the Kentucky-Iowa Demonstration Project relating to the eligibility of for-profit day care centers for the CACFP through fiscal year 2003. It also makes clear that funding for the project is mandatory.

Section 115(g) requires the Secretary to provide technical assistance and training to assist State agencies in improving their management and oversight of sponsors and providers under the CACFP. It provides funding for the assistance through fiscal year 2003. For each of fiscal years 1999 through 2003, the Secretary will make \$1,000,000 available for this program.

This subsection also would allow institutions that provide after-school snacks under a program organized primarily to provide care to "at-risk" children to be eligible to receive reimbursement for after-school snacks. "At-risk children" are defined as a school child who is not more than 18 years of age and lives 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 eligible for a free or reduced price meal. These institutions would be able to participate in the program during after-school hours, weekends, or holidays during the school year. Reimbursements are limited to one snack per child per day. The institution is required to serve the snack free to children participating in a program.

This subsection also requires the Secretary to provide each State agency administering a Child and Adult Care Food Program with information concerning the special supplemental nutrition program for women, infants, and children. The State agency must ensure that participating day care centers and day care homes (other than an institutions providing care to school children outside school hours) receive materials that explain the importance and benefits of the special supplemental nutrition program for women, infants, and children. The information should also include an explanation of State income eligibility standards for the program; and information concerning how benefits under the program may be obtained. Day care centers and homes must be provided with periodic updates of the information; and parents of enrolled children must be provided the information at enrollment.

Section 116. Transfer of Homeless Assistance Programs to Child and Adult Care Food Program

Subsection 116(a) makes technical amendments to conform to provisions of Section 116 (b) which transfers the authority of nutrition programs for homeless children to the Child Adult Care Food Program.

Subsection 116(b) moves the authority for the Homeless Children Nutrition Program and Summer Food Service Program homeless sites to the Child and Adult Care Food Program. Meal benefits provided in Child and Adult Care Food Program homeless sites would be provided to children through the age of 12 (versus 6 in the Homeless Children Nutrition Program and 18 in the Summer Food Service Program). An emergency shelter may claim reimbursement under this subsection only for a meal or supplement served to children who are not more than 12 years of age residing at the emer-

agency shelter; and for not more than 3 meals, or 2 meals and 1 supplement, per child per day. The meal or supplement must be reimbursed at a rate established for a free meal or supplement.

Section 117. Meal supplements for children in after-school care

Section 117(a) limits reimbursements for after-school supplements to supplements provided to children in after-school programs organized primarily to provide care with an educational or enrichment component.

Section 117(b) provides for a free supplement to at-risk children in after-school programs operated by schools in low income areas. If a school is located in an area where at least 50 percent of the children enrolled in elementary schools are eligible for free and reduced price meals and children are not more than 18 years of age, the program would operate as an “at-risk” after-school program as described in section 112. Children would be eligible for free after-school snacks. If the school is located in a non-poor area, the school could continue to provide snacks to children up to the age of 12 at the free, reduced or paid rates.

Section 118. Pilot projects

Extends through fiscal year 2003 the authority of the Secretary to administer pilot projects that are designed to provide food and nutrition services to homeless pregnant women and homeless mothers or guardians of infants, and the children of the mothers and guardians.

This section also deletes authority for pilot projects that provide grants to institutions that provide meals or supplements to adolescents in programs outside of school hours. The Committee believes that the “At Risk” proposal in sections 115(g) and 117(b) will deliver similar benefits to the same population through the National School Lunch Program and the CACFP, so there is no reason to retain the similar pilot project. This section also deletes pilot projects that assist schools in offering participating students additional choices of fruits, vegetables, legumes, cereals, grain-based products, and organically produced agricultural commodities; projects to assist schools in offering participating students additional choices of low-fat dairy products, lean meat and poultry products, and organically produced agricultural commodities; projects designed to help a limited number of schools reduce paperwork, application and meal counting requirements, and make changes that will increase participation in the school lunch and breakfast programs. The Committee believes it is appropriate to eliminate these programs as the Department has not sought funding and nor was funding appropriated.

Section 119. Breakfast pilot projects

Requires the Secretary make grants to state agencies to conduct pilot projects in elementary schools under the jurisdiction of not more than 6 school food authorities in each of the school years 1999 through 2001. The purpose of these projects is to carefully evaluate the effect of providing free breakfasts to elementary school children, without regard for family income, on participation, academic achievement, attendance and tardiness, and dietary intake over the

course of a day. Elementary schools participating in the pilot project must have a matching elementary school, not participating in the pilot project, in the same school food authority and all elementary schools must be approved by the Secretary. A school food authority receiving amounts under a grant to conduct a pilot project must agree to operate the pilot in the same elementary school for a 3-year period beginning July 1, 1999. A school food authority conducting a breakfast pilot project shall receive reimbursement for each breakfast equal to the amount equal to the rate for free breakfasts. On completion of the pilot projects and the evaluation, the Secretary must 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 of the evaluation of the pilot projects. The Secretary can not exceed \$20,000,000 in the execution of this pilot project. Out of the \$20,000,000 to execute the pilot project, the Secretary can not spend more than \$12,000,000 in the evaluation of this pilot project.

Section 120. Training and technical assistance

Extends through fiscal year 2003 the authorization of appropriations to conduct training activities and provide technical assistance to improve the skills of individuals employed in federally assisted feeding programs.

Section 121. Food Service Management Institute

Increases the annual funding for the Food Service Management Institute from \$2,000,000 to \$3,000,000 for fiscal years 1999 and subsequent fiscal years.

Section 122. Compliance and accountability

Extends through fiscal year 2003 the authorization of appropriations to conduct reviews and audits to ensure that local food service authorities participating in the school lunch program comply with the provisions of the National School Lunch Act.

Section 123. Information clearinghouse

Extends the authority of the information clearing house through fiscal year 2003 at a funding level of \$166,000 for fiscal years 1999 through 2003.

Section 124. Refocusing of effort to help accommodate the special dietary needs of individuals with disabilities

Authorizes the Secretary to develop and disseminate to State agencies guidance for accommodating the medical and special dietary needs of children with disabilities under the school lunch program, school breakfast program, and any other program under the National School Lunch Act or the Child Nutrition Act of 1996. The Secretary is authorized provide technical assistance materials, conduct training of State agencies and eligible entities, and issue grants to State agencies and eligible entities.

The Committee is aware of the upcoming review of the Dietary Guidelines for Americans, which will be updated and released as the 5th Edition in the Year 2000. Given the importance of these guidelines in promoting healthful food choices which influence the

optimal health and development of our nation's children and adults, the Committee is interested in new and emerging science in the area of dietary food patterns and their impact on body fat, cholesterol levels, heart disease, and other chronic disorders. Specifically, the Committee recommends that the Dietary Guidelines review committee examine available research on dietary patterns that are associated with optimal insulin levels, which may result in positive health benefits. The Committee also directs USDA to increase preventive health and nutrition research, including research that considers the effects of healthful diets on human beings. The Committee believes that such research could benefit policy and medical experts in the upcoming review as well as lead to reducing overall health care costs.

