

CHILD NUTRITION IMPROVEMENT AND INTEGRITY ACT

MARCH 23, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3873]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 3873) to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with access to food and nutrition assistance, to simplify program operations, to improve children's nutritional health, and to restore the integrity of child nutrition programs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Nutrition Improvement and Integrity Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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- Sec. 501. Training, technical, and other assistance.
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TITLE I—ENSURING ACCESS TO CHILD NUTRITION PROGRAMS

SEC. 101. EXCLUSION OF MILITARY HOUSING ALLOWANCES.

Section 9(b)(7) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by striking “For each of fiscal years 2002” and all that follows through “the amount” and inserting “The amount”.

SEC. 102. HOMELESS CHILDREN, RUNAWAY YOUTH, AND MIGRATORY CHILD ELIGIBILITY.

(a) IN GENERAL.—Section 9(b)(6)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(A)) is amended—

- (1) in clause (ii), by striking “or”;
- (2) in clause (iii), by striking the period and inserting a semicolon; and
- (3) by inserting after clause (iii) the following:

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

“(v) a youth served by programs under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

“(vi) a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).”.

(b) DOCUMENTATION.—Section 9(d)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(d)(2)) is amended—

- (1) in subparagraph (B), by striking “or”;
- (2) in sub paragraph (C), by striking the period at the end and inserting a semicolon; and
- (3) by inserting after subparagraph (C) the following:

“(D) documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(6); or

“(E) documentation has been provided to the appropriate local educational agency showing the child’s status as a migratory child, as such term is defined

in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).”.

SEC. 103. ELIGIBILITY FOR SEVERE NEED ASSISTANCE.

Section 4(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(d)) is amended—

(1) by striking the heading and all that follows through paragraph (1), and inserting:

“(d) SEVERE NEED ASSISTANCE.—

“(1) IN GENERAL.—Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price (or those new schools drawing their attendance from schools receiving severe need assistance).”; and

(2) in paragraph (2)—

(A) by striking “100 percent” and all that follows through “food, or”; and
(B) by striking “, whichever is less”.

SEC. 104. REAUTHORIZATION OF SUMMER FOOD PROGRAMS.

(a) SUMMER FOOD PILOT PROJECTS.—Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) by inserting after paragraph (1) the following:

“(2) ADDITIONAL STATES ELIGIBLE.—In addition to the States meeting the criteria set forth in paragraph (1), the 3 States with the highest percentage of households that are determined to be food insecure with hunger, as determined annually by the Secretary, shall be ‘eligible States’ for purposes of this subsection.”;

(3) in paragraph (3) (as so redesignated), by striking “March 31, 2004” and inserting “September 30, 2008”; and

(4) in paragraph (4) (as so redesignated), by striking “(other than a service institution described in section 13(a)(7))” both places it appears.

(b) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking “March 31, 2004” and inserting “September 30, 2008”.

SEC. 105. CHILD AND ADULT CARE FOOD PROGRAM.

(a) ELIGIBILITY OF PRIVATE CHILD CARE CENTERS.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subsection (a)(2)(B)(i), by striking “during the period” and all that follows through “March 31, 2004”; and

(2) by striking subsection (p).

(b) DURATION OF DETERMINATION AS TIER 1 FAMILY OR GROUP DAY CARE HOME.—Section 17(f)(3)(E)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(E)(iii)) is amended by striking “3 years” and inserting “5 years”.

(c) DURATION OF AGREEMENTS.—Section 17(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(j)) is amended to read as follows:

“(j) AGREEMENTS.—

“(1) IN GENERAL.—The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

“(2) DURATION.—An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.”.

(d) MANAGEMENT IMPROVEMENT INITIATIVE.—Section 17(q)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(q)(3)) is amended by striking “1999 through 2003” and inserting “2005 and 2006”.

(e) AUDITS.—Section 17(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(i)) is amended to read as follows:

“(i) AUDITS.—

“(1) FUNDS FOR AUDITS.—The Secretary shall make available for each fiscal year to a State administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except in the case of fiscal years 2005 through 2007, 1 percent) of the funds used by the State in the program under this section during the second preceding fiscal year.

“(2) AUDIT PROCEDURES.—

“(A) IN GENERAL.—Subject to subparagraph (B), in conducting management evaluations, reviews, or audits of the program under this subsection, the Secretary or a State agency may disregard any overpayment to an institution if the total overpayment for any fiscal year does not exceed an amount, consistent with the disregards allowed in other programs under this Act, which recognizes the cost of collecting small claims.

“(B) CRIMINAL OR FRAUD VIOLATIONS.—In carrying out this subsection, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.”.

(f) EMERGENCY SHELTERS.—Section 17(t)(5)(A)(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(t)(5)(A)(i)) is amended—

(1) in subclause (I)—

(A) by striking “12” and inserting “18”; and

(B) by inserting “or” after the semicolon; and

(2) by striking subclause (II) and redesignating subclause (III) as subclause (II).

(g) PAPERWORK REDUCTION.—The Secretary of Agriculture, in conjunction with States and participating institutions, shall examine the feasibility of reducing paper work resulting from regulations and record-keeping requirements for State agencies, family child care homes, child care centers, and sponsoring organizations participating in the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

SEC. 106. REVIEW OF BEST PRACTICES IN THE BREAKFAST PROGRAM.

(a) REVIEW.—Subject to the availability of funds, the Secretary of Agriculture shall enter into an agreement with a research organization to collect and disseminate a review of best practices to assist schools in addressing existing impediments at the State and local level that hinder the growth of the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773). The review shall describe model breakfast programs and offer recommendations for schools to overcome obstacles, such as:

(1) the length of the school day;

(2) bus schedules; and

(3) potential increases in costs at the State and local level.

(b) DISSEMINATION.—Not later than 12 months after the date of enactment of this Act, the Secretary shall make the review required under subsection (a) available to local educational agencies via the Internet, including recommendations to improve participation in the school breakfast program. Not later than 12 months after the date of enactment of this Act, the review shall also be transmitted to the Committee on Education of the House of Representatives and the Committee on Agriculture of the Senate.

SEC. 107. AREA ELIGIBILITY DEMONSTRATION.

Section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) is amended by adding at the end the following:

“(r) DEMONSTRATION PROGRAM.—The Secretary shall support a demonstration program in rural areas of the State of Pennsylvania under the same terms and conditions as contained in this section, except that the threshold for determining ‘areas in which poor economic conditions exist’ under subsection (a)(1)(C) for such program shall be 40 percent of children enrolled are eligible for free or reduced price school meals and the State agency shall report to the Secretary on the effect of the demonstration on program participation in rural areas.”.

SEC. 108. SEAMLESS SUMMER ADMINISTRATION.

(a) SEAMLESS SUMMER WAIVER.—Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)) is amended by inserting after paragraph (7) the following:

“(8) Service institutions that are public or private nonprofit school food authorities may administer summer or school vacation food service under the provisions of the school lunch program established under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as determined by the Secretary.”.

(b) PAYMENTS.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by inserting after subparagraph (C) the following:

“(D) Service institutions described in paragraph (a)(8) of this section shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this Act (other than subparagraphs (A), (B), and (C) of this paragraph) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.”.

SEC. 109. YEAR ROUND COMMUNITY CHILD NUTRITION PROGRAM PILOT.

Section 13(a) of the Richard B. Russell National School Lunch Act is further amended by adding at the end the following:

“(9) YEAR ROUND COMMUNITY CHILD NUTRITION PROGRAM PILOT.—

“(A) IN GENERAL.—A service institution as defined in paragraph (7) may be reimbursed for up to 3 meals and 2 supplements for any day for which services are being offered at such institution. Such service institution shall be reimbursed for costs consistent with section 13(b).

“(B) MAXIMUM REIMBURSEMENT.—No reimbursement may be made to any institution under this paragraph for more than 3 meals and 2 supplements per child per day.

“(C) LIMITATION.—The Secretary shall limit reimbursement under this paragraph for meals and supplements served under a program to service institutions defined paragraph (7) located in California.”.

TITLE II—IMPROVING PROGRAM QUALITY AND INTEGRITY

SEC. 201. ELIGIBILITY AND CERTIFICATION FOR FREE AND REDUCED PRICE LUNCHES.

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended by striking “(b)(1)(A) Not later” and all that follows through paragraph (2) and inserting the following:

“(b) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

“(1) INCOME GUIDELINES.—

“(A) IN GENERAL.—Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). Such guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

“(B) FORMULA FOR REVISION.—The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

“(i) the official poverty line (as defined by the Secretary of Health and Human Services); by

“(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the Consumer Price Index data required to compute the adjustment becomes available.

“(2) CERTIFICATION OF ELIGIBILITY.—

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

“(B) APPLICATIONS.—

“(i) IN GENERAL.—Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand, shall be distributed at least annually to the parents or guardians of children in attendance at the school.

“(ii) INCOME LEVELS.—Applications and descriptive material shall contain only the family size income eligibility guidelines for reduced price meal eligibility, with the explanation that households with in-

comes less than or equal to these values would be eligible for free or reduced price lunches. Such applications and descriptive material may not contain the income eligibility guidelines for free lunches.

“(iii) NOTIFICATION.—Descriptive materials shall contain a notification that participants in 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. 1771 et seq.), the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), or a State program funded under part A of title IV of the Social Security Act (if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995) are eligible for free or reduced price lunches. Such descriptive materials shall also contain a notice to parents that documentation may be requested for verification.

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

“(C) ELIGIBILITY.—

“(i) HOUSEHOLD APPLICATIONS.—

“(I) IN GENERAL.—If an eligibility determination for a child is not made under clause (ii) or (iii), an eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary.

“(II) ADDITIONAL BASES.—Eligibility may be determined by the local educational agency on the basis of a complete application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary, including an electronic signature when the application is submitted electronically, and if the application filing system meets confidentiality standards established by the Secretary.

“(III) CHILDREN IN HOUSEHOLD.—

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

“(bb) SEPARATE APPLICATIONS.—A State educational agency or local educational agency may not request a separate application for each child in the household.

“(IV) VERIFICATION.—The Secretary, State, or local educational agency may verify any data contained in such application. In accordance with guidance issued by the Secretary, each local educational agency shall verify a sample of approved free and reduced price applications and shall make appropriate changes in the eligibility determination with respect to such applications on the basis of such verification. The sample selected for verification shall be as follows:

“(aa) For local educational agencies able to obtain verification information for at least 75 percent of all applications selected for verification in the prior year, or local educational agencies receiving more than 20,000 applications and that in the prior year had a verification non-response rate that was 10 percent below the verification non-response rate of the second prior year, the sample selected shall be either—

“(AA) the lesser of 3,000 or 3 percent of approved applications selected at random by the local educational agencies from all approved applications; or

“(BB) the lesser of 1,000 or 1 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals, plus the lesser of 500 or ½ of 1 percent of approved applications that provided a case number in lieu of income information showing participation in the food stamp program or Temporary Assistance for Needy Families program selected from those approved applica-

tions that provided a case number in lieu of income information verifying such participation.

