

106TH CONGRESS
2D SESSION

S. 2356

To amend the Richard B. Russell National School Lunch Act to improve management of the child and adult care food program.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2000

Mr. LUGAR (for himself and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Richard B. Russell National School Lunch Act to improve management of the child and adult care food program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Child and Adult Care Food Program Management Im-
6 provement Act of 2000”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition of institution; exclusion of seriously deficient institutions.

- Sec. 3. Institution approval and applications.
 Sec. 4. Reduction in administrative requirements for public sponsoring organizations.
 Sec. 5. Temporary withholding of reimbursement.
 Sec. 6. Limitations on ability of family or group day care homes to transfer sponsoring organizations.
 Sec. 7. Limitation on administrative expenses for sponsoring organizations.
 Sec. 8. Reallocation of audit funds.
 Sec. 9. Expansion of management support funding.
 Sec. 10. Grants to improve program quality.
 Sec. 11. Retention of funds collected from institutions.
 Sec. 12. Study of administrative costs.
 Sec. 13. Effective dates.

1 **SEC. 2. DEFINITION OF INSTITUTION; EXCLUSION OF SERI-**
 2 **OUSLY DEFICIENT INSTITUTIONS.**

3 Section 17(a) of the Richard B. Russell National
 4 School Lunch Act (42 U.S.C. 1766(a)) is amended—

5 (1) by striking “(a) The Secretary” and insert-
 6 ing the following:

7 “(a) GRANT AUTHORITY AND INSTITUTION ELIGI-
 8 BILITY.—

9 “(1) GRANT AUTHORITY.—The Secretary”;

10 (2) by striking the second and third sentences
 11 and inserting the following:

12 “(2) DEFINITION OF INSTITUTION.—In this
 13 section, the term ‘institution’ means—

14 “(A) any public or private nonprofit orga-
 15 nization providing nonresidential child care or
 16 day care outside school hours for school chil-
 17 dren, including any child care center, settlement
 18 house, recreational center, Head Start center,

1 and institution providing child care facilities for
2 children with disabilities;

3 “(B) any other private organization pro-
4 viding nonresidential child care or day care out-
5 side school hours for school children for which
6 the organization receives compensation from
7 amounts granted to the States under title XX
8 of the Social Security Act (42 U.S.C. 1397 et
9 seq.) (but only if the organization receives com-
10 pensation under that title for at least 25 per-
11 cent of its enrolled children or 25 percent of its
12 licensed capacity, whichever is less);

13 “(C) any public or private nonprofit orga-
14 nization acting as a sponsoring organization for
15 1 or more of the organizations described in sub-
16 paragraph (A) or (B) or for an adult day care
17 center (as defined in subsection (o)(2));

18 “(D) any other private organization acting
19 as a sponsoring organization for, and that is
20 part of the same legal entity as, 1 or more or-
21 ganizations that are—

22 “(i) described in subparagraph (B); or

23 “(ii) proprietary title XIX or title XX
24 centers (as defined in subsection (o)(2));

1 “(E) any public or private nonprofit orga-
 2 nization acting as a sponsoring organization for
 3 1 or more family or group day care homes; and

4 “(F) any emergency shelter (as defined in
 5 subsection (t)).”;

6 (3) by striking “Except as provided in sub-
 7 section (r),” and inserting the following:

8 “(3) AGE LIMIT.—Except as provided in sub-
 9 section (r),”;

10 (4) by striking “The Secretary may establish
 11 separate guidelines” and inserting the following:

12 “(4) ADDITIONAL GUIDELINES.—The Secretary
 13 may establish separate guidelines”;

14 (5) by striking “For purposes of determining”
 15 and all that follows through “an institution” and in-
 16 serting the following:

17 “(5) LICENSING.—In order to be eligible, an in-
 18 stitution”;

19 (6) by striking “standards; and” and inserting
 20 “standards.”;

21 (7) by striking “(2) no institution” and insert-
 22 ing the following:

23 “(6) ELIGIBILITY CRITERIA.—No institution”;

24 and

1 (8) in paragraph (6) (as amended by paragraph
 2 (7)), by striking subparagraph (B) and inserting the
 3 following:

4 “(B) has not been seriously deficient, as
 5 determined by the State agency responsible for
 6 administering the child and adult care food pro-
 7 gram authorized under this section, in the ad-
 8 ministration or operation of any Federal, State,
 9 or local government program during the pre-
 10 vious 5-year period, or such other period as is
 11 determined by the Secretary to be appro-
 12 priate;”.