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

Section 201. Elimination of administration of programs by regional offices

Conforms provisions under the Child Nutrition Act of 1966 regarding regional office administration to provisions in section 104 of this bill regarding the regional administration of programs under the National School Lunch Act.

Section 202. State administrative expenses

Subsection 202(a) requires States to return to the Secretary any amounts appropriated for State administrative expenses that are not obligated, expended in the current fiscal year or carried over to the next fiscal year. The Secretary is required to reallocate those funds, for administrative purposes, among States that demonstrate a need. This subsection also includes a technical amendment to conform to provisions in section 113 that transfer the homeless child nutrition programs to the Child and Adult Care Food Program.

Subsection 202(b) eliminates the ten percent transfer limitation in State administrative expense (SAE) funding. Under current law, states are allowed to transfer not more than 10 percent of the SAE funds provided for the administration of one child nutrition program to another. The Committee expects States to use this flexibility to determine where administrative funds can best be utilized. The Committee notes that the Inspector General recently released a report pointing out that money available for State agencies to perform audits of the Child and Adult Care Food Program is not being used for compliance audits. The Committee encourages State Agencies to use the available money for compliance audits rather than paper audits.

Subsection 202(c) reauthorizes appropriations for the State Administrative Expense program through fiscal year 2003.

Section 203. Special supplemental nutrition program for women, infants and children

Section 203(a) requires that infants be certified, relative to income eligibility only, every six months, except that this provision will not apply to infants in families receiving food stamps, Temporary Assistance to Needy Families, or Medicaid benefits.

Section 203(b) requires that individuals be physically present at each certification determination in order to be certified for WIC program benefits. A local agency may waive the requirement for an applicant if the agency determines that the requirement: (1) would be in conflict with the Disabilities Act of 1990; (2) presents a barrier to participation of a child who was present at the initial certification and is receiving ongoing health care; or (3) presents a barrier to participation of a child who was present at the initial certification, was present at a certification determination within the last year, and has one or more working parents.

This subsection also requires that all applicants present documentation of family income or of participation in one of the adjunctive programs (Medicaid, Food Stamps or Temporary Assistance for Needy Families) at the time of certification. The State agency may waive the requirement if the State determines: (1) the necessary documentation is not available for an applicant; or (2) the State agency determines that the requirement would present a barrier to participation. Finally this subsection requires the Secretary to issue regulations prescribing when and how verification of income will be required.

Subsection 203(c) allows the Secretary to share nutrition education materials developed for the WIC program with State agencies administering the Commodity Supplemental Food Program (CSFP) at no cost to the CSFP program.

Subsection 203(d) requires that each State agency, in its plan of operation and administration of the WIC program to the Secretary, include a plan to limit participation of retail stores to stores that offer a variety of foods, as determined by the Secretary. This provision is applicable to those States that provide for the purchase of foods under the WIC program at retail stores.

Subsection 203(e) allows a State agency to use funds recovered from vendors and participants, as a result of a claim arising under the WIC program, during the fiscal year in which the claim arises, the fiscal year in which the claim was collected or the fiscal year following the year in which the funds were collected. Current law requires that the recovered funds be spent in the fiscal year that the funds collected were obligated.

Subsection 203(f) requires each State agency to implement a system designed by the State to identify recipients who are receiving benefits in more than one place.

Subsection 203(g) requires each State agency to conduct compliance investigations of those vendors who have been identified by the State as having a high probability of program abuse.

Subsection 203(h) reauthorizes appropriations for the WIC program as well as the requirement to designate a part of each State agency's WIC allocation for nutrition services and administration costs through fiscal year 2003.

Subsection 203(i) allows a State agency, beginning in fiscal year 2000, to use supplemental food funds to purchase breast pumps. Current law requires that a State agency purchase breast pumps out of nutrition services and administration accounts. A State agency electing to purchase breast pumps with food funds is required to transfer from the nutrition services and administration account an amount that is equal to that which was expended or

transferred, in the prior fiscal year, for breast pump purchases out of the nutrition services and administrative account.

The Committee intends that food funds used to provide breast pumps shall be in addition to a State's minimum required nutrition services and administration expenditure for breast-feeding support and promotion.

Subsection 203(j) makes a technical amendment deleting an out-of-date reference.

Subsection 203(k) allows the Secretary to reduce a State's nutrition services and administration (NSA) allocation if its actual NSA expenditures exceed its per-participant grant for NSA by more than 10 percent. Current law allows the Secretary to reduce a State's NSA if its actual NSA expenditures exceed its per-participant grant by more than 15 percent.

The Committee has provided States with increased flexibility to convert food funds to NSA funds. However, in order to ensure that this expanded conversion authority is not used to substantially shift food money to NSA spending, the Committee believes it is appropriate to lower the level at which the Secretary can reduce a State's NSA allocation if the NSA expenditures exceed the national per-participant NSA grant.

Subsection 203(l) makes technical amendments deleting out-of-date provisions.

Subsection 203(m) requires a State agency to submit a plan showing how it plans to reduce average food costs per participant and how it plans to increase participation above the level estimated for the State agency, in order to convert food funds into nutrition services and administration funds. The plan must be approved by the Secretary. This subsection changes current law so that States are not penalized if their State plan does not fully materialize.

Subsection 203(n) requires State agencies to offer infant formula rebate 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 formula in the State does not vary by more than five percent.

This subsection also requires the Secretary to review infant formula cost containment contract solicitations to ensure that solicitations do not contain any anti-competitive provisions.

Subsection 203(o) reauthorizes the authority to use up to \$10,000,000 per year for infrastructure and breast-feeding support and promotion through fiscal year 2003.

Subsection 203(p) requires the Secretary, in consultation with State agencies, retailers and other interested parties to establish a long-range plan for the development and implementation of management information and electronic benefit transfer (EBT) systems. Not later than two years after the date of enactment, the Secretary is required to report to Congress on actions taken to carry out this requirement. Prior to the release of the report to Congress, the costs of systems or equipment used to test electronic benefit transfer systems may not be imposed on a retailer.

The Committee understands that the use of EBT technology for the WIC program is still in its beginning stages. Unlike the food stamp program, a program in which EBT has already been widely implemented, the WIC program has special characteristics making

it difficult to simply transfer food stamp EBT technology to the WIC program. States are testing various EBT systems to determine what works best to address the particular concerns of the WIC program. It is the intent of the Committee that information obtained in these tests be used in the development of the long-range plan.

The Committee also understands that many WIC participants live on the border between two states and may shop in both States. It is the intent of the Committee that the Secretary, in consultation with other interested parties, develop operating rules that permit interoperability among states.

Subsection 203(q) allows States to use up to 1% of the WIC food grant to cover food expenditures incurred in the prior year and allows States to use up to 1% of its WIC nutrition services and administration (NSA) allocation to cover either food expenditures or NSA expenses incurred in the prior year. Current law allows States to spend back 1% of the food grant, but does not allow States to spend back NSA grants.

The Committee understands that States are anxious to beginning implementing the provisions of this subsection and therefore, directs the Secretary to issue interim rules within 120 days of the enactment of this Act.