“(bb) For all other local educational agencies, the sample selected shall be the lesser of 3,000 or 3 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals. If, for any local educational agency, the total number of such applications is less than 3,000 or 3 percent of all approved applications, the local educational agency shall select additional applications at random from all approved applications in order to obtain a total sample for verification of 3,000 or 3 percent of all approved applications.

“(V) SUBSTITUTIONS.—

“(aa) IN GENERAL.—In accordance with the regulations prescribed by the Secretary, the local educational agency may, upon individual review, decline to verify any application selected under subclause (IV) and replace it with another application to be verified. Such agency may decline to verify no more than 2 percent of the applications selected for verification under this subclause.

“(bb) SUBSTITUTE CRITERIA IN CASES OF EMERGENCIES.—The Secretary may substitute alternative criteria for the sample size and sample selection criteria in subclause (IV) to address a natural disaster, civil disorder, strike, or other local condition.

“(VI) DIRECT VERIFICATION.—

“(aa) IN GENERAL.—In accordance with regulations promulgated by the Secretary, in verifying the sample selected in accordance with subclause (IV), the local educational agency may first obtain from certain public agencies administering the programs identified in item (bb) of this subclause, and similar income-tested programs, information to verify eligibility for free or reduced price meals.

“(bb) PUBLIC AGENCY RECORDS.—Public agency records that may be used to verify eligibility for free meals shall include income information relied upon within 12 months prior to verification under subclause (IV) in the administration of the following programs: the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); the State program funded under part A of title IV of the Social Security Act; the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in a State in which the income eligibility limit described in section 1902(l)(2)(C) of the Social Security Act is no higher than 133 percent of the income official poverty line as specified in section 1902(l)(2)(A) of such Act, in the case of eligibility for free meals, and 185 percent of the income official poverty line as specified in such section in the case of reduced price meals.

“(VII) PLAIN, UNDERSTANDABLE LANGUAGE.—Any and all communications to parents regarding verification under subclause (IV) shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(ii) DIRECT CERTIFICATION FOR CHILDREN IN FOOD STAMP HOUSEHOLDS.—

“(I) IN GENERAL.—Each State agency shall, to the extent practicable, enter into an agreement with the State agency conducting eligibility determinations for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

“(II) PROCEDURES.—Subject to clause (iv), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the program referred to in subclause (I) shall be certified as eligible for free meals under this Act, without further application.

“(III) DIRECT CERTIFICATION.—Subject to clause (iv), under the agreement, the local educational agency conducting eligibility determinations for a school meal program conducted under this Act

shall certify a child who is a member of a household receiving assistance under the program referred to in subclause (I) as eligible for free meals under this Act without further application.

“(IV) NOTICE.—The appropriate local educational agency shall provide annually to the parents or guardians of all students who are members of a household receiving assistance under the program referred to in subclause (I), notification, in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, that any school-aged child in that household is eligible for free lunches or breakfasts.

“(iii) DIRECT CERTIFICATION OF CHILDREN IN OTHER HOUSEHOLDS.—Subject to clause (iv), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child’s status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)), or a member of a family that is receiving assistance under a State program funded under part A of title IV of the Social Security Act if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

“(iv) DISCLOSURE OF INFORMATION.—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clauses (ii) and (iii), shall be limited to—

“(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

“(II) a person directly connected with the administration or enforcement of—

“(aa) a Federal education program;

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

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

“(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

“(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program requirements under paragraph (1) or this paragraph; and

“(IV) a person directly connected with the administration of the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the local educational agency so elect.

“(v) LIMITATION.—Information provided under clause (iv)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii) or (iii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

“(vi) PENALTY FOR UNAUTHORIZED DISCLOSURE.—A person described in clause (iv) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

“(vii) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in clause (iv)(IV) shall ensure that any local educational agency acting in accordance with that option—

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

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

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

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

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

(b) CONFORMING AMENDMENT.—Section 9(b)(6)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(B)) is amended by inserting “, or documentation showing the child’s status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2))” after “subparagraph (A)(iii)”.

SEC. 202. DURATION OF ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.

Section 9(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended to read as follows:

“(3) ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.—

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

“(B) REDUCED PRICE LUNCHES.—

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

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

“(C) DURATION.—Except as otherwise specified in section 11(a) or section 9(b)(2)(C)(i)(IV), eligibility for free or reduced price meals for any school year shall remain in effect—

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

“(ii) ending on the date of the beginning of school in the subsequent school year or as otherwise specified by the Secretary.”

SEC. 203. CERTIFICATION BY LOCAL EDUCATIONAL AGENCIES.

(a) CERTIFICATION BY LOCAL EDUCATIONAL AGENCY.—Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is further amended—

(1) in subsection (b)(5), by striking “Local school authorities” and inserting “Local educational agencies”; and

(2) in subsection (d)(2)—

(A) by striking “local school food authority” each place it appears and inserting “local educational agency”; and

(B) in subparagraph (A), by striking “such authority” and inserting “the local educational agency”.

(b) DEFINITION OF LOCAL EDUCATIONAL AGENCY.—Section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

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

“(3) LOCAL EDUCATIONAL AGENCY.—

“(A) IN GENERAL.—The term ‘local educational agency’ has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(B) INCLUSION.—The term ‘local educational agency’ includes, in the case of a private nonprofit school food authority, an appropriate entity determined by the Secretary.”.

(c) SCHOOL BREAKFAST PROGRAM.—Section 4(b)(1)(E)) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(E)) is amended by striking “school food authority” each place it appears and inserting “local educational agency”.

SEC. 204. COMPLIANCE AND ACCOUNTABILITY.

Section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c) is amended by inserting “and local educational agencies” after “food service authorities” each place it appears.

SEC. 205. TECHNOLOGY IMPROVEMENT.

(a) PRIORITY FOR REALLOCATED FUNDS.—Section 7(a)(5)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(ii)) is amended by inserting the following new sentence at the end: “The Secretary shall give priority consideration to States that will use the funds for improvements in technology and information management systems described in subsection (e)(2).”.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(b)) is amended by striking “and for staff development” and inserting “for staff development; and technology and information management systems”.

SEC. 206. MINIMUM STATE ADMINISTRATIVE EXPENSE GRANTS.

Section 7(a) of the Child Nutrition Act (42 U.S.C. 1776(a)(1)) is further amended—

(1) by striking the heading and all that follows through paragraph (1), and inserting the following:

“SEC. 7. STATE ADMINISTRATIVE EXPENSES.

“(a) AMOUNT AND ALLOCATION OF FUNDS.—

“(1) AMOUNT AVAILABLE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year the Secretary shall make available to the States for their Administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, 17, and 17A of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753, 1759a, 1766, and 1766a) and sections 3 and 4 of this Act during the second preceding fiscal year.

“(B) MINIMUM AMOUNT.—In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for their administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004.

“(C) ALLOCATION.—The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection.

“(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.”; and

(2) in paragraph (2), by striking “\$100,000” and inserting “\$200,000”.

SEC. 207. DISTRICT-WIDE ELIGIBILITY FOR SPECIAL ASSISTANCE.

Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i)—

(i) by inserting “or school district” after “in the case of any school”;

(ii) by inserting “or school district” after “in the school” both times it appears;

(iii) by inserting “or school district” after “in the case of a school”;

and

(iv) by inserting “or school district” after “with respect to the school”;

(B) in clause (ii)—

(i) by inserting “or school district” after “served by a school”; and

(ii) by inserting “or school district” after “served by the school”; and

(C) in clause (iii) by inserting “or school district” after “a school”;

(2) in subparagraph (D)—

(A) in clause (i)—

- (i) by inserting “or school district” after “any school”; and
- (ii) by inserting “or school district” after “the school”;
- (B) in clause (ii)—
 - (i) by inserting “or school district” after “A school”; and
 - (ii) by inserting “or school district” after “the school”;
- (C) in clause (iii)—
 - (i) by inserting “or school district” after “a school”; and
 - (ii) by inserting “or school district” after “the school”; and
- (D) in clause (iv) by inserting “or school district” after “levels, a school”; and
- (3) in subparagraph (E)—
 - (A) in clause (i)—
 - (i) by inserting “or school district” after “In the case of any school”;
 - (ii) by inserting “or school district” after “in the school” both times it appears;
 - (iii) by inserting “or school district” after “in the case of a school”;
 - (iv) by inserting “or school district” after “with respect to the school”;
 - (v) by inserting “or school district” after “received by the school”; and
 - (vi) by inserting “or school district” after “for which the school”; and
 - (B) in clause (ii)—
 - (i) by inserting “or school district” after “A school”;
 - (ii) by inserting “or school district” after “for which the school” both times it appears; and
 - (iii) by inserting “or school district” after “population of the school” both times it appears.

SEC. 208. ADMINISTRATIVE ERROR REDUCTION.

(a) FEDERAL SUPPORT FOR TRAINING AND TECHNICAL ASSISTANCE.—Section 21 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1) is amended—

- (1) by redesignating subsection (e) as subsection (g); and
- (2) by inserting after subsection (d) the following:

“(e) ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIALS.—In collaboration with State educational agencies, school food authorities, and local educational agencies of varying sizes, the Secretary shall develop and distribute training and technical assistance materials relating to the administration of school meal programs that are—

“(1) prepared by the Secretary (based on research or other sources), a State educational agency, a school food authority, or a local educational agency; and

“(2) representative of the best management and administrative practices of State agencies, school food authorities, and local educational agencies as determined by the Secretary.

“(f) FEDERAL ADMINISTRATIVE SUPPORT.—

“(1) FUNDING.—

“(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection—

“(i) on October 1, 2004 and October 1, 2005, \$3,000,000; and

“(ii) on October 1, 2006, and October 1, 2007, \$2,000,000.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

“(C) AVAILABILITY OF FUNDS.—Funds transferred under subparagraph (A) shall remain available until expended.

“(2) USE OF FUNDS.—The Secretary may use funds provided under this subsection—

“(A) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

“(B) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

“(C) to carry out the activities described in subsection (e).”

(b) SELECTED ADMINISTRATIVE REVIEWS.—Section 22(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(b)) is amended by adding at the end the following:

“(3) ADDITIONAL REVIEW REQUIREMENT FOR SELECTED LOCAL EDUCATIONAL AGENCIES.—

“(A) DEFINITION OF SELECTED LOCAL EDUCATIONAL AGENCY.—In this paragraph, the term ‘selected local educational agency’ means a local educational agency that has a demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary.

“(B) ADDITIONAL ADMINISTRATIVE REVIEW.—In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a).