13 **SEC. 3. INSTITUTION APPROVAL AND APPLICATIONS.**

14 (a) IN GENERAL.—Section 17(d) of the Richard B.
 15 Russell National School Lunch Act (42 U.S.C. 1766(d))
 16 is amended by striking the subsection designation and all
 17 that follows through the end of paragraph (1) and insert-
 18 ing the following:

19 “(d) INSTITUTION APPROVAL AND APPLICATIONS.—

20 “(1) INSTITUTION APPROVAL.—

21 “(A) ADMINISTRATIVE CAPABILITY.—The
 22 State agency may approve an institution that
 23 meets the requirements of this section for par-
 24 ticipation in the child and adult care food pro-

1 gram only if the State agency determines
2 that—

3 “(i) the institution is administratively
4 capable of operating the program described
5 in the application of the institution; and

6 “(ii) the participation of the institu-
7 tion is necessary to ensure the adequate
8 availability of child and adult care food
9 program benefits to eligible participants.

10 “(B) CRITERIA FOR SELECTION.—The
11 State agency shall establish criteria for select-
12 ing among institutions for participation in the
13 child and adult care food program if the num-
14 ber of eligible institutions exceeds the number
15 of eligible institutions necessary to ensure the
16 adequate availability of program benefits to eli-
17 gible participants.

18 “(C) NOTIFICATION TO APPLICANT.—Not
19 later than 30 days after the date on which an
20 applicant institution files a completed applica-
21 tion with the State agency, the State agency
22 shall notify the applicant institution whether
23 the institution has been approved or dis-
24 approved to participate in the child and adult
25 care food program.

1 “(D) APPROVAL OF PRIVATE INSTITU-
2 TIONS.—

3 “(i) IN GENERAL.—Subject to clause
4 (ii), the State agency may approve an ap-
5 plicant institution for participation in the
6 child and adult care food program only if
7 the State agency conducts a satisfactory
8 inspection of the institution prior to ap-
9 proval to participate in the program and
10 the institution—

11 “(I) has tax exempt status under
12 the Internal Revenue Code of 1986;

13 “(II) is operating a Federal pro-
14 gram requiring nonprofit status to
15 participate in the program; or

16 “(III) is described in subsection
17 (a)(2)(B).

18 “(ii) EXCEPTION FOR FAMILY OR
19 GROUP DAY CARE HOMES.—Clause (i) shall
20 not apply to a family or group day care
21 home.”.

22 (b) CONFORMING AMENDMENT.—Section
23 17(d)(2)(B) of the Richard B. Russell National School
24 Lunch Act (42 U.S.C. 1766(d)(2)(B)) is amended by

1 striking “subsection (a)(1)” and inserting “subsection
2 (a)(5)”.

3 **SEC. 4. REDUCTION IN ADMINISTRATIVE REQUIREMENTS**
4 **FOR PUBLIC SPONSORING ORGANIZATIONS.**

5 Section 17(d) of the Richard B. Russell National
6 School Lunch Act (42 U.S.C. 1766(d)) is amended by
7 adding at the end the following:

8 “(3) INCENTIVES FOR PUBLIC SPONSORING OR-
9 GANIZATIONS.—

10 “(A) COST COMPARISONS.—The Secretary
11 shall not require a public organization acting as
12 a sponsoring organization for 1 or more family
13 or group day care homes to compare costs to
14 receive administrative reimbursement under
15 subsection (f)(3)(B).

16 “(B) BIENNIAL BUDGETS.—The Secretary
17 shall permit a public organization described in
18 subparagraph (A) to submit on a biennial basis
19 the budget of the organization for administra-
20 tive costs.”.

21 **SEC. 5. TEMPORARY WITHHOLDING OF REIMBURSEMENT.**

22 Section 17(e) of the Richard B. Russell National
23 School Lunch Act (42 U.S.C. 1766(e)) is amended—

24 (1) in paragraph (2), by striking “(2) A State
25 is not” and inserting the following:

1 “(2) EXCEPTIONS.—

2 “(A) FEDERAL AUDITS.—

3 “(i) IN GENERAL.—A State shall not
4 be”;

5 (2) in paragraph (3), by striking “(3) If a State
6 does not” and inserting the following:

7 “(ii) FEDERAL HEARINGS PRO-
8 VIDED.—If a State does not”; and

9 (3) by adding at the end the following:

10 “(B) TEMPORARY WITHHOLDING OF REIM-
11 BURSEMENT.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii), a State agency shall not be required to
14 provide a hearing to an institution con-
15 cerning the decision of the State agency to
16 temporarily withhold reimbursement based
17 on a finding that—

18 “(I) the institution has failed to
19 comply with program requirements; or

20 “(II) a claim for reimbursement
21 may not be valid.

22 “(ii) LIMITATIONS.—The State agen-
23 cy shall provide a hearing to an institution
24 described in clause (i) if the State
25 agency—

1 “(I) withholds reimbursement
2 from the institution for more than 90
3 days beyond the date on which the re-
4 imbursement would be payable but for
5 the withholding; or

6 “(II) denies the claim for reim-
7 bursement.”.