This subsection also deletes a current law provision that allows states to spend forward up to 1% of their total grant, or up to 3% or 5%, when implementing new cost containment measures, replacing it with a provision which allows States to spend forward NSA funding—up to 1% of a State's total WIC grant. In addition, States would be able to spend forward an additional amount of NSA funds—equal to ½% of their total WIC grant—for the development of Management Information Systems and Electronic Benefit Transfer Systems.

This subsection also allows the Secretary to use unobligated NSA or food funds to meet the requirement to spend up to \$10,000,000 on infrastructure and breast feeding promotion. Current law allows only NSA funds to be used toward meeting the requirement.

Subsection 203(r) allows States to count program income toward meeting the Farmers' Market Nutrition Program matching requirement.

This subsection also allows States to use additional appropriations (i.e., those amounts over the amount that was appropriated to the State in the preceding fiscal year) to increase recipient benefit level rather than solely for the purposes of serving additional recipients. In approving the State plan to increase benefit levels with the additional money, the Secretary is required to determine whether the increase in recipient benefits will increase coupon redemption.

This subsection eliminates the specified criteria for ranking new State plans for the WIC Farmers' Market Nutrition Program. The Secretary continues to be required to establish objective criteria for ranking new State plans, but under this provision, would no longer have to use the specific factors currently stipulated for the process, thus enabling the Secretary to adapt to issues and/or priorities that may change from year to year.

This subsection extends the authority for appropriations for the WIC Farmers' Market Nutrition Program through fiscal year 2003.

Subsection 203(s) requires State agencies to permanently disqualify, except in hardship and certain other specific situations, WIC vendors who have been convicted of trafficking in food instruments or selling firearms, ammunition, explosives or controlled substances in exchange for WIC food instruments. The disqualification is effective upon receipt of notice from the State agency. The vendor is not entitled to receive any compensation for revenues lost as a result of the disqualification. In the event that the State agency determines that the disqualification would cause a hardship to participants in the WIC program or that the vendor had an effective policy and program in effect to prevent the violation and the ownership of the vendor was not aware or did not benefit from the violation, the State agency is required to assess a civil money penalty in lieu of disqualification. The amount is to be determined by the State agency, except that the amount for one violation cannot exceed \$20,000 and the amount imposed as part of a single investigation cannot exceed \$40,000. This provision will be effective on the date that the Secretary of Agriculture issues final regulations.

The Committee notes that the Personal Responsibility and Work Opportunity Act of 1996 greatly expanded the ability of the Secretary to collect information on retailers approved for participation in the food stamp program. The Committee believes that this information would be useful for State agencies operating the WIC program as well in their oversight of WIC vendors. The Committee encourages State WIC agencies to take advantage of the information in pursuing possible cases of fraud and abuse.

Section 203(t) allows a court to order that a person convicted of embezzlement, willful misapplication, stealing, obtaining by fraud or trafficking in food instruments, funds, assets, or property that have a value of \$100 or more in the WIC program, forfeit all real and personal property used in the transaction to the United States. The proceeds from any sale of forfeited property and any amounts forfeited shall be used, in the following order: (1) to reimburse the Department of Justice, Department of Treasury and the United States Postal Service for costs incurred to initiate and complete the forfeiture proceeding; (2) to reimburse the Office of the Inspector General of the Department of Agriculture for costs incurred in the law enforcement effort resulting in forfeiture; (3) to reimburse any Federal, State or local law enforcement agency for costs incurred in the law enforcement effort resulting in the forfeiture; and (4) by the State agency to carry out approval, reauthorization and compliance investigations of vendors.

Section 203(u) requires the General Accounting Office to study, and report to Congress within 30 months after the date of enactment, the effects of cost containment practices of States for the selection of vendors and approved food items on: (1) program participation, current and future projections; (2) access and availability of prescribed foods; (3) voucher redemption rates and actual food selections by participants; (4) participants' consumption of, and satisfaction with, prescribed foods; (5) achievement of positive health outcomes; and (6) program costs. The managers of this bill encourage the Comptroller General to provide interim reports, as data is available, to Congress prior to issuance of the final report. The Committee also encourages the Comptroller General to consult

with persons experienced in market research as well as health and nutrition research when designing the study.

Section 203(v) requires the General Accounting Office to assess the cost of delivering nutrition services and other administrative costs of the WIC program. The Comptroller General is to study, and report to Congress within 3 years: (1) the cost of delivering WIC program services, including the costs of implementing and administering cost containment efforts; (2) the fixed and variable costs incurred by State and local governments for delivering services; (3) the quality of the services delivered, taking into account the effect of such services on the health outcome of participants; and (4) the costs incurred for personnel, automation, central support, and other activities to deliver the services and whether the costs meet Federal audit standards for allowable costs under the program.

To better understand the costs of delivering WIC services, the Committee encourages the Comptroller General to report to Congress in phases.

The Committee recognizes that WIC helps to assure normal growth in children, reduces levels of anemia, increases immunization rates, provides better access to regular health care and improves diets. WIC blood work testing is an important factor in determining the health progress of children in the WIC program. 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 is concerned over the delay in publishing final regulations on the coordination of blood work requirements between the WIC schedule and the Center for Disease Control and Prevention's periodicity schedule. The Committee expects a proposed regulation to be published no later than 6 months after the amendments made to the Child Nutrition Act of 1966 are enacted.

The Committee understands that the Department of Agriculture's Food and Nutrition Service, the WIC directors, the Center for Disease Control and Prevention's National Immunization Program and others have been working to collaboratively promote and support an coordinated strategic approach for linking pre-school immunization and WIC services on the Federal, State and local level. The Committee urges the Department, working with WIC directors, the CDC's National Immunization Program and others, to move expeditiously to complete this effort which should address certain areas of concern including: funding, methodologies, and valid measurements of process and outcome.

Section 204. Nutrition education and training

Extends the authorization for appropriations for the Nutrition, Education and Training program through fiscal year 2003. This section also authorizes such sums as necessary to carry out the Nutrition, Education and Training program.

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

Section 301. Commodity Distribution Program reforms

Subsection 301(a) redefines the applicability of requirements for the collection of Customer Acceptability Reports by removing the requirement that customer acceptability information be gathered for the Nutrition Program for the Elderly and child and adult care food centers. Customer acceptability information shall apply to the commodity supplemental food program, the food distribution program on Indian reservations, and the school lunch program.

Subsection 301(b) requires the Secretary to ensure that information on the types and forms of commodities is collected from recipient agencies at least once every 2 years. In addition to the commodity supplemental food program, the food distribution program on Indian reservations and the school lunch program, the Secretary may require recipient agencies to submit information from other domestic food assistance programs administered by the Secretary. The Secretary is also required to provide recipient agencies with a way to voluntarily submit customer acceptability information.

Section 302. Food distribution

Section 302(a) authorizes the Secretary to transfer commodities purchased for domestic food assistance programs administered by USDA to other domestic food assistance programs administered by USDA, if the transfer is necessary to ensure that the commodities will be used while they are still suitable for human consumption. The provision will ensure that the commodities will not have to be disposed of, thus causing a loss to the domestic food program. The Secretary is required, to the extent possible, to reimburse the account that originally purchased the commodity from recipient program. The program making the original purchase will be credited with the reimbursement and that reimbursement will be available for the purchase of commodities, with the same limitations as are provided for appropriated funds, for the fiscal year in which the transfer takes place.