“(C) SCOPE OF REVIEW.—In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

“(D) RESULTS OF REVIEW.—If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

“(i) require the selected local educational agency to develop and carry out an approved plan of corrective action;

“(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

“(iii) conduct a follow-up review of the selected local educational agency under standards established by the Secretary.

“(4) RECOVERING FUNDS AFTER ADMINISTRATIVE REVIEWS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a follow-up review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to recover funds from the local educational agency that would otherwise be paid to the school food authority or local educational agency for school meals programs under procedures prescribed by the Secretary.

“(B) AMOUNT.—The amount of funds recovered under subparagraph (A) shall equal the value of any overpayments made to the school food authority or local educational agency as a result of an erroneous claim during the time period described in subparagraph (C).

“(C) TIME PERIOD.—The period for determining the value of any such overpayments under subparagraph (B) shall be the period—

“(i) beginning on the date the erroneous claim was made; and

“(ii) ending on the earlier of the date the erroneous claim is corrected or—

“(I) in the case of the first review conducted by the State educational agency of the local educational agency under this section after July 1, 2005, the date that is 60 days after the beginning of the period under clause (i); or

“(II) in the case of any subsequent review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

“(5) USE OF RECOVERED FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds recovered under paragraph (4) shall—

“(i) be returned to the Secretary under procedures established by the Secretary, and may be used—

“(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

“(II) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

“(III) to carry out section 21(e); or

“(ii) be credited to the child nutrition programs appropriation account.

“(B) STATE SHARE.—Subject to subparagraph (C), a State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist school food authorities and local educational agencies that have repeatedly failed (as determined by the Secretary) to meet administrative performance criteria.

“(C) REQUIREMENT.—To be eligible to retain funds under subparagraph (B), a State educational agency shall—

“(i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to school food authorities and local educational agencies from which funds were retained under paragraph (4); and

“(ii) obtain the approval of the Secretary for the plan.”.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (e)—

(A) by striking “(e) Each” and inserting the following:

“(e) PLANS FOR USE OF ADMINISTRATIVE EXPENSE FUNDS.—

“(1) IN GENERAL.—Each”; and

(B) by striking “After submitting” and all that follows through “change in the plan.”, and inserting the following:

“(2) UPDATES AND INFORMATION MANAGEMENT SYSTEMS.—After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan. Each State plan shall at a minimum include a description of how technology and information management systems will be used to improve program integrity by—

“(A) monitoring the nutrient content of meals served;

“(B) training schools and school food authorities how to utilize technology and information management systems for activities such as menu planning, collecting point of sale data, processing applications for free and reduced price meals and verifying eligibility for free and reduced price meals using existing databases to access program participation or income data collected by State or local educational agencies; and

“(C) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.

“(3) TRAINING AND TECHNICAL ASSISTANCE.—Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) and section 22(b)(3) of the Richard B. Russell National School Lunch Act (as added by section 208 of the Child Nutrition Improvement and Integrity Act).”;.

(2) by redesignating subsection (g) as subsection (i); and

(3) by inserting after subsection (f) the following:

“(g) STATE TRAINING.—

“(1) IN GENERAL.—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to school food authority administrative personnel and other appropriate personnel, with emphasis on the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

“(2) FEDERAL ROLE.—The Secretary shall—

“(A) provide training and technical assistance (including training materials and information developed under subsections (e) and (f) of section 21 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1)) to a State to assist the State in carrying out paragraph (1); or

“(B) at the option of the Secretary, directly provide training and technical assistance described in paragraph (1).

“(3) THIRD-PARTY CONTRACTING.—In carrying out this subsection, the Secretary or a State may contract with a third party under procedures established by the Secretary.

“(4) REQUIRED PARTICIPATION.—Under procedures established by the Secretary that consider the various needs and circumstances of school food authorities, each school food authority or local educational agency shall ensure that an individual conducting or overseeing administrative procedures described in paragraph (1) receives training at least annually, unless determined otherwise by the Secretary.

“(h) FUNDING FOR TRAINING AND ADMINISTRATIVE REVIEWS.—

“(1) FUNDING.—

“(A) IN GENERAL.—On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection \$4,000,000, to remain available until expended.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected school food authorities and local educational agencies under section 22(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(b)(3)).

“(B) EXCEPTION.—The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

“(3) ALLOCATION.—The Secretary shall allocate funds provided in this subsection to States based on the number of local educational agencies that have demonstrated a high level of or a high risk for administrative error, as determined by the Secretary, taking into account the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

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

TITLE III—PROMOTING NUTRITION QUALITY AND PREVENTING CHILDHOOD OBESITY

SEC. 301. LOCAL SCHOOL WELLNESS POLICY.

Not later than the first day of the school year beginning after June 30, 2006, local educational agencies participating in the programs authorized by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for such local agency that at a minimum—

(1) includes goals for nutrition education, physical activity and other school-based activities designed to promote student wellness that the local educational agency determines are appropriate;

(2) includes nutrition guidelines selected by the local educational agencies for all foods available on school campus during the school day with the objective of promoting student health and reducing childhood obesity;

(3) provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the Secretary pursuant to section 10(a) and (b) of the Child Nutrition Act (42 U.S.C. 1779(a) and (b)) and section 9(f)(1) and section 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1) and 1766(a)), as those regulations and guidance apply to schools;

(4) establishes a plan for ensuring implementation of the local wellness policy, including designation of a person or persons within the local educational agency, or at each school as appropriate, charged with operational responsibility for ensuring that such school meets the local wellness policy; and

(5) involves parents, students, representatives of the school food authority, the school board, school administrators, and public in the development of the school wellness policy.

SEC. 302. SUPPORTING NUTRITION EDUCATION, IMPROVING MEAL QUALITY, AND ACCESS TO LOCAL FOODS.

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

(1) by amending subsection (b) to read as follows:

“(b) PURPOSE.—It is the purpose of this section to support effective nutrition education through assistance to State agencies, schools, and nonprofit entities for Team Nutrition and other nutrition education projects that improve student understanding of healthful eating patterns, including an awareness and understanding of the Dietary Guidelines for Americans, the quality of school meals and access to local foods in schools and institutions operating programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and section 4 of this Act.”;

(2) by striking subsections (c) through (h) and inserting after subsection (b) the following:

“(c) TEAM NUTRITION NETWORK.—

“(1) PURPOSE.—The purpose of the Team Nutrition Network is to—

“(A) promote the nutritional health of the Nation’s school children through nutrition education, physical activity and other activities that support healthy lifestyles for children based on the Dietary Guidelines for Americans, issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, and the physical fitness guidelines issued by the Secretary of Health and Human Services;

“(B) provide assistance to States for the development of State-wide, comprehensive, and integrated nutrition education and physical fitness programs; and

“(C) provide training and technical assistance to States, school and community nutrition programs, and child nutrition food service professionals.

“(2) STATE COORDINATOR.—The State Team Nutrition Network Coordinator shall—

“(A) administer and coordinate a comprehensive integrated statewide nutrition education program; and

“(B) coordinate efforts with the Food and Nutrition Service and State agencies responsible for children’s health programs.

“(3) TEAM NUTRITION NETWORK.—Subject to the availability or appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall, on a competitive basis, provide assistance to States for the purpose of creating model nutrition education and physical activity programs, consistent with current dietary and fitness guidelines, for students in elementary schools and secondary schools.

“(4) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive assistance under this subsection, a State Coordinator shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) a description of how the proposed nutrition and physical activity program will promote healthy eating and physical activity and fitness and address the health and social consequences of children who are at risk of becoming overweight or obese;

“(B) information describing how nutrition activities are to be coordinated at the State level with other health activities conducted by education, health and agriculture agencies;

“(C) information describing how initiatives to promote physical activity are to be coordinated at the State level with other initiatives to promote physical activity conducted by education, health, and parks and recreation agencies;

“(D) a description of the consultative process that the State Coordinator employed in the development of the model nutrition and physical activity programs, including consultations with individuals and organizations with expertise in promoting public health, nutrition, or physical activity, and organizations representing the agriculture, food and beverage, fitness, and sports and recreation industries;

“(E) a description of how the State Coordinator will evaluate the effectiveness of its program; and

“(F) a description of how any and all communications to parents and guardians of all students who are members of a household receiving or applying for assistance under the program shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(5) DURATION.—Subject to the availability of funds made available to carry out this subsection, a State Coordinator shall conduct the project for a period of 3 successive school years.

“(6) AUTHORIZED ACTIVITIES.—An eligible applicant that receives assistance under this subsection may use funds to carry out one or more of the following activities—

“(A) collecting, analyzing, and disseminating data regarding the extent to which children and youth in the State are overweight or physically inactive and the programs and services available to meet those needs;

“(B) developing and implementing model elementary and secondary education curricula to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;

“(C) developing and implementing pilot programs in schools to increase physical activity and to enhance the nutritional status of students, including through the increased consumption of fruits and vegetables, whole grains, and lowfat dairy products;

“(D) developing and implementing State guidelines in health, which include nutrition education, and physical education and emphasize regular physical activity during school hours;

“(E) collaborating with community based organizations, volunteer organizations, State medical associations, and public health groups to develop and implement nutrition and physical education programs targeting lower income children, ethnic minorities, and youth at a greater risk for obesity;

“(F) collaborating with public or private organizations that have as a mission the raising of public awareness of the importance of a balanced diet and an active lifestyle; and

“(G) providing training and technical assistance to teachers and school food service professionals consistent with the purpose of this section.

“(7) LIMITATION.—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

“(8) REPORT.—Within 18 months of completion of the projects and the evaluations, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of the demonstration programs and shall make such reports available to the public, including through the Internet.

“(9) INDEPENDENT EVALUATION.—

“(A) IN GENERAL.—The Secretary shall enter into an agreement with an independent, non-partisan science-based research organization to conduct a comprehensive independent evaluation of the effectiveness of the Team Nutrition initiative and the Team Nutrition Network authorized by this subsection and to identify best practices in—

“(i) improving student understanding of healthful eating patterns;

“(ii) engaging students in regular physical activity and improving physical fitness;

“(iii) reducing diabetes and obesity rates in school children;

“(iv) improving student nutrition behaviors on the school campus including healthier meal choices evidenced by greater inclusion of fruits, vegetables, whole grains, and lean dairy and protein in meal and snack selections;

“(v) providing training and technical assistance for food service professionals resulting in the availability of healthy meals that appeal to ethnic and cultural taste preferences;

“(vi) linking meals programs to nutrition education activities; and

“(vii) successfully involving school administrators, the private sector, public health agencies, non-profit organizations, and other community partners.

“(B) REPORT.—Not later than October 1, 2007, the Secretary shall transmit the findings of the independent evaluation to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(d) LOCAL NUTRITION AND PHYSICAL ACTIVITY PROJECT.—

“(1) IN GENERAL.—Subject to the availability of appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall provide assistance to not more than 100 local educational agencies, at least one per State, for the establishment of pilot projects for purposes of promoting healthy eating habits and increasing physical activity, consistent with the Dietary Guidelines for Americans issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, among elementary and secondary education students.