8 **SEC. 6. LIMITATIONS ON ABILITY OF FAMILY OR GROUP**
9 **DAY CARE HOMES TO TRANSFER SPON-**
10 **SORING ORGANIZATIONS.**

11 Section 17(f)(3) of the Richard B. Russell National
12 School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by
13 striking subparagraph (D) and inserting the following:

14 “(D) LIMITATIONS ON ABILITY OF FAMILY
15 OR GROUP DAY CARE HOMES TO TRANSFER
16 SPONSORING ORGANIZATIONS.—

17 “(i) IN GENERAL.—Subject to clause
18 (ii), a State agency shall limit the ability
19 of a family or group day care home to
20 transfer from a sponsoring organization
21 to—

22 “(I) another sponsoring organiza-
23 tion more frequently than once a year;
24 or

1 “(II) a sponsoring organization
2 that ceases to participate in the child
3 and adult care food program.

4 “(ii) EXTENUATING CIR-
5 CUMSTANCES.—The State agency may per-
6 mit or require a family or group day care
7 home to transfer from a sponsoring organi-
8 zation to another sponsoring organization
9 more frequently than once a year in the
10 case of extenuating circumstances (as de-
11 termined by the State agency).”.

12 **SEC. 7. LIMITATION ON ADMINISTRATIVE EXPENSES FOR**
13 **SPONSORING ORGANIZATIONS.**

14 Section 17(f) of the Richard B. Russell National
15 School Lunch Act (42 U.S.C. 1766(f)) is amended by add-
16 ing at the end the following:

17 “(5) LIMITATION ON ADMINISTRATIVE EX-
18 PENSES FOR SPONSORING ORGANIZATIONS.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), a sponsoring organization for a child
21 care or adult day care center may retain a por-
22 tion of the funds provided under paragraph (1)
23 for use only to pay the costs incurred by the
24 sponsoring organization in administering the
25 child and adult care food program.

1 “(B) LIMITATION.—

2 “(i) IN GENERAL.—Subject to clause
3 (ii), the State agency shall establish a limi-
4 tation on the amount of funds a spon-
5 soring organization may retain under sub-
6 paragraph (A) that does not exceed 15
7 percent of the total amount of funds dis-
8 bursed to the sponsoring organization
9 under paragraph (1).

10 “(ii) CONSIDERATION OF STUDY RE-
11 SULTS.—Based on the results of the study
12 of administrative costs required under sec-
13 tion 12 of the Child and Adult Care Food
14 Program Management Improvement Act of
15 2000, the Secretary shall—

16 “(I) evaluate the maximum limi-
17 tation established under clause (i);
18 and

19 “(II) make such adjustments to
20 the limitation as the Secretary deter-
21 mines to be necessary.”.

22 **SEC. 8. REALLOCATION OF AUDIT FUNDS.**

23 Section 17(i) of the Richard B. Russell National
24 School Lunch Act (42 U.S.C. 1766(i)) is amended—

1 (1) by striking “(i) The Secretary shall” and
2 inserting the following:

3 “(i) AUDIT FUNDS.—

4 “(1) IN GENERAL.—The Secretary shall”; and
5 (2) by adding at the end the following:

6 “(2) REALLOCATION OF FUNDS.—

7 “(A) RETURN TO THE SECRETARY.—For
8 each fiscal year, any amounts allocated to a
9 State under this subsection that are not obli-
10 gated during the fiscal year shall be returned to
11 the Secretary in accordance with procedures es-
12 tablished by the Secretary.

13 “(B) REALLOCATION BY THE SEC-
14 RETARY.—The Secretary shall allocate any
15 amounts returned under subparagraph (A)
16 among States that demonstrate a need for the
17 amounts, for the purposes described in para-
18 graph (1), in accordance with procedures estab-
19 lished by the Secretary.”.

20 **SEC. 9. EXPANSION OF MANAGEMENT SUPPORT FUNDING.**

21 Section 17(q) of the Richard B. Russell National
22 School Lunch Act (42 U.S.C. 1766(q)) is amended by
23 striking paragraph (2) and inserting the following:

24 “(2) FUNDING.—To carry out paragraph (1),
25 the Secretary shall reserve from amounts made

1 available to carry out this section an amount equal
2 to $\frac{1}{8}$ of 1 percent of the amounts made available for
3 fiscal year 2001 and each succeeding fiscal year.”.