This subsection also authorizes the Secretary to determine, settle, adjust, or waive claims arising under the domestic commodity distribution programs. The Secretary has the authority to waive a claim if he determines that a waiver would serve the purposes of the program. The provision does not diminish the authority of the Attorney General to supervise and conduct litigation on behalf of the United States.

This subsection also authorizes the Secretary to use funds available to USDA under section 32 of the Act of August 24, 1935, that are otherwise not committed, to reimburse States for State and local costs associated with the removal of commodities provided by USDA but subsequently determined by the Secretary to pose a health or safety hazard to recipients. Costs must be approved by the Secretary and may include the costs for storage, transportation, processing and destruction of the hazardous commodities. The Secretary may also use funds to purchase additional commodities when such purchases will expedite replacement of any commodity posing a health or safety hazard. In instances in which funds are recovered from the supplier of the commodity or other entities,

such funds will be credited to the section 32 account to the extent that such funds represent reimbursement of expenditures from that account for the purposes described above.

Finally, this subsection authorizes the Secretary to accept donations of commodities from other Federal sources for distribution to States through domestic food assistance programs for use in providing food assistance to the needy. It would also exempt the USDA from paying 25 percent of the value of the commodities when they are donated as excess property under the Federal Property and Administrative Services Act of 1949.

TITLE IV—EFFECTIVE DATE

Section 401. Effective date

Unless otherwise noted, the amendments made by this Act are effective as of October 1, 1998.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2286 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

NATIONAL SCHOOL LUNCH ACT

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SEC. 6. * * *

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[(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 [after March 30, 1973] 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 [(42 U.S.C. 1773)].

[(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, including cash in lieu of commodities and administrative costs for procurement of commodities under this section.

* * * * *

SEC. 7. * * *

PAYMENTS TO STATES

(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this Act. [No] *During the period determined under the section 10(c), no State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).*

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

* * * * *

SEC. 9. * * *

(5) *WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—During the period ending on September 30, 2003, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a reimbursable meal under the school lunch or school breakfast program.*

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

(h) *FOOD SAFETY INSPECTIONS.—*

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

(2) *EXCEPTION.—Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local authority.”*

[DISBURSEMENT TO SCHOOLS BY THE SECRETARY

[SEC. 10 (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

[(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.]

SEC. 10. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

(a) *AUTHORITY TO ADMINISTER PROGRAMS.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (3), during the period determined under subsection (c), the Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.*

(2) *USE OF FUNDS.*—*Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.*

(3) *STATE ADMINISTRATION.*—*If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time during the period determined under subsection (c).*

(b) *PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.*—*During the period determined under subsection (c), the Secretary shall provide a State that assumes administrative responsibility for a program from the Secretary with training and technical assistance to allow for an efficient and effective transfer of the responsibility.*

(c) *PERIOD.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (2), this section shall apply during the period beginning on October 1, 1998, and ending on September 30, 2001.*

(2) *EXTENSION.*—*The Secretary may extend the period described in paragraph (1) that applies to a program administered by the Secretary for a State, for a period not to exceed 2 years, if the State—*

(A) demonstrates to the Secretary that the State will not be able to assume administrative responsibility for the program during the period described in paragraph (1); and

(B) submits a plan to the Secretary that describes when and how the State will assume administrative responsibility for the program.

* * * * *

SPECIAL ASSISTANCE

SEC. 11. * * *

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of **3 successive school years** *4 successive school years*; and

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the **3-school-year period** *4-school-year period* shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the **3-school-year period** *4-school-year period*.

(D)(i) In the case of any school that is receiving special assistance payments under this paragraph for a **3-school-year period** *4-school-year period* described in subparagraph (C), the State may grant, at the end of the **3-school-year period** *4-school-year-period*, an extension of the period for an additional **2 school years** *4 school years*, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

(ii) **A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period.** The school may reapply to the State at the end of the **5-school-year period** *4-school-year period*, and at the end of each **5-school-year period** *4-school-year period* thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent **5-school-year period** *4-school-year period*.

* * * * *

[(B) The annual] (B) COMPUTATION OF ADJUSTMENT.—

(i) *IN GENERAL.*—*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 [(42 U.S.C. 1771 et seq.)], 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*

(ii) BASIS.—*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]*

(iii) ROUNDING.—

(I) THROUGH APRIL 30, 1999.—*For the period ending April 30, 1999, 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.*

(II) MAY 1, 1999, THROUGH JUNE 30, 1999.—*For the period beginning on May 1, 1999, and ending on June 30, 1999, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts used to calculate the rates in effect on July 1, 1998.*

(III) JULY 1, 1999, AND THEREAFTER.—*On July 1, 1999, and on each subsequent July 1, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts for the preceding 12-month period.*

[(f) In providing assistance for school breakfasts and lunches 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 of this Act and section 4 of the Child Nutrition Act of 1966 [(42 U.S.C. 1773)], to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.]

(f) ADJUSTMENTS TO REIMBURSEMENT RATES.—*In providing assistance for breakfasts, lunches, suppers, and supplements served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, 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, 11, 13 and 17 of this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to reflect the differences between the costs of providing meals in those States and the costs of providing meals in all other States.*

(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition

Act of 1966 [(42 U.S.C. 1771 et seq.)], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of \$100 or more, be fined not more than ~~[\$10,000]~~ \$25,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

* * * * *

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

* * * * *

(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than \$100,000, nor more than \$200,000, for each of fiscal years 1995 through ~~[1998]~~ 2003.

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

(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through ~~[1998]~~ 2003.

(n) *LENGTH OF MEAL SERVICE PERIOD AND FOOD SERVICE ENVIRONMENT.*—A school participating in the school lunch program authorized under this Act or the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is encouraged to establish meal service periods that provide children with adequate time to fully consume their meals in an environment that is conducive to eating the meals.

(o) *BUY AMERICAN.*—

(1) *DEFINITION OF DOMESTIC COMMODITY OR PRODUCT.*—In this subsection, the term “domestic commodity or product” means—

(A) an agricultural commodity that is produced in the United States; and

(B) a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(2) *REQUIREMENT.*—Subject to paragraph (3), the Secretary shall require that a school purchase, to the maximum extent practicable, domestic commodities or products.

(3) *LIMITATIONS.*—Paragraph (2) shall apply only to—

(A) a school located in the contiguous United States; and

(B) a purchase of an agricultural commodity or product for the school lunch program authorized under this Act or

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

(p) PROCUREMENT CONTRACTS.—In acquiring a good or service using funds provided under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State, State agency, or school may enter into a contract with a person that has provided assistance to the State, State agency, or school in drafting contract specifications.

* * * * *

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13 * * *

* * * * *

- [(ii) conduct a regularly scheduled food service primarily for homeless children; or
- [(iii) (i) qualify as camps; and

(B) As used in this paragraph, the term “private non-profit 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);]

(i) operate—

(I) not more than 25 sites, with not more than 300 children being served at any 1 site; or

(II) with a waiver granted by the State agency under standards developed by the Secretary, with 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;]

[(iv) (i) 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.