“(2) REQUIREMENT FOR PARTICIPATION IN PILOT PROJECT.—To be eligible to receive assistance under this subsection, a local educational agency shall, in consultation with individuals who possess education or experience appropriate for representing the general field of public health, including nutrition and fitness professionals, submit to the Secretary an application that shall include—

“(A) a description of the local educational agency’s need for nutrition and physical activity programs;

“(B) a description of how the proposed project will improve health and nutrition through education and increased access to physical activity;

“(C) a description of how funds under this subsection will be coordinated with other programs under this Act, the Richard B. Russell National School Lunch Act, or other Acts, as appropriate, to improve student health and nutrition;

“(D) a statement of the local educational agency’s measurable goals for nutrition and physical education programs and promotion;

“(E) a description of how the proposed project will be aligned with the local wellness policy required under the Act;

“(F) a description of the procedures the agency will use for assessing and publicly reporting progress toward meeting those goals; and

“(G) a description of how communications to parents and guardians of participating students regarding the activities under this subsection shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

“(3) DURATION.—Subject to the availability of funds made available to carry out this subsection, a local educational agency receiving assistance under this subsection shall conduct the project during a period of 3 successive school years.

“(4) AUTHORIZED ACTIVITIES.—An eligible applicant that receives assistance under this subsection—

“(A) shall use funds provided to—

“(i) promote healthy eating through the development and implementation of nutrition education programs and curricula based on the Dietary Guidelines for Americans; and

“(ii) increase opportunities for physical activity through after school programs, athletics, intramural activities, and recess; and

“(B) may use funds provided to—

“(i) educate parents and students about the relationship of a poor diet and inactivity to obesity and other health problems;

“(ii) develop and implement physical education programs that promote fitness and lifelong activity;

“(iii) provide training and technical assistance to food service professionals to develop nutritious, more appealing menus and recipes;

“(iv) incorporate nutrition education into physical education, health education, and after school programs, including athletics;

“(v) involve parents, nutrition professionals, food service staff, educators, community leaders, and other interested parties in assessing the food options in the school environment and developing and implementing an action plan to promote a balanced and healthy diet;

“(vi) provide nutrient content or nutrition information on meals served through the school lunch or school breakfast programs and items sold a la carte during meal times;

“(vii) encourage the increased consumption of a variety of healthy foods through new initiatives such as salad bars and fruit bars; and

“(viii) provide nutrition education, including sports nutrition education, for teachers, coaches, food service staff, athletic trainers, and school nurses.

“(5) LIMITATION.—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

“(6) REPORT.—Within 18 months of completion of the projects and evaluations, the Secretary shall transmit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of the pilot projects and shall make such reports available to the public, including through the Internet.

“(e) NUTRITION EDUCATION SUPPORT.—

“(1) IN GENERAL.—In carrying out the purpose of this section to support nutrition education, the Secretary may provide for technical assistance and grants to improve the quality of school meals and access to local foods in schools and institutions.

“(2) SCHOOL MEALS INITIATIVE.—The Secretary may provide assistance to enable State educational agencies to—

“(A) implement the recommendations of the Secretary’s School Meals Initiative for Healthy Children;

“(B) increase the consumption of fruits, vegetables, low-fat dairy products, and whole grains;

“(C) reduce saturated fat and sodium in school meals;

“(D) improve school nutritional environments; and

“(E) conduct other activities that aid schools in carrying out the Secretary’s School Meals Initiative for Healthy Children.

“(3) ACCESS TO LOCAL FOODS.—The Secretary may provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities for projects that—

“(A) improve access to local foods in schools and institutions participating in programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and Section 4 of this Act through farm-to-cafeteria activities that may include the acquisition of food and appropriate equipment and the provision of training and education;

“(B) are, at a minimum, designed to procure local foods from small- and medium-sized farms for school meals;

“(C) support nutrition education activities or curriculum planning that incorporates the participation of schoolchildren in farm and agriculture education activities;

“(D) develop a sustained commitment to farm-to-cafeteria projects in the community by linking schools, agricultural producers, parents, and other community stakeholders;

“(E) require \$100,000 or less in Federal contributions;

“(F) require a Federal share of costs not to exceed 75 percent;

“(G) provide matching support in the form of cash or in kind contributions (including facilities, equipment, or services provided by State and local governments and private sources); and

“(H) cooperate in an evaluation to be carried out by the Secretary.”; and (3) by redesignating subsection (i) as subsection (f), and amending paragraph (1) of such subsection to read as follows:

“(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for carrying out this section for fiscal years 2004 through 2008.”.

SEC. 303. FRUITS AND VEGETABLE COMMODITIES.

Section 6(c)(1)(D) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)(D)) is amended by inserting “, and fruits and vegetables” before the period.

SEC. 304. FLUID MILK.

Section 9(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended to read as follows:

“(2) FLUID MILK.—

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

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

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

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

“(B) SUBSTITUTES.—

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

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

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

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

“(i) on the school premises; or

“(ii) at any school-sponsored event.”.

SEC. 305. WAIVER OF REQUIREMENTS FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.

Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)) is amended to read as follows:

“(5) WAIVER OF REQUIREMENTS FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—State educational agencies may grant waivers to school food authorities to the requirement for weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if—

“(A) the school food authority has an equivalent system for conducting a nutrient analysis, subject to State agency approval; and

“(B) the equivalent system adequately documents the extent to which the school food authority is meeting the Dietary Guidelines for Americans and other nutrition standards.

In addition, the Secretary may waive, on a case by case basis, the requirement for a State agency to use weighted averages when conducting a nutrient analysis as part of a review (of compliance with the Dietary Guidelines and other nutrition standards) of a school food authority not using nutrient standard menu planning, when, in the Secretary’s determination, an alternative analysis would yield results that would adequately measure a school food authority’s compliance with current nutrition standards for school meals.”.

SEC. 306. WHOLE GRAINS.

Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate rules, based on Federal nutrition guidelines, to increase the presence of whole grains in foods offered in school nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

TITLE IV—IMPROVING THE WOMEN, INFANTS, AND CHILDREN PROGRAM

SEC. 401. DEFINITION OF NUTRITION EDUCATION.

Section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)) is amended—

(1) by inserting “and physical activity” after “dietary habits”; and

(2) by striking “nutrition and health” and inserting “nutrition, health, and child development”.

SEC. 402. DEFINITION OF SUPPLEMENTAL FOODS.

Section 17(b)(14) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(14)) is amended by inserting after “children” the following: “and foods that promote health as indicated in the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)”.

SEC. 403. IMPROVING CERTIFICATION.

(a) **CERTIFICATION OF WOMEN WHO ARE BREASTFEEDING.**—Section 17(d)(3)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(A)) is amended by adding at the end the following: “A State may certify breast-feeding women for up to 1 year, or until women stop breast-feeding, whichever is earlier.”

(b) **PHYSICAL PRESENCE REQUIREMENT.**—Section 17(d)(3)(C)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(ii)) is amended—

(1) in subclause (I)(bb), by striking “from a provider other than the local agency; or” and inserting a semicolon;

(2) in subclause (II)(cc), by striking the period at the end and inserting “; and”; and

(3) by inserting after subclause (II) the following:

“(III) an infant under 8 weeks of age—

“(aa) who cannot be present at certification for a reason determined appropriate by the local agency; and

“(bb) for whom all necessary certification information is provided.”.

(c) **PROCESSING APPLICATIONS UNDER SPECIAL CIRCUMSTANCES.**—Section 17(f)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)) is amended by—

(1) redesignating clauses (ix) and (x) as clauses (x) and (xi), respectively; and

(2) inserting after clause (viii) the following:

“(ix) procedures whereby a State agency may accept and process vendor applications outside of the established time-frames, such as in situations in which a previously authorized vendor changes ownership under circumstances that do not permit timely notification to the State agency of such change in ownership;”.

(d) RESCHEDULING POLICIES.—Section 17(f)(19) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(19)) is amended—

(1) in subparagraph (A), by striking “; and” and inserting a semicolon;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) require local agencies to permit an applicant or participant to reschedule an appointment to apply or be recertified for the program.”.

SEC. 404. REVIEWS OF AVAILABLE SUPPLEMENTAL FOODS.

(a) SCIENTIFIC REVIEW.—Section 17(f)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)) is amended to read as follows:

“(11)(A) The Secretary shall prescribe by regulations the supplemental foods to be made available in the program under this section. To the degree possible the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

“(B) Beginning in 2013 and every 10 years thereafter, or more frequently if determined by the Secretary to be necessary to reflect current scientific knowledge, the Secretary shall conduct a scientific review of the supplemental foods available in the program and recommend, as necessary, changes to reflect nutrition science, current public health concerns, and cultural eating patterns.”.

(b) RULEMAKING.—The Secretary shall promulgate a rule updating the prescribed supplemental foods available through the program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) within 6 months of receiving the review of the food package for such program undertaken by the National Academy of Sciences, Institute of Medicine in September 2003.

SEC. 405. NOTIFICATION OF VIOLATIONS AND INFANT FORMULA BENEFITS.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following:

“(25) NOTIFICATION OF VIOLATIONS.—If a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise its investigation.

“(26) INFANT FORMULA BENEFITS.—

“(A) IN GENERAL.—The State agency may round up to the next whole can of infant formula to ensure that all infants receive the full-authorized nutritional benefit specified by regulation.

“(B) LIMITATION.—Subparagraph (A) applies only to infant formula contracts awarded under bid solicitations made on or after October 1, 2004.”.

SEC. 406. HEALTHY PEOPLE 2010 INITIATIVE.

Section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended—

(1) in subparagraph (D), by striking “; and” and inserting a semicolon;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by inserting after subparagraph (E) the following:

“(F) partner with communities, State and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the program under this section to support the breastfeeding goals of the Healthy People 2010 initiative.”.

SEC. 407. COMPETITIVE BIDDING.

Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

“(iv) REBATE INVOICES.—Each State agency shall have a system to ensure that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section.

“(v) CENT-FOR-CENT ADJUSTMENTS.—A bid solicitation for infant formula under the program made on or after October 1, 2004 shall require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires—

“(I) a cent-for-cent increase in the rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular infant formula; or

“(II) a cent-for-cent decrease in the rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular infant formula.”.

SEC. 408. FRUIT AND VEGETABLE PROJECTS.

Section 17(h)(10)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(B)(ii)) is amended by inserting after “under this section” the following: “, which may include demonstration projects in up to 10 local sites, determined to be geographically and culturally representative of local States and Indian agencies, to evaluate the inclusion of fresh, frozen, or canned fruits and vegetables (to be made available through private funds) as an addition to the supplemental food provided under this section”.