4 **SEC. 10. GRANTS TO IMPROVE PROGRAM QUALITY.**

5 Section 17 of the Richard B. Russell National School
6 Lunch Act (42 U.S.C. 1766) is amended by adding at the
7 end the following:

8 “(u) GRANTS TO IMPROVE PROGRAM QUALITY.—

9 “(1) IN GENERAL.—From the amounts made
10 available to carry out this subsection for fiscal year
11 2001, the Secretary shall reserve \$3,000,000 to pro-
12 vide grants to State agencies.

13 “(2) USE OF GRANTS.—A State agency receiv-
14 ing a grant under this subsection shall use the grant
15 funds to collaborate with State and local licensing
16 agencies and lead agencies that administer grants
17 under the Child Care and Development Block Grant
18 Act of 1990 (42 U.S.C. 9858 et seq.) for the pur-
19 pose of establishing State or local licensing require-
20 ments for all categories of family or group day care
21 homes and child care centers located within the
22 State.

23 “(3) LIMITATIONS.—

1 “(A) MAXIMUM NUMBER OF STATE AGEN-
2 CIES.—Grants under this subsection may be
3 made to not more than 5 State agencies.

4 “(B) MINIMUM REQUIREMENTS FOR STATE
5 AGENCIES.—A grant under this subsection may
6 be made only to a State agency that, at the
7 time of application—

8 “(i) does not have any State or local
9 licensing requirements for certain cat-
10 egories of family or group day care homes
11 or for certain categories of child care cen-
12 ters;

13 “(ii) has at least some family or group
14 day care homes or child care centers that
15 meet alternate approval standards adminis-
16 tered by the State agency; and

17 “(iii) can provide an assurance to the
18 Secretary that the lead agency that admin-
19 ister a grant in the State under the Child
20 Care and Development Block Grant Act of
21 1990 (42 U.S.C. 9858 et seq.) will—

22 “(I) participate in the adminis-
23 tration of the grant under this sub-
24 section; and

1 “(II) provide funding from the
2 grant received under that Act in sup-
3 port of grant activities under this sub-
4 section.”.

5 **SEC. 11. RETENTION OF FUNDS COLLECTED FROM INSTI-**
6 **TUTIONS.**

7 Section 17 of the Richard B. Russell National School
8 Lunch Act (42 U.S.C. 1766) (as amended by section 10)
9 is amended by adding at the end the following:

10 “(v) RETENTION OF COLLECTED FUNDS.—

11 “(1) IN GENERAL.—A State agency may retain
12 not more than 50 percent of any program funds col-
13 lected as a result of audits or reviews conducted by
14 the State agency of institutions participating in the
15 child and adult care food program.

16 “(2) USE OF FUNDS.—A State agency may use
17 funds retained under this subsection to pay for pro-
18 gram costs incurred by the State agency to improve
19 the management and operation of the child and
20 adult care food program within the State.

21 “(3) FISCAL YEAR.—The State agency may ob-
22 ligate funds retained under this subsection during—

23 “(A) the fiscal year in which a claim arose;

24 “(B) the fiscal year in which the funds are

25 collected; or

1 “(C) the fiscal year following the fiscal
2 year in which the funds are collected.”.

3 **SEC. 12. STUDY OF ADMINISTRATIVE COSTS.**

4 (a) IN GENERAL.—The Secretary of Agriculture, act-
5 ing through the Administrator of the Food and Nutrition
6 Service, shall conduct a study of the administrative rate
7 structure and the administrative costs of institutions act-
8 ing as sponsoring organizations of family or group day
9 care homes and sponsoring organizations of organizations
10 described in subsections (a)(2)(A), (a)(2)(B), and
11 (o)(2)(A) of section 17 of the Richard B. Russell National
12 School Lunch Act (42 U.S.C. 1766).

13 (b) COMPONENTS.—The study shall include an eval-
14 uation of—

15 (1) the types and amounts of administrative
16 costs incurred by sponsoring organizations;

17 (2) the types and amounts of administrative
18 costs being claimed by sponsoring organizations; and

19 (3) alternative systems for compensating the
20 sponsoring organizations for administrative costs.

21 (c) REPORT.—Not later than 1 year after the date
22 of enactment of this Act or September 30, 2001, which-
23 ever is later, the Secretary shall submit to the Committee
24 on Agriculture of the House of Representatives and the
25 Committee on Agriculture, Nutrition, and Forestry of the

1 Senate a report that describes the results of the study con-
2 ducted under this section.

3 (d) FUNDING.—The Secretary shall reserve to carry
4 out this section \$1,500,000 from amounts made available
5 for fiscal year 2001 to carry out section 17 of the Richard
6 B. Russell National School Lunch Act (42 U.S.C. 1766).

7 **SEC. 13. EFFECTIVE DATES.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), this Act and the amendments made by this Act take
10 effect on October 1, 2000.

11 (b) STUDY OF ADMINISTRATIVE COSTS.—Section 12
12 takes effect on the date of enactment of this Act.

○