(b) SERVICE INSTITUTIONS.—

* * * * *

(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.

(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 pre-

scribe 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.

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—

* * * * *

(f) Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under ~~section 6(e)~~ *section 6(c)* of this Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk.

* * * * *

ELECTION TO RECEIVE CASH PAYMENTS

SEC. 16 (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by ~~section 6(e)~~ *section 6(c)* of this Act.

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 [(42 U.S.C. 1397 et seq.)] (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 schoolchildren, **[and public]** *public* or nonprofit private organizations that sponsor family or group day care homes, *and emergency shelters described in subsection (t)*. **[Reimbursement]** *Except as provided in subsection (r), 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) each institution (other than a school or family or group day care home sponsoring organization) and family or group day care home shall—

(A)(i) have Federal, State, or local licensing or approval;

or

(ii) be complying with appropriate renewal procedures as prescribed by the Secretary and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

(B) in any case in which Federal, State, or local licensing or approval is not available—

(i) receive funds under title XX of the Social Security Act (42 U.S.C. 1397 et seq.);

(ii) meet any alternate approval standards established by a State or local government; or

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

(C) in any case in which the institution provides care to school children outside school hours and Federal, State, or local licensing or approval is not required, meet State or local health and safety standards; and

(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], for a period of time specified by the Secretary;

(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and

* * * * *

[(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

[(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.

(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 *has been visited by a State agency prior to approval and 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 child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution.* 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.]

(2)(A) The Secretary shall develop a policy [that allows] *that—*

(i) allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals; and;

(ii) requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.

(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).

(e)(1) Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under [section 6(e)] *section 6(c)* for the school year concerned.

* * * * *

(p)(1) From amounts [appropriated or otherwise made available for purposes of carrying out this section] *made available under paragraph (4)* the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

* * * * *

[(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.]

(4) *FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary such sums as are necessary to carry out this subsection for each of fiscal years 1999 through 2003. The Secretary shall be entitled to receive the funds and shall accept the funds.*

(q) *MANAGEMENT SUPPORT.—*

(1) *TECHNICAL AND TRAINING ASSISTANCE.—In addition to the training and technical assistance that is provided to State agencies under other provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.*

(2) *FUNDING.—For each of fiscal years 1999 through 2003, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section.*

(r) *PROGRAM FOR AT-RISK SCHOOL CHILDREN.—*

(1) *DEFINITION OF AT-RISK SCHOOL CHILD.*—In this subsection, the term “at-risk school child” means a school child who—

(A) is not more than 18 years of age; and

(B) lives 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 as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) *PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.*—Subject to the other provisions of this subsection, an institution that provides supplements under a program organized primarily to 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.

(3) *ADMINISTRATION.*—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

(4) *SUPPLEMENT REIMBURSEMENT.*—

(A) *LIMITATIONS.*—An institution may claim reimbursement under this subsection only for—

(i) a supplement served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(ii) 1 supplement per child per day.

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

(C) *NO CHARGE.*—A supplement claimed for reimbursement under this subsection shall be served without charge.

(s) *INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.*—

(1) *IN GENERAL.*—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) *REQUIREMENTS FOR STATE AGENCIES.*—A State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

(A) receives materials that include—

(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

(ii) the maximum State income eligibility standards, according to family size, for the program; and

(iii) information concerning how benefits under the program may be obtained;

(B) is provided periodic updates of the information described in subparagraph (A); and

(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.”

(t) PARTICIPATION BY EMERGENCY SHELTERS.—

(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term “emergency shelter” means a public or private non-profit emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)), or a site operated by the shelter, that provides food service to homeless children and their parents or guardians.

(2) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section shall apply to an emergency shelter that is participating in the program authorized under this section.

(3) INSTITUTION AND SITE LICENSING.—Subsection (a)(1) shall not apply to an emergency shelter.

(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State and local health and safety standards.

(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection only for—

(i) a meal or supplement served to children who are not more than 12 years of age residing at the emergency shelter; and

(ii) not more than 3 meals, or 2 meals and 1 supplement, per child per day.

(B) RATE.—A meal or supplement shall be reimbursed under this subsection at the rate established for a free meal or supplement under subsection (c).

(C) NO CHARGE.—A meal or supplement claimed for reimbursement under this subsection shall be served without charge.

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

(a) GENERAL AUTHORITY.—

(1) GRANTS TO STATES.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal [supplements to] supplements under a program organized primarily to provide care for children in afterschool care in eligible elementary and secondary schools.

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

(A) operate school lunch programs under this Act;

(B) sponsor afterschool care programs; and

[(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; or [.]

(3) *in the case of children 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 as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), who are not more than 18 years of age.*

[(c) REIMBURSEMENT.—For]

(c) REIMBURSEMENT.—

(1) *IN GENERAL.*—*Except as provided in paragraph (2), for the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).*

(2) *LOW-INCOME AREAS.*—*A supplement provided under this section to a child described in subsection (b)(3) shall be—*

(A) *reimbursed at the rate at which free supplements are reimbursed under section 17(c); and*

(B) *served without charge.*

(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.

[(SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.]

[(Section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) requires the Secretary of Agriculture to allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under this section, not more than \$4,000,000 in fiscal years 1995 and each subsequent fiscal year.]

[(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) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 [(42 U.S.C. 1774)].

* * * 1989, amended this subsection by striking “(42 U.S.C. 1771 et seq.)”.

* * * * *

(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through [1998] 2003 that is designed to provide food and nutrition services throughout the year to—

* * * * *

[(7)[(A)] Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary \$400,000 for each of fiscal years 1995 through [1998] 2003 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

[(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out

the homeless children nutrition program established under section 17B.】

* * * * *

(e) *BREAKFAST PILOT PROJECTS.*—

【(1) *IN GENERAL.*—During each of the school years beginning July 1, 1999, July 1, 2000, and July 1, 2001, the Secretary shall make grants to State agencies to conduct pilot projects in elementary schools under the jurisdiction of not more than 6 school food authorities approved by the Secretary—

【(A) to reduce paperwork and simplify meal counting requirements; and

【(B) to evaluate the effect of providing free breakfasts to elementary school children, without regard to family income, on participation, academic achievement, attendance and tardiness, and dietary intake over the course of a day.

【(2) *NOMINATIONS.*—A State agency that desires to receive a grant under this subsection shall submit to the Secretary nominations of school food authorities to participate in a pilot project under this subsection.

(3) *APPROVAL.*—The Secretary shall approve for participation in pilot projects under this subsection elementary schools under the jurisdiction of not more than 6 school food authorities selected so as to—

(A) provide for an equitable distribution of pilot projects among urban and rural elementary schools;

(B) provide for an equitable distribution of pilot projects among elementary schools of varying family income levels; and

(C) permit the evaluation of pilot projects to distinguish the effects of the pilot projects from other factors, such as changes or differences in educational policies or program.

(4) *GRANTS TO SCHOOL FOOD AUTHORITIES.*—A State receiving a grant under paragraph (1) shall make grants to school food authorities to conduct the pilot projects described in paragraph (1).

(5) *DURATION OF PILOT PROJECTS.*—A school food authority receiving amounts under a grant to conduct a pilot project described in paragraph (1) shall conduct the project for the 3-year period beginning July 1, 1999.