SEC. 409. PRICE LEVELS OF RETAIL STORES.

Section 17(h)(11) of the Child Nutrition Act of 1966 is amended by adding at the end the following:

“(C) ADDITIONAL REQUIREMENTS.—

“(i) The State agency shall evaluate a vendor applicant based on its shelf prices or on the prices it bids for supplemental foods, which may not exceed its shelf prices.

“(ii) The State agency shall establish price limitations on the amount that it will pay vendors for supplemental foods. The State agency shall ensure that price limitations do not result in inadequate participant access by geographic area.

“(iii) In establishing competitive price and price limitation requirements, the State agency may exclude pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program.

“(iv) The State agency shall establish competitive price requirements and price limitations for vendor peer groups, as necessary to ensure that prices paid to vendors are competitive. Vendor peer group competitive price requirements and price limitations may reflect reasonable estimates of varying costs of acquisition of supplemental foods.

“(D) INCENTIVE ITEMS.—The State agency shall not authorize a retail food store that provides incentive items or other free merchandise to program participants if funds available under this program were used to purchase such items or merchandise.

“(E) RULES OF CONSTRUCTION.—Nothing in this section may be construed to authorize violation of the Sherman Antitrust Act (15 U.S.C. 1 et seq.) or the Robinson-Patman Act (15 U.S.C. 13 et seq.).”.

SEC. 410. MANAGEMENT INFORMATION SYSTEMS.

Section 17(h)(12) of the Child Nutrition Act of 1996 (42 U.S.C. 1786(h)(12)) is amended—

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

“(B) ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

“(i) IN GENERAL.—All States that receive Federal funds for design or implementation of electronic benefit transfer (EBT) systems for the program under this section shall use technical specifications or standards, as applicable, as determined by the Secretary, except as provided in clause (ii).

“(ii) EXISTING SYSTEMS.—EBT systems for the program under this section that are in development or are issuing benefits as of the date of enactment shall be required to submit within 6 months after the date of enactment of this subparagraph a plan for compliance.

“(iii) WAIVER.—The Secretary may waive compliance with this subparagraph for State EBT systems for the program under this section that are issuing benefits as of the date of enactment of this subparagraph until such time that compliance is feasible.”; and

(2) by amending subparagraph (C) to read as follows:

“(C) UNIVERSAL PRODUCT CODES DATABASE.—The Secretary shall implement a national Universal Product Code Database for use by all State agencies in carrying out the program and shall make available from appropriated funds such sums as may be required for hosting, hardware, and software configuration, and support.”.

SEC. 411. INFANT FORMULA FRAUD PREVENTION.

Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is further amended by adding at the end the following:

“(13) APPROVED PROVIDERS OF INFANT FORMULA.—

“(A) IN GENERAL.—The State agency shall maintain a list of infant formula manufacturers, wholesalers, distributors, and retailers approved to provide infant formula to vendors.

“(B) LIST.—The list required under subparagraph (A) shall include food manufacturers, wholesalers, distributors, and retailers licensed in the State in accordance with State law and regulations to distribute infant formula and food manufacturers registered with the U.S. Food and Drug Administration that provide infant formula.

“(C) PURCHASE REQUIREMENT.—Vendors authorized to participate in the program under this section shall purchase infant formula from the list required under subparagraph (A).”.

SEC. 412. STATE ALLIANCES.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is further amended—

(1) in subsection (b) by adding at the end the following:

“(22) ‘State alliance’ means 2 or more State agencies that join together for the purpose of procuring infant formula by soliciting competitive bids.”; and

(2) in subsection (h)(8)(A) by adding at the end the following:

“(vi) SIZE OF STATE ALLIANCES.—No State alliance may form among States whose infant participation exceeds 200,000 based on program participation as of October 2003, except that—

“(I) an alliance among States with a combined 200,000 infant participants as of October 2003 may continue, and may expand to include more than 200,000 infants, but may not expand to include any additional State agencies that were not included in the alliance as of October 1, 2003, other than as provided in subclause (II); and

“(II) any State agency serving fewer than 5,000 infant participants as of October 2003, or any Indian Tribal Organization, may request to join any State alliance.”.

SEC. 413. LIMITS ON EXPENDITURES.

Section 17(i)(3)(A)(ii)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)(A)(ii)(I)) is amended by striking “1 percent” and inserting “3 percent”.

SEC. 414. MIGRANT AND COMMUNITY HEALTH CENTERS INITIATIVE.

Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

SEC. 415. DEMONSTRATION PROJECTS.

(a) CHILD NUTRITION ACT OF 1966.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsection (r).

(b) NATIONAL SCHOOL LUNCH ACT.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (p).

SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

(a) REAUTHORIZATION OF PROGRAM.—Section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) is amended by striking “(g)(1) There are authorized” and all that follows through “through 2003.” in paragraph (1) and inserting the following:

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2008.”.

(b) NUTRITION SERVICES AND ADMINISTRATION FUNDS.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended—

(1) in paragraph (2)(A), by striking “1995 through 2003” and inserting “2004 through 2008”; and

(2) in paragraph (10)(A), by striking “1995 through 2003” and inserting “2004 through 2008”.

(c) FARMERS’ MARKET NUTRITION PROGRAM.—Section 17(m)(9)(A)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)) is amended to read as follows:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2008.”.

TITLE V—REAUTHORIZATION, MISCELLANEOUS PROVISIONS, AND EFFECTIVE DATE.

SEC. 501. TRAINING, TECHNICAL, AND OTHER ASSISTANCE.

Section 21(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(a)(1)) is amended to read as follows:

“(1) subject to the availability of and from amounts appropriated pursuant to subsection (e)(1), shall provide—

“(A) training and technical assistance to improve the skills of individuals employed in food service programs carried out under this Act, section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), and, as appropriate, other federally assisted feeding programs;

“(B) training and technical assistance to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including training and technical assistance to ensure compliance with section 12(n) of this Act (42 U.S.C. 1760(n));

“(C) assistance, on a competitive basis, to State agencies for the purpose of aiding schools and school food authorities with at least 50 percent of enrolled children certified to receive free or reduced price meals, and, if there are any remaining funds, other schools and school food authorities in meeting the cost of acquiring or upgrading technology and information management systems for use in food service programs carried out under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if the school or school food authority submits to the State agency an infrastructure development plan that addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology in—

“(i) methods to ensure that there shall not be any overt identification of any such child by special tokens or tickets, announced or published list of names, or by any other means;

“(ii) processing and verifying applications for free and reduced price school meals;

“(iii) integrating menu planning, production, and serving data to monitor compliance with section 9(f)(1); and

“(iv) establishing compatibility with statewide reporting systems;

“(D) assistance, on a competitive basis, to State agencies with low proportions of schools or students that participate in the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and that demonstrate the greatest need, for the purpose of aiding schools in meeting costs associated with initiating or expanding a school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including outreach and informational activities; and”.

SEC. 502. NOTICE OF IRRADIATED FOOD.

Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end the following:

“(h) NOTICE OF IRRADIATED FOOD.—The Secretary shall develop policy and establish procedures for the purchase and distribution of irradiated food products in Federal school meals programs. The policies and procedures shall ensure at a minimum that—

“(1) irradiated food products are made available only at the request of States and school food authorities;

“(2) reimbursements to schools for irradiated food products are equal to reimbursements to schools for non-irradiated products;

“(3) States and school food service authorities are provided factual information on the science and evidence regarding irradiation technology, including notice that irradiation is not a substitute for safe food handling techniques and any such other information necessary to promote food safety in school meal programs;

“(4) States and school food service authorities are provided model procedures for providing factual information on the science and evidence regarding irradiation technology and any such other information necessary to promote food safety in school meals to school food service authorities, parents, and students regarding irradiation technology;

“(5) irradiated food products distributed to the Federal school meals program are labeled with a symbol or other printed notice indicating that the product

was treated with irradiation and is prominently displayed in a clear and understandable format on the container;

“(6) irradiated products are not commingled with non-irradiated products in containers; and

“(7) encourages schools that offer irradiated foods to offer alternatives to irradiated food products as part of the meal plan used by schools.”.

SEC. 503. SENSE OF CONGRESS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is further amended by adding at the end the following:

“(p) SENSE OF CONGRESS.—It is the sense of Congress that Federal resources provided under this Act and the Child Nutrition Act of 1966 dedicated to child nutrition should support the most effective programs within the Federal agency that is most capable of assisting children in nutritional need. Congress encourages the elimination of initiatives that are duplicative of other Federal efforts, particularly those that are duplicative of programs conducted under this Act and the Child Nutrition Act of 1966.”.

SEC. 504. REAUTHORIZATION OF PROGRAMS.

(a) STATE ADMINISTRATIVE EXPENSES.—Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) (as amended by this Act) is amended by striking “2003” and inserting “2008”.

(b) COMMODITY DISTRIBUTION PROGRAM.—

(1) Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking “March 31, 2004” and inserting “September 30, 2008”.

(2) Section 15(e) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) is amended by striking “April 1, 2004” and inserting “October 1, 2008”.

(c) PURCHASES OF LOCALLY PRODUCED FOODS.—Section 9(j)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)(2)(A)) is amended by striking “2007” and inserting “2008”.

(d) TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.—Section 21(g)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(e)(1)) (as amended by this Act) is further amended by striking “for each of fiscal years 1992 through 2003” and inserting “for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008”.

(e) COMPLIANCE AND ACCOUNTABILITY.—Section 22(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “2003” and inserting “2008”.

SEC. 505. EFFECTIVE DATES.

The amendments made by sections 101, 104, 105(a), 202, 410, 416, and 504 shall take effect on the date of enactment of this Act. The amendments made by sections 201 and 208(c) shall take effect on July 1, 2005. All other amendments made by this Act shall take effect October 1, 2005.

PURPOSE

H.R. 3873, the Child Nutrition Improvement and Integrity Act of 2004, amends and improves the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to provide children with access to food and nutrition assistance, to simplify program operations, to improve children’s nutritional health, to enhance the integrity of child nutrition programs, and for other purposes.

COMMITTEE ACTION

SUBCOMMITTEE HEARINGS

On July 16, 2003, the Subcommittee on Education Reform held a hearing on Food for Thought: How to Improve Child Nutrition Programs. This hearing was the first of the child nutrition hearings, and highlighted the key issues of the reauthorization of the Child Nutrition Act and the Richard B. Russell School Lunch Act. The testifying witnesses were divided into two panels.

The first panel included Vice Admiral Dr. Richard H. Carmona, United States Surgeon General, U.S. Department of Health and Human Services, Washington, DC, and the Honorable Eric M. Bost, Undersecretary of the Food, Nutrition, and Consumer Services, U.S. Department of Agriculture, Washington, DC.

The second panel included Dr. Tom Baranowski, Professor of Pediatrics at Baylor College of Medicine, Houston, Texas, Betsy Clarke, President of the National WIC Association and Director of Women, Infants, and Children at the Minnesota Department of Health, St. Paul, Minnesota; Gaye Lynn MacDonald, President of the American School Food Service Association and Manager of Food Services at the Bellingham Public Schools, Bellingham, Washington; and Dr. Deborah Frank, Professor of Pediatrics, Boston University Medical School, Boston, Massachusetts.

On February 12, 2004, the Subcommittee on Education Reform held a second hearing, entitled Encouraging Healthy Choices for Healthy Children. This hearing focused on the role of schools in preventing childhood obesity and promoting healthy lifestyles. Dr. Kenneth H. Cooper, President of the Cooper Institute, Dallas, Texas; Mr. Tim McCord, Health and Physical Education Department Chair, Titusville Area School District, Titusville, Pennsylvania; and Dr. Judith C. Young, Vice President of Programs for the American Alliance for Health, Physical Education, Recreation, and Dance, Reston, Virginia, all testified for the Subcommittee.

FULL COMMITTEE HEARINGS

On October 7, 2003, the Full Committee held a hearing entitled Improving the Quality and Efficiency of Commodity Distribution to Federal Child Nutrition Programs. The testifying witnesses were divided into two panels. The first panel included the Honorable Eric M. Bost, Undersecretary of Food, Nutrition, and Consumer Services, U.S. Department of Agriculture, Washington, DC, and Mr. A.J. Yates, Administrator of the Agriculture Marketing Service, U.S. Department of Agriculture, Washington, DC.

The second panel included Mr. Thomas E. Stenzel, President and CEO, United Fresh Fruit and Vegetable Association, Washington, DC; Dr. Joanne L. Slavin, Professor of Nutrition, University of Minnesota, St. Paul, Minnesota; Mr. Robinson W. Joslin, President of the Ohio Soybean Association, Sidney, Ohio; Dr. Robert P. Heaney, Professor of Medicine, Creighton University, Omaha, Nebraska; and Ms. Paula Cockwell, Manager of Nutrition Services, Adams County School District #14, and Food Service Director, Mapleton Public School District, Denver, Colorado.

LEGISLATIVE ACTION

On Tuesday, March 2, 2004, Representative Michael N. Castle, along with Representatives Boehner, McKeon, Upton, Ehlers, Keller, Wilson (SC), Porter, Carter, Case, Pearce, Simmons, Watson, Peterson (MN), and Kilpatrick, introduced H.R. 3873, the Child Nutrition Improvement and Integrity Act, a bill to reauthorize the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act through 2008.

On March 4, 2004 the Subcommittee on Education Reform considered H.R. 3873 in legislative session and reported it favorably,

by voice vote, to the Committee on Education and the Workforce. The Subcommittee adopted the following amendments:

An amendment in the nature of a substitute was offered by Mr. Castle and adopted by voice vote. The substitute amendment contained technical and clarifying changes. As well, it would:

- Reauthorize the child nutrition programs through 2008, and not 2009;
- Make a technical correction in the fruit and vegetable pilot program;
- Specify that the Secretary shall promulgate a rule, instead of issuing guidance, to increase the presence of whole grains in child nutrition programs;
- Make nutrition education provided through Team Nutrition consistent with dietary guidelines;
- Ensure WIC infant formula contracting changes occur prospectively;
- Ensure materials regarding school nutrition programs distributed to families are, to the extent practicable, in a language parents can understand;
- Clarify the application verification language; and
- Extend the Lugar pilot program operating in 14 States to private, non-profit sponsors of the Summer Food Service Program.

On March 10, 2004 the Committee on Education and the Workforce considered H.R. 3873 in legislative session and reported the bill favorably, as amended, to the House of Representatives. The rollcall vote was 42–0. The Committee adopted the following amendments:

Representative Castle offered an amendment in the nature of a substitute, adopted by voice vote. The substitute amendment contained technical and clarifying changes as well as the following:

- An independent evaluation of USDA's Team Nutrition program to support nutrition education in schools;
- Language authorizing the use of automatic certification for migrant children to facilitate access to free meals in school;
- A clarification that schools may sell 100 percent fluid milk to students throughout the school day without restriction;
- A removal of the Fruit and Vegetable Pilot Program pending resolution of funding issues;
- A requirement that States establish policies under which they may issue interim licenses for WIC vendors; and
- Language encouraging breastfeeding promotion activities for WIC participants that support the goals of Healthy People 2010.

Chairman Boehner offered six amendments en bloc, adopted by voice vote, which included the following provisions:

- An expansion of the Lugar pilot program to three additional states;
- An authorization of a one-state demonstration project that lowers area eligibility for the Summer Food Service Program in rural areas;
- An increase in reimbursement rates in extreme poverty areas participating in the School Breakfast Program;

- Language authorizing non-profit organizations in one state to provide meals year-round under simplified administrative procedures;
- Clarification that states must have policies to contain costs of WIC supplemental foods and ensure competitive pricing; and
- Language allowing schools to provide school meals year-round instead of operating both a school lunch program and summer food program, in exchange for agreeing to a lower reimbursement rate for summer meals.

SUMMARY

Purpose

The Child Nutrition Improvement and Integrity Act of 2004 reauthorizes the federal child nutrition programs operating under the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act. The legislation will ensure access to program benefits for eligible children, improve the quality of meals served by federal child nutrition programs, and enhance program integrity through a series of measures to ensure that program benefits are accurately targeted to eligible individuals. This legislation also will extend through 2008 five program rules critical for children's access to safe and healthy food, which are due to expire on March 31, 2004.

TITLE I: ENSURING ACCESS TO CHILD NUTRITION PROGRAMS

H.R. 3873 proposes a number of program improvements to improve access for eligible children and enhance operational efficiency. Title I of H.R. 3873 ensures that children living in privatized military housing whose parents serve in the Armed Services may continue to participate in federal child nutrition programs provided that they meet eligibility criteria. Section 102 authorizes automatic National School Lunch Program (NSLP) eligibility for homeless and runaway youth defined under the McKinney-Vento Homeless Assistance Act, and migratory children up to age eighteen.

H.R. 3873 also reauthorizes the Summer Food Service Program (SFSP) and extends the Lugar pilot program, including private, non-profit sponsors, in the fourteen states currently operating under the Lugar pilot and adds three additional states. For-profit child care centers are permanently authorized to participate in the Child and Adult Care Food Program (CACFP), provided that 25 percent of enrolled children in the center meet the NSLP income eligibility criteria for free or reduced price meals.

Finally, the legislation extends the age limit on CACFP eligibility for youth in homeless and domestic violence shelters from 12 to 18 years of age, requires the Secretary of Agriculture to work with States and institutions operating the CACFP to identify paperwork reduction strategies, and retains current law eligibility criteria for free and reduced-price meals offered under the NSLP and other federal child nutrition programs.

TITLE II: IMPROVING PROGRAM QUALITY AND INTEGRITY

H.R. 3873 requires local educational agencies, not school food authorities, to approve free and reduced-price meal applications, and

holds local educational agencies accountable for the accuracy of benefit determinations. School districts would be required to request that the State agency overseeing food stamps assist local educational agencies in directly certifying children for free meals if their family is enrolled in the Food Stamp Program. H.R. 3873 also retains current law authority for schools, at their option, to directly certify students using other means-tested programs such as Temporary Assistance for Needy Families (TANF). The legislation encourages schools to use automated systems for submitting and approving school meal applications, including the use of electronic signatures and the electronic transmission of applications when secure servers are available. Children who are from migratory families, and runaway or homeless youth, are automatically certified as eligible to receive free meals and do not have to complete the application process.

A number of measures would simplify the application process for parents and provide additional information in materials accompanying the school meal application. H.R. 3873 would allow parents or guardians to fill out a single application when applying for meal benefits for multiple children in a household, and remove the current law requirement that parents notify the school if their household income changes throughout the school year. To simplify the certification process, H.R. 3873 would require schools to establish a year-long certification period for children eligible for free or reduced-price school meals. This legislation also requires application materials to be provided, to the extent practicable, to parents in a language they can understand.

H.R. 3873 would hold local educational agencies accountable for the accuracy of free- and reduced price meal certifications by requiring that three percent (up to a maximum of 3,000) of all approved applications be verified by the local educational agency. Districts with non-response rates greater than 25 percent would be required to select their sample from error-prone applications (within \$100 of the maximum allowable income for their eligibility category). Districts that receive responses to requests for income documentation information from at least 75 percent of households selected for verification in the prior year could select their verification sample at random, or reduce the number of error-prone applications to be verified by half.

Districts that receive more than 20,000 applications could verify applications based on a random sample or smaller targeted sample if they demonstrated a ten percent or greater reduction in their non-response rate from the previous year. Local educational agencies also would be given discretion to substitute one application for another on a case by case basis, in instances where criteria established by the Secretary apply, for up to two percent of the total pool of applications selected for verification.

In order to assist local educational agencies to improve meal certification accuracy, H.R. 3873 provides additional resources for training and requires additional administrative reviews. Districts that fail to meet established standards during the review will be required to develop a corrective action plan, and will receive technical assistance to improve administrative practices. The Department of Agriculture may make recoveries of payments made for ineligible children from the date the error was made to the date it

was corrected up to a maximum of 90 days. Recovered funds are reinvested into improving administrative procedures for the certification, verification, and meal claiming processes.

TITLE III: PROMOTING NUTRITION QUALITY AND PREVENTING CHILDHOOD OBESITY

Recognizing the growing trend of childhood obesity, H.R. 3873 requires every local educational agency by the first day of the 2006 school year, to have a local wellness policy. The policy must include goals for nutrition education and physical activity, include nutrition guidelines for foods sold in schools, and establish a plan to ensure implementation. The policy must be developed in consultation with parents, students, school food service professionals, school boards, school administrators, and the public.

The legislation also supports nutrition education, improved meal quality, and access to local foods. H.R. 3873 supports a Team Nutrition Network to promote health through nutrition education and physical activity, and authorizes state and local grants to states and local educational agencies that develop and implement model programs to improve student health through nutrition education and physical fitness promotion.

H.R. 3873 promotes the availability of foods containing whole grains by requiring the Secretary of Agriculture to promulgate regulations to improve the availability of whole grains in school meals. The legislation adds fruits and vegetables to the list of preferred agricultural commodities purchased by the Department of Agriculture, and authorizes an initiative to support partnerships between schools and local produce farms. Finally, H.R. 3873 authorizes schools, at their option, to offer children, with parental consent, a non-dairy beverage that meets nutrition standards established by the Secretary that are equivalent to those for cow's milk. Children must request a non-dairy beverage due to a medical or other special dietary need, and schools must report to USDA if they make non-dairy beverages available to students.