(6) *WAIVER AUTHORITY.*—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 other requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

(7) *REQUIREMENTS FOR PARTICIPATION IN PILOT PROJECT.*—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 to meet criteria the Secretary has established to enable a valid evaluation to be conducted; and

(ii) shall provide such information relating to the operation and results of the pilot project 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.);

(iii) shall have, under the jurisdiction of the school food authority, a sufficient number of elementary schools that are not participating in the pilot projects to permit an evaluation of the effects of the pilot projects; and

(iv) shall meet all other requirements that the Secretary may reasonably require.

(8) **REIMBURSEMENT RATES.**—A school food authority conducting a pilot project under this subsection shall receive reimbursement for each breakfast served under the pilot project in an amount that is equal to—

(A) in the case of a school food authority that is determined by the Secretary not to be in severe need, 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)); and

(B) in the case of a school food authority that is determined by the Secretary to be in severe need, the rate for free breakfasts established under section 4(b)(2)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(2)(B)).

(9) **EVALUATION OF PILOT PROJECTS.**—

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

(B) **CONTENT.**—The evaluation shall include—

(i) a determination of the effect of participation in the pilot project on the academic achievement, attendance and tardiness, and dietary intake over the course of a day 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 project has on the proportion of students who eat breakfast and on the paperwork required to be completed by the schools.

(C) **REPORT.**—On 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 results of the evaluation of the pilot projects required under subparagraph (A).

(10) **FEDERAL REIMBURSEMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), a school conducting a pilot project under this sub-

section shall receive a total Federal reimbursement under the school breakfast program in an amount that is equal to the total Federal reimbursement for the school for the prior year under the program (adjusted for inflation and fluctuations in enrollment).

(B) EXCESS NEEDS.—Funds required for the pilot project in excess of the level of reimbursement received by the school for the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts provided under this subsection.

(11) FUNDING.—

(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary such sums as are necessary to carry out this subsection, but not more than \$20,000,000. The Secretary shall be entitled to receive the funds and shall accept the funds.

(B) EVALUATION.—Of the amounts made available under subparagraph (A), not more than \$12,000,000 shall be made available to carry out paragraph (9).

[(e)(1) The Secretary may establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours.

[(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

[(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

[(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

[(B) use the same meal patterns as meal patterns required under the child and adult care food program under section 17.

[(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 9.

[(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.

[(6) As used in this subsection:

[(A) The term “adolescent” means a child who has attained the age of 13 but has not attained the age of 19.

[(B) The term “eligible institution or school” means—

[(i) an institution, as the term is defined in section 17;

or

- [(ii) an elementary or secondary school participating in the school lunch program under this Act.
- [(C) The term “outside of school hours” means after-school hours, weekends, or holidays during the regular school year.]

* * * * *

[(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in 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), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as “qualified products”).

[(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

[(3) The Secretary may provide a priority for receiving funds under this subsection to—

[(A) schools that are located in low-income areas (as defined by the Secretary); and

[(B) schools that rarely offer 3 or more choices of qualified products per meal.

[(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

[(A) the extent to which participating children increased consumption of qualified products;

[(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

[(C) the desirability of requiring that—

[(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

[(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

[(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

[(D) the views of school food service authorities on the pilot project; and

[(E) any increase or reduction in costs to the schools in offering the additional qualified products.

[(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than \$5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

[(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

[(h)(1) The Secretary is authorized to establish a pilot project to assist schools participating in 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), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as “qualified products”).

[(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

[(3) The Secretary may provide a priority for receiving funds under this subsection to—

[(A) schools that are located in low-income areas (as defined by the Secretary); and

[(B) schools that rarely offer 3 or more choices of qualified products per meal.

[(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

[(A) the extent to which participating children increased consumption of qualified products;

[(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

[(C) the desirability of requiring that—

[(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

[(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

[(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

[(D) the views of the school food service authorities on the pilot project; and

[(E) any increase or reduction in costs to the schools in offering the additional qualified products.

[(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than \$5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

[(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

[(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.

* * * * *

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

* * * * *

(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.

(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

(A) FUNDING.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary \$147,000 for fiscal year 1995, [and \$2,000,000 for fiscal year 1996 and each subsequent fiscal year] *\$2,000,000 for each of fiscal years 1996 through 1998, and \$3,000,000 for fiscal year 1999 and each subsequent fiscal year*, to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

* * * * *

SEC. 26. INFORMATION CLEARINGHOUSE.

(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] *\$100,000 for fiscal year 1998, and \$166,000 for each of fiscal years 1999 through 2003*. The Sec-

retary shall be entitled to receive the funds and shall accept the funds.

[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 SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

(a) DEFINITIONS.—*In this section:*

(1) 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 that the Secretary determines is appropriate.*

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

(3) INDIVIDUALS WITH DISABILITIES.—*The term ‘individual with disabilities’ has the meaning given the term in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) for purposes of title VII of that Act (29 U.S.C. 796 et seq.).*

(b) ACTIVITIES.—*The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program, including—*

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

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

(3) *issuing grants to State agencies and eligible entities.*

CHILD NUTRITION ACT OF 1966

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. * * *

* * * * *

APPORTIONMENT TO STATES

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(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the National School Lunch Act [(42 U.S.C. 1759a(a))]. The national average payment for each reduced price breakfast shall be one-half of the national average payment for each free breakfast, [adjusted to the nearest one-fourth cent,] except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced price breakfast exceed 30 cents.

* * * * *

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

(ii) 45 cents, which shall be adjusted on an annual basis each July [to the nearest one-fourth cent] in accordance with changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the most recent twelve-month period for which such data are available, except that the initial such adjustment shall be made on January 1, 1978, and shall reflect the change in the series of food away from home during the period November 1, 1976, to October 31, 1977.

[SEC. 5. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

[SEC. 5(a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools or institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

[(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.]

SEC. 5. DISBURSEMENT TO SCHOOLS BY THE SECRETARY.

(a) AUTHORITY TO ADMINISTER PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (3), during the period determined under subsection (c), the Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to school food authorities, institutions, and service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed the funds continuously since October 1, 1980.

(2) USE OF FUNDS.—Any funds withheld and disbursed by the Secretary under paragraph (1) shall be used for the same purposes and be subject to the same conditions as apply to disbursing funds made available to States under this Act.

(3) STATE ADMINISTRATION.—If the Secretary is administering (in whole or in part) any program authorized under this Act in a State, the State may, on request to the Secretary, assume administrative responsibility for the program at any time during the period determined under subsection (c).

(b) *PROVISION OF TRAINING AND TECHNICAL ASSISTANCE.*—During the period determined under subsection (c), the Secretary shall provide a State that assumes administrative responsibility for a program from the Secretary with training and technical assistance to allow for an efficient and effective transfer of administrative responsibility.

(c) *PERIOD.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), this section shall apply during the period beginning on October 1, 1998, and ending on September 30, 2001.

(2) *EXTENSION.*—The Secretary may extend the period described in paragraph (1) that applies to a program administered by the Secretary for a State, for a period not to exceed 2 years, if the State—

(A) demonstrates to the Secretary that the State will not be able to assume administrative responsibility for the program during the period described in paragraph (1); and

(B) submits a plan to the Secretary that describes when and how the State will assume administrative responsibility for the program.