TITLE IV: IMPROVING THE WOMEN, INFANTS, AND CHILDREN SUPPLEMENTAL FEEDING PROGRAM

The bill authorizes such sums as necessary for fiscal years 2004 through 2008 for the Special Supplemental Program for Women, Infants, and Children Program (WIC), which includes grants to States, nutrition services and administration funds, and a farmers' market nutrition program.

The Child Nutrition Improvement and Integrity Act makes several changes to improve the nutrition of supplemental foods provided through the program. It requires supplemental foods available through WIC to be consistent with the most recent Dietary Guidelines for Americans. The bill allows nutrition education to include information on physical activity, and connects improved dietary habits to child development in addition to health. The bill requires the Secretary to update the prescribed supplemental foods available through the program after receiving the study regarding such foods undertaken by the National Academy of Sciences, Institute of Medicine. In addition, it requires the Secretary to conduct a scientific review of the supplemental foods available in the program, beginning in 2013 and every ten years thereafter. The Sec-

retary shall recommend changes to the available food package as necessary. The bill also permits the Secretary to authorize ten demonstration projects to provide fruits and vegetables to WIC participants using private funds. The Secretary shall evaluate such demonstrations.

The bill improves the certification processes for participants. It allows states to certify breastfeeding women for up to one year, or until women stop breastfeeding, whichever is earlier. It provides additional flexibility for local agencies in determining when an infant or child must be physically present at certification or recertification. An infant or child does not need to be present at recertification if she or he is under the care of any health care provider. In addition, an infant under eight weeks of age does not need to be present at certification as long as all certification information is provided. The bill also requires local agencies to permit an applicant or participant to reschedule an appointment to apply or be recertified for the program.

The bill increases from one to three percent the amount of nutrition services and administration funds a state may expend during the subsequent fiscal year for allowable expenses incurred during a fiscal year.

The Child Nutrition Improvement and Integrity Act improves the provision of infant formula benefits and competitive bidding. It allows state agencies to round up to the next whole can of infant formula to ensure that all infants receive the full benefit specified by regulation. In addition, it limits the size of state alliances developed for purposes of soliciting competitive bids for infant formula to a maximum of 200,000 infants. Current alliances of greater size as of October 1, 2003 may continue, and tribal organizations and states serving fewer than 5,000 infants may request to join any alliance. The bill ensures integrity in the formula rebate process by requiring a reasonable estimate or an actual account of infant formula redeemed under the program. It also requires a cent for cent decrease in the manufacturers' infant formula rebate if the wholesale price of infant formula goes down, and requires a cent for cent increase in the rebate if the wholesale price goes up.

To encourage the continued promotion of breastfeeding among WIC participants, the bill requires the Secretary to partner with communities, State and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the WIC program.

The Child Nutrition Improvement and Integrity Act improves the integrity of the WIC program. It requires participating vendors to purchase infant formula from a list of state-licensed wholesalers, retailers, and distributors approved to distribute infant formula. It requires the Secretary to implement a National Universal Product Code database for use by all state agencies. The bill requires the Secretary to establish common technical specifications for WIC Electronic Benefit Transfer (EBT) systems. In addition, it permits states to provide approval for vendors to participate in the program outside of normal timeframes if a store changes ownership. The bill requires a state to notify a vendor of an initial violation in writing prior to documentation of another violation, unless the state agency determines that notifying the vendor would compromise an inves-

tigation. The bill ensures the program pays fair prices for supplemental foods by requiring states to establish competitive pricing and price limitations for different vendor peer groups. The bill also eliminates expired provisions.

TITLE V: REAUTHORIZATION, MISCELLANEOUS PROVISIONS, AND EFFECTIVE DATES

H.R. 3873 designates training and technical assistance to improve the skills of school food service employees; to assist in the procurement of goods and services, including compliance with the “Buy American” provision; and to aid schools in upgrading technology and information management for food service providers, including methods to protect the privacy of children and families enrolled in programs under these Acts.

The Child Nutrition Improvement and Integrity Act requires the Secretary of Agriculture to develop policy and establish procedures regarding the purchase, distribution, notice of consumption, and provision of information regarding irradiated foods served by federal school meal programs.

To promote efficiency and eliminate waste, the bill contains a Sense of Congress expressing the desire that federal resources expended under these Acts should support those programs that are most effective in meeting the needs of children, and should not support duplicative efforts.

H.R. 3873 reauthorizes the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act through fiscal year 2008, and determines appropriate dates for sections of the bill to take effect.

COMMITTEE VIEWS

Overview

A healthful diet is necessary for children to achieve full physical development and long-term health and is critical for academic success in school. The Committee is committed to ensuring that all children have access to nutritious school meals and that income-eligible children receive these meals at low or no cost. The Committee believes that schools and other institutions should receive funding sufficient to provide children with nutritious meals that meet federal dietary guidelines.

The Committee is well aware of the importance of nutritious meals in the cognitive development of our youngest learners. For many low income children enrolled in participating schools and child care centers, the meals provided to the most vulnerable children under Department of Agriculture guidelines are very often their most substantial meal of the day.

The federal child nutrition programs were conceived to offer wholesome meals and snacks to children in need, and to support the health of lower-income pregnant women, breastfeeding mothers, and their young children. These programs represent a national investment totaling more than \$16 billion per year. These programs have been heralded as successful, and the reforms found in H.R. 3873 continue this progress through improvements in program integrity and operational efficiency while enhancing access to healthy and affordable meals.

The National School Lunch Program alone serves an average of 27 million children each school day. Fifty-eight percent of these children receive a nutritious lunch free or at a reduced price. Nearly eleven million also take part in school breakfast, after-school snacks, and summer meals. These programs provide an extraordinary opportunity to reach young Americans and send out strong, consistent messages about achieving and maintaining a healthy lifestyle. Through school meals programs, summer feeding, child care and WIC programs, reforms contained in H.R. 3873 have been developed to improve the quality of children's diets and raise their awareness of healthy choices.

Reimbursement Rates for Breakfasts in Severe Need Areas

The Committee recognizes that currently new schools must wait two years in order to qualify for additional reimbursement for breakfast served in schools with high percentage of free and reduced price breakfast. This provision is intended to provide for those new schools, which draw a majority of their enrollment from schools qualifying for the additional reimbursement, the additional school breakfast reimbursement upon the opening of the school.

Summer Food Service Program

The Summer Food Service Program (SFSP) brings children together for organized activities (such as sports activities and camps) by providing meals and snacks to children under the age of 18 during the summer months. Local public and private nonprofit organizations may apply to become a SFSP sponsor. Approximately 3,500 sponsors operate an estimated 30,000 sites, providing subsidized meals and snacks to an average 1.9 million children per day.

The Committee supports the highly successful Lugar pilot program, relaxing paperwork and other administrative requirements, which are the strongest deterrents to SFSP sponsor participation. During testimony before the Committee, the Department of Agriculture expressed interest in expanding access to child nutrition programs for eligible children, with a special focus on the Summer Food Service Program. The Committee, along with the Department and community stakeholders, is committed to improving access to nutritious food for children in the summer months when school is not in session. In 2002, the Food and Nutrition Service of the Department of Agriculture launched a major effort to expand the number of sponsors, feeding sites, and participants in the Summer Food Service Program, and provisions contained in Section 104 of this legislation would support those efforts.

Section 104 extends the Lugar pilot in the fourteen existing states, authorizes participation among private, non-profit sponsors of summer feeding programs in those states and adds three new states to the pilot program. The Committee recognizes the benefits of improved efficiency and administrative streamlining provided by the Lugar pilot, and supports applying these program rules nationwide when sufficient funding is available.

Section 107 authorizes sponsors of the Summer Food Service Program in rural Pennsylvania to reduce the area eligibility threshold from 50 percent of the children in a geographical area be eligible for free or reduced-price school meals to participate in summer food to 40 percent. The purpose of this eligibility change is to explore

the impact of lowering the requirement in rural areas. Nationally, rural children participate in the Summer Food Service Program at a much lower rate than children in urban areas. The Committee recognizes the unique barriers faced by rural sponsors and the need to take steps to ensure that rural children have access to the Summer Food Service Program to the same degree that urban children do. The Committee urges the Department to monitor the effect of lowering the area eligibility threshold on rural participation so that the Committee can evaluate the need to implement this change to additional rural communities and potentially in non-rural areas as well.

Section 108 permanently authorizes a Department of Agriculture waiver allowing local educational agencies to operate the Summer Food Service Program under National School Lunch Program rules and reimbursement rates. The waiver option is currently available to schools nationwide and has been shown to reduce paperwork resulting in cost savings to school districts. Local educational agencies that offer summer meals under the waiver authority must agree to receive the National School Lunch Program reimbursement rate for summer meals instead of the higher rate. Currently, over 500 school food authorities have chosen to deliver program benefits through this streamlined approach. The Committee recognizes that the Secretary has discretion to grant such waivers and will continue this streamlining effort in the Summer Food Service Program.

Section 109 includes a provision to evaluate the effects of streamlining program operations and easing excessive paperwork burdens by authorizing community based non-profits and local government agencies in California to feed children year round through a single child nutrition program, primarily under the rules of the Summer Food Service Program.

For historical reasons, the child nutrition programs that serve out-of-school programs developed independently and include many variations from program to program in the application process, and eligibility, benefits, and administrative requirements. Streamlining program operations is expected to decrease the paperwork and administrative burdens in current programs operating summer feeding sites during out-of-school times and the state child nutrition agency. The redundant paperwork required to participate in multiple nutrition programs does not improve program integrity, but does raise costs and discourages potential program sponsors, resulting in fewer children served through the federal child nutrition programs.

The Committee understands the need to ease excessive administrative burdens in the child nutrition programs to ensure that children have access to the programs and views the pilot as an important first step toward achieving that goal.

Child and Adult Care Food Program (CACFP)

The Child and Adult Care Food Program (CACFP) plays a central role in shaping the dietary habits of very young children participating in public and private child care centers and family child care homes. Section 105 is intended to assure that state CACFP agencies and sponsoring organizations (the non-profit organizations that administer Child and Adult Care Food Program to family child

care providers) have the resources needed to focus on important nutrition education and support services. The Committee recognizes that under current law, paperwork requirements and other administrative burdens have affected the efficiency of CACFP operations and the ability of sponsors to spend time on critical activities such as nutrition education. For this reason, the Committee has included provisions in H.R. 3873 to maximize CACFP's positive role in supporting healthy meals and snacks for children in child care.

Section 105 also would establish permanent participation criteria that Congress has authorized for the last three years for private, for-profit child care centers. The current CACFP statute allows licensed, proprietary child care centers to participate in the CACFP if 25 percent of their enrollment receives child care assistance from Title XX, the Social Services Block Grant. In 1981, when Title XX was the sole source of federal child care assistance, Congress specified Title XX in the CACFP statute to authorize participation for proprietary child care centers. The clear intent in 1981, as now, is that child care centers that serve a significant number of needy and vulnerable children should be able to participate in the program.