* * * * *

SEC. 7. STATE ADMINISTRATIVE EXPENSES.

* * * * *

(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

[(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 nonprofit 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).

(B) REALLOCATION OF FUNDS.—

(i) RETURN TO SECRETARY.—*For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.*

(ii) REALLOCATION BY SECRETARY.—*The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.*

[(6) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act [(42 U.S.C. 1761(k)(1))] 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) USE OF ADMINISTRATIVE FUNDS.—*Funds available to a State under this subsection and under section 13(k)(1) of the National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.) or this Act (except for the programs authorized under sections 17 and 21 of this Act) without regard to the basis on which the 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.

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 SEC. 17. * * * * *
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(C) CERTIFICATION PERIOD FOR INFANTS.—

(i) IN GENERAL.—*Except as provided in clause (ii), the procedures prescribed under subparagraph (A) shall include a requirement that a family that includes an infant shall not be certified to meet income eligibility criteria for the program for more than 180 days after the date of any certification.*

(ii) PRESUMPTIVELY ELIGIBLE FAMILIES.—*Clause (i) shall not apply to a family with a member who is an individual described in clause (ii) or (iii) of paragraph (2)(A).*

(D) PHYSICAL PRESENCE.—

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

(ii) *WAIVERS.*—A local agency may waive the requirement of clause (i) with respect to an applicant if the agency determines that the requirement, as applied to the applicant, would—

(I) conflict with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(II) present a barrier to participation of a child (including an infant) who—

(aa) was present at the initial certification visit; and

(bb) is receiving ongoing health care from a provider other than the local agency; or

(III) present a barrier to participation of a child (including an infant) who—

(aa) was present at the initial certification visit;

(bb) 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) has 1 or more parents who work.

(E) INCOME DOCUMENTATION.—

(i) *IN GENERAL.*—Except as provided in clause (ii), 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 clause (ii) or (iii) of paragraph (2)(A).

(ii) *WAIVERS.*—A State agency may waive the requirement of clause (i) with respect to—

(I) an applicant for whom the necessary documentation is not available; or

(II) an applicant, such as a homeless woman or child, for whom the agency determines the requirement of clause (i) would present a barrier to participation.

(iii) *REGULATIONS.*—The Secretary shall prescribe regulations to carry out clause (ii)(I).

(F) VERIFICATION.—The Secretary shall issue regulations under this paragraph prescribing when and how verification of income shall be required.

(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 agen-

cies operating the program under this section who do not participate in the program.

* * * * *

[(3) The] (3) NUTRITION EDUCATION MATERIALS.—

(A) IN GENERAL.—*The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health and Human Services for comment, issue such materials for use in the program under this section.*

(B) SHARING OF MATERIALS WITH CSFP.—*The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section 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 (Public Law 93–86; 7 U.S.C. 612c note) at no cost to that program.*

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

(ii) *in the case of any State that provides for the purchase of foods under the program at retail grocery stores, a plan to limit participation by the stores to stores that offer a variety of foods, as determined by the Secretary;*

[(ii)] (iii) a description of the financial management system of the State agency;

[(iii)] (iv) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;

[(v)] (vi) a plan to expend funds to carry out the program during the relevant fiscal year;

[(vi)] (vii) a plan to provide program benefits under this section to unserved and underserved areas in the State (including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas), if sufficient funds are available to carry out this clause;

[(vii)] (viii) a plan for reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;

[(viii)] (ix) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

[(ix)] (x) a plan to provide nutrition education and promote breastfeeding; and

[(x)] (xi) such other information as the Secretary may reasonably require.

* * * * *

[(21) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.]

(21) *USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.*—A State agency may use funds recovered from vendors and participants, as a result of a claim arising under the program, to carry out the program during—

- (A) the fiscal year in which the claim arises;
- (B) the fiscal year in which the funds are collected; or
- (C) the fiscal year following the fiscal year in which the funds are collected.

* * * * *

(23) *RECIPIENTS PARTICIPATING AT MORE THAN 1 SITE.*—Each State agency shall implement a system designed by the State agency to identify recipients who are participating at more than 1 site under the program.

(24) *HIGH RISK VENDORS.*—Each State agency shall—

- (A) identify vendors that have a high probability of program abuse; and
- (B) conduct compliance investigations of the 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] 2003.

* * * * *

[(C) In] (C) REMAINING AMOUNTS.—

(i) *IN GENERAL.*—Except as provided in clause (ii), 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) *BREAST PUMPS.*—

(I) *IN GENERAL.*—Beginning with fiscal year 2000, a State agency may use amounts made available under clause (i) for the purchase of breast pumps.

(II) *MAINTENANCE OF EFFORT.*—From amounts allocated for nutrition services and administration to amounts allocated for supplemental foods, a State agency that exercises the authority of subclause (I) shall transfer an amount equal to the amount expended for the purchase of breast pumps, or transferred under this subclause, from amounts allocated for nutrition services and administration for the preceding fiscal year.

(2)(A) For each of the fiscal years 1995 through [1998] 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—

* * * * *

(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent (except that the Secretary may establish a higher percentage for State agencies that are small) 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.

* * * * *

(E) In the case of fiscal year 1996 (except as provided in subparagraph (G)) and each subsequent fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

(i) equal to \$21 multiplied by the number of pregnant women and breastfeeding women participating in the program nationwide, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data; and

(ii) adjusted for inflation on October 1, 1996, and each October 1 thereafter, in accordance with paragraph (1)(B)(ii).

(F) In the case of fiscal year 1995, a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

(i) an amount that is more than the expenditure of the State for fiscal year 1994 on the activities described in subparagraph (A)(i); or

(ii) an amount that is equal to \$21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.

(G)(i) If the Secretary determines that a State agency is unable, for reasons the Secretary considers to be appropriate, to make the expenditure required under subparagraph (A)(i)(II) for fiscal year 1996, the Secretary may permit the State to make the required level of expenditure not later than October 1, 1996.

[(ii) In the case of fiscal year 1996, if the Secretary makes a determination described in clause (i), a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

[(I) an amount that is more than the expenditure of the State for fiscal year 1995 on the activities described in subparagraph (A)(i); and

[(II) an amount that is equal to \$21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.]

* * * * *

(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 the State agency, the 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—*

* * * * *

(8)(A)(i) Except as provided in subparagraphs (B) and (C)(iii), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

* * * * *

(iii) *COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award a contract 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 5 percent.*

* * * * *

(J) A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.

(K) *REVIEW AND APPROVAL OF SOLICITATIONS.—The Secretary shall—*

(i) *prior to the issuance of an infant formula cost containment contract solicitation under this paragraph, review the solicitation to ensure that the solicitation does not contain any anticompetitive provisions; and*

(ii) *approve the solicitation only if the solicitation does not contain any anticompetitive provisions.*

(9) For purposes of this subsection, the term “cost containment measure” means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State

agency as described in its approved plan of operation and administration.

(10)(A) For each of fiscal years 1995 through **[1998]** 2003, the Secretary shall use for the purposes specified in subparagraph (B), \$10,000,000 or the amount of nutrition services and administration funds and supplemental foods funds for the prior fiscal year that has not been obligated, whichever is less.

(11) *MANAGEMENT INFORMATION SYSTEM PLAN.*—

(A) *IN GENERAL.*—*In consultation with State agencies, retailers, and other interested persons, the Secretary shall establish a long-range plan for the development and implementation of management information systems (including electronic benefit transfers) to be used in carrying out the program.*

(B) *REPORT.*—*Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on actions taken to carry out subparagraph (A).*

(C) *INTERIM PERIOD.*—*Prior to the date of submission of the report of the Secretary required under subparagraph (B), the cost of systems or equipment that may be required to test management information systems (including electronic benefit transfers) for the program may not be imposed on a retail food store.*

* * * * *

(3)(A) Notwithstanding paragraph (2) and subject to **[sub-**paragraphs (B) and (C)] *subparagraph (B)*—

[(i) not more than 1 percent (except as provided in subparagraph (H))17–130 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; 17–131 and

[(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.]

(i)(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 may be expended by the State agency for allowable 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 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 during the preceding fiscal year; and

(ii)(I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an

amount equal to not more than 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

(II) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 1/2 of 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency, with the prior approval of the Secretary, for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.

(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such 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.

* * * * *

(C) In providing funds to **[serve additional recipients in]** a State that received assistance under this subsection in the previous fiscal year, the Secretary shall consider—

(i) the availability of any such assistance not spent by the State during the program year for which the assistance was received;

[(ii) documentation that justifies the need for an increase in participation; and]

(ii) documentation that demonstrates that—

(I) there is a need for an increase in funds; and

(II) the use of the increased funding will be consistent with serving nutritionally at-risk persons and expanding the awareness and use of farmers' markets;

(iii) demonstrated ability to satisfactorily operate the existing program**[.]; and;**

(iv) whether, in the case of a State that intends to use any funding provided under subparagraph (G)(i) to increase the value of the Federal share of the benefits received by a recipient, the funding provided under subparagraph (G)(i) will increase the rate of coupon redemption.

* * * * *

[(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] whose State plan 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.

(ii) An amount equal to 25 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States [that desire to serve additional recipients, and] whose State plans have been approved.

* * * * *

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

(1) *IN GENERAL.*—*Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—*

(A) *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 under this section); or*

(B) *selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments.*

(2) *NOTICE OF DISQUALIFICATION.*—*The State agency shall—*

(A) *provide the vendor with notification of the disqualification; and*

(B) *make the disqualification effective on the date of receipt of the notice of disqualification.*

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

(4) *EXCEPTIONS IN LIEU OF DISQUALIFICATION.*—

(A) *IN GENERAL.*—*A State agency may permit a vendor that, but for this paragraph, would 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, that—*

(i) disqualification of the vendor would cause hardship to participants in the program authorized under this section; or

(ii)(I) the vendor had, at the time of the conviction under paragraph (1), an effective policy and program in effect to prevent violations of this section; and

(II) the ownership of the vendor was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation.

(B) CIVIL PENALTY.—If a State agency authorizes a vendor that, but for this paragraph, would be disqualified under paragraph (1) to redeem food instruments or provide supplemental foods under subparagraph (A), in lieu of disqualification, the State agency shall assess the vendor a civil penalty in an amount determined by the State agency, except that—

(i) the amount of the civil penalty shall not exceed \$20,000; and

(ii) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000.

(p) CRIMINAL FORFEITURE.—

(1) IN GENERAL.—In addition to any other penalty or sentence, a court may order that a person forfeit to the United States all property described in paragraph (2), in imposing a sentence on a person convicted of a violation of this section (including a regulation) under—

(A) section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)); or

(B) any other Federal law imposing a penalty for embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments, funds, assets, or property, that have a value of \$100 or more.

(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 (including a regulation), or proceeds traceable to a violation of any provision of this section (including a regulation), 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 amounts forfeited under this subsection shall be used—

(A) first, to reimburse the Department of Justice, the Department of the Treasury, and the United States Postal Service for the costs incurred by the Departments or Service to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by

the Office in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal, State, or local 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 approval, reauthorization, and compliance investigations of vendors.

【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) FISCAL YEARS 1997 THROUGH 2002.—

【(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.】

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—

(A) FUNDING.—*There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2003.*

(B) GRANTS.—

(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than \$75,000 per fiscal year.

(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.

[(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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SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

* * * * *

[(2) APPLICABILITY.—Paragraph (1) shall apply to—

[(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 [Pub. L. 93–86] (7 U.S.C. 612c note);

[(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

[(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

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

[(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

[(F) to the extent practicable—

[(i) the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (Public Law 100–237; 7 U.S.C. 612c note); and

[(ii) programs under which food is donated to charitable institutions.]

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

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

(C) *the school lunch program authorized under the National School Lunch Act (42 U.S.C. 1751 et seq.).*

* * * * *

[(2) Information from recipient agencies.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act [Jan 8, 1998], the Secretary shall establish procedures to ensure that information is received from recipient agencies at least annually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.]

(2) CUSTOMER ACCEPTABILITY INFORMATION.—

(A) IN GENERAL.—*The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful is collected from recipient agencies participating in programs described in subsection (a)(2).*

(B) FREQUENCY.—*The information shall be collected at least once every 2 years.*

(C) ADDITIONAL SUBMISSIONS.—*The Secretary—*

(i) may require submission of information described in subparagraph (A) from recipient agencies participating in other domestic food assistance programs administered by the Secretary; and

(ii) shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.

SEC. 8. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.

(a) TRANSFER.—*Subject to subsection (b), the Secretary may transfer any commodities purchased for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.*

(b) REIMBURSEMENT.—*The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.*

(c) CREDITING.—*Any reimbursement made under subsection (b) shall—*

(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

SEC. 9. AUTHORITY TO RESOLVE CLAIMS.

(a) IN GENERAL.—*The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.*

(b) WAIVERS.—*The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.*

(c) *AUTHORITY OF THE ATTORNEY GENERAL.*—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.

SEC. 10. PAYMENT OF COSTS ASSOCIATED WITH REMOVAL OF COMMODITIES THAT POSE A HEALTH OR SAFETY HAZARD.

(a) *IN GENERAL.*—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with the removal of commodities distributed under any domestic food assistance program administered by the Secretary if the Secretary determines that the commodities pose a health or safety hazard.

(b) *ALLOWABLE COSTS.*—The costs—

(1) may include costs for storage, transportation, processing, and destruction of the hazardous commodities; and

(2) shall be subject to the approval of the Secretary.

(c) *REPLACEMENT COMMODITIES.*—

(1) *IN GENERAL.*—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the hazardous commodities.

(2) *RECOVERY.*—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the hazardous commodities.

(d) *CREDITING OF RECOVERED FUNDS.*—Funds recovered from a supplier or other entity regarding the hazardous commodities shall—

(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

(2) remain available to carry out the purposes of section 32 of that Act until expended.

SEC. 11. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.

(a) *IN GENERAL.*—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).

(b) *USE.*—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.

(c) *PAYMENT.*—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).