Because the Child Care and Development Block Grant (CCDBG) and TANF have replaced Title XX as the primary means of child care assistance, continued participation of for-profit child care centers in CACFP is in jeopardy. States no longer use Title XX as their primary source for child care assistance; and as a result many for-profit child care centers serving eligible children have been unable to meet the statutory requirement that of 25 percent Title XX children. Many proprietary programs serve a significantly higher percentage of subsidized children. These centers are serving the children the CACFP is intended to reach, but are not able to participate in this program and provide children with healthful and nutritious meals because of new funding streams created by Congress for child care assistance.

The Committee bill includes an alternative means for participation by allowing child care centers to participate if at least 25 percent of the program's enrollment is eligible for free or reduced priced meals. This streamlines the participation criteria to conform to the participation criteria for other eligible organizations and avoids any future problems related to linking participation to any specific funding stream. This update, without changing current policy, realigns the statute with Congress's original intent.

The Committee recognizes the role that states have played to temporarily address the current Title XX requirement by pooling a certain amount of Title XX funding in the Child Care Development Fund so that every subsidized child will receive Title XX assistance as required by the CACFP statute. The Committee encourages states to continue to pool to the extent practicable for a period of time that will allow participating child care centers to transition to the new participation criteria included in the bill.

Certification for Free and Reduced Price Meals

Improving the accuracy of certifications for free- and reduced-price school meals was a priority of this Committee in drafting legislation to reauthorize and improve federal child nutrition programs. Studies have produced disparate information regarding the

extent to which children are certified inaccurately, yet most agree that the problem is more complex than understood initially. While there are conflicting reports regarding the extent of the problem, the number of ineligible children receiving free- or reduced-price meals may be significantly smaller than initial estimates projected. However, providing free- or reduced-priced meals to ineligible children is costly and diverts valuable resources away from the children and schools with the greatest need.

Among the provisions included in H.R. 3873 to improve program integrity, the Committee did not propose an increase in the percent of school meal applications that schools must verify. This decision was made following the release of data from Department of Agriculture pilot studies suggesting that expanded income verification requirements do not decrease the number of ineligible children certified and may lead to a substantial increase in the number of eligible children who lose their benefits. Department of Agriculture studies also suggested that administrative errors by school officials in processing applications are partially responsible for inaccurate certifications, and that many of the children found ineligible for a free-lunch were eligible for a reduced-priced lunch. The Committee also recognized that under current law and regulations, there are no incentives for schools to ensure the accuracy of school meal certifications. Furthermore, there is insufficient oversight and enforcement by USDA and only minor consequences for schools that inaccurately certify students.

H.R. 3873 proposes a series of measures to improve program integrity by addressing the accuracy of certifications for free- or reduced-price school meals. This legislation would help schools reduce certification error and encourage participation by eligible children by providing incentives for schools to improve certification accuracy and reduce non-response rates.

The Committee believes strongly that program integrity should not be achieved at the cost of risking the participation of eligible children. Reforms proposed in H.R. 3873 would protect eligible children by ensuring continued access to program benefits.

Certification by Local Educational Agencies

During the Committee's review of current application and certification processes, a number of factors suggested that local educational agencies, not school food authorities should be the authority designated to oversee the certification of children to receive free- or reduced-price meals. Under current law, school food service operators are responsible for processing meal applications, which the Committee believes is an activity more appropriately conducted by local educational agencies. Because eligibility determinations for free- and reduced-price meals are used for purposes that extend beyond the receipt of free or reduced-price school meals, the Committee believes that school and district administrators, not food service personnel, should be held accountable for the accuracy of meal certifications reported to the state and the Secretary of Agriculture.

Administrative Error Reduction

Recent studies suggest that administrative error is a contributing factor in the certification of ineligible children to receive free-

or reduced-price school meals. Section 208(a) authorizes new oversight requirements and additional financial resources to support efforts by schools to improve the accuracy of school meal certifications. This legislation would direct the Secretary of Agriculture, in conjunction with State agencies, to conduct training and develop technical assistance materials to assist schools in improving program integrity. Schools that fail to reduce administrative error to acceptable levels, as established by the Department of Agriculture, would be required to develop a corrective action plan, would receive additional technical assistance, and would be subject to additional administrative reviews.

More frequent reviews of administrative practices would encourage local educational agencies to examine their own administrative practices more regularly and would bring any administrative problems associated with school meal certifications to the attention of the state agency and USDA more quickly. For local educational agencies that fail to meet performance standards, requiring additional administrative reviews is consistent with the current model for comprehensive reviews, which emphasizes correcting administrative problems over punitive measures.

The Committee expects that funds authorized to reduce administrative error would be used to implement the new training, technical assistance, and administrative review provisions, including, but not limited to, producing and distributing training materials, hiring new employees, and contracting with third parties. The Committee also expects these provisions to be implemented in a manner that addresses the needs of local educational agencies of varying sizes and characteristics, including the development of different training and technical assistance materials as needed.

Direct Certification

Direct certification of children enrolled in the Food Stamp Program or Temporary Assistance for Needy Families has been shown to improve certification accuracy over paper applications while increasing access for the lowest-income families. Further, direct certification reduces the application and verification burden for families and schools. Due to the success that schools have reported in using methods of direct certification, and that research has documented, H.R. 3873 directs local educational agencies to enter into an agreement, to the extent practicable, with the state agency overseeing the Food Stamp Program to directly certify children in households receiving food stamps. At their option, as in current law, local educational agencies also may work with other income-based programs to establish eligibility for free school meals.

Section 201(a) provides for the direct certification for free school meals of migrant children and children in households receiving food stamps or benefits under the Temporary Assistance for Needy Families program. These provisions are meant to improve certification accuracy and reduce the paperwork burden placed on school districts and families. The Committee expects the U.S. Department of Agriculture and state agencies, when implementing these provisions, to encourage local educational agencies to disregard the paper applications of students that have already been directly certified.

Annual Certification

The Committee recognizes that one of the factors affecting reports on program integrity is fluctuation in income. Under current requirements, households are expected to report changes in household size or in income of \$50 per month or more. This requirement is burdensome for families and is more likely to affect low-income earners. The data indicate that a significant number of families who respond to requests to verify the income reported on the school meal application have a change of status from free to reduced-price. Additionally, it increases paperwork and other administrative burdens on schools.

For these reasons, H.R. 3873 would authorize an annual certification period so that a household that is approved for free and reduced-price meals retains that eligibility for the entire school year. To fully realize this provision, households that are selected to provide documentation supporting the application must be permitted to provide such documentation for the point in time that the application was submitted. Current regulations allow school food authorities to request this documentation at any point in time but, in fact, most school food authorities do so subsequent to October 31 of the year, the date on which the size of the required sample is set.

The Committee requires the Secretary to issue guidance on two approaches to achieve the Committee's intent. First, applications for free or reduced-price meals should clearly state that households should retain records of the income upon which the application is based for such period of time that ensures its availability if the household is required to verify the data. The recommendation to households should be in language that is clearly understood and in such fashion as to ensure it is noticed.

However, for many households, records and record retention are an insurmountable problem. Therefore, the Secretary should also include guidance encouraging local educational agencies to begin selection of households for verification as applications are received. That is, using the appropriate sampling method defined in this bill, local educational agencies should request verification documentation shortly after eligibility determination is made, when the required documents might still be available. Local educational agencies may, but would not be required to complete the verification process earlier than currently required by regulation.

The Committee further clarifies that documentation that supports eligibility may be provided by the household at any time during the eligibility period. This is consistent with regulations that allow application at any time during the school year.

Incentives To Improve Certification Accuracy and Non-Response Rates

The verification requirements contained in H.R. 3873 create an incentive for local educational agencies to improve certification accuracy by obtaining verification data for a greater portion of the verification sample—that is, by lowering the non-response rate. The largest districts are unlikely to meet the absolute non-response rate criteria but have an incentive to meet the improvement criteria for districts with more than 20,000 paper applications. This

incentive will be most effective if districts know their target non-response rates and take steps to achieve them.

The Committee recognizes that, for certain local educational agencies, more than 50 percent of requests for income documentation are ignored by parents. This is a troubling statistic because parent failure to respond to requests for income documentation leads to the termination of their child's school meal benefits. The Committee encourages local educational agencies to work with other public agencies to use such data, which has already been verified, to verify eligibility for free or reduced-price school meals whenever possible. For households whose eligibility cannot be verified using such data, the Committee encourages schools to conduct multiple follow-up attempts to collect verification information, but recognizes that parents, not schools, are ultimately responsible for ensuring that income documentation is provided to schools when requested.

The Committee encourages the Food and Nutrition Service of the Department of Agriculture, and state agencies to examine the practices of local educational agencies that have achieved successful response rates to requests for income verification. The Committee found a general lack of information on how schools could lower non-response rates, and urges a review of best practices and the dissemination of information to local educational agencies, particularly large, urban school districts, to help improve their efforts to reduce non-response rates.

Section 201(a) establishes different verification sampling requirements for local educational agencies that are able to reduce the verification non-response rate below a threshold or, for local educational agencies with more than 20,000 meal applications, which show significant improvement in the verification non-response rate. In implementing new verification requirements, the Committee encourages the U.S. Department of Agriculture or State agencies to notify local educational agencies with more than 20,000 meal applications, before the start of each school year, of the verification non-response rate they would need to achieve in order to be subject to the verification sampling requirements for the following school year. To this end, it would be helpful for the Department of Agriculture or the state agency to calculate the target non-response rates for these districts. Under a new regulation that takes effect for the 2004–2005 school year, state agencies will have the information they need to make such a calculation by March 1 of the prior school year.

Eligibility for Free- and Reduced-Price Meals

Under current law, eligibility for free and reduced-price meals is determined by poverty guidelines established by the Department of Health and Human Services. H.R. 3873 retains current law eligibility guidelines for the provision of free and reduced-price meals. Under these rules, families with household incomes at or below 185 percent of poverty are eligible to receive school meals at a reduced price, and children in families with incomes at or below 130 percent of poverty are eligible to receive meals free.

This year, a family of four earning an annual income less than \$23,920 and up to \$34,040 is eligible for free and reduced price lunches, respectively. Due to regional differences in cost of living,

families who are eligible for a reduced price meal in communities where the cost of living is higher than the national average may actually have a standard of living similar to a family who is eligible for a free meal in a community where the average cost of living is lower than the national average. Congress addressed regional differences in the cost of meal preparation in a previous reauthorization. It has not attempted to make further changes to reimbursement rates based on regional cost differences nor has there been an exploration of establishing income guidelines for eligibility determination based on regional differences in the cost of living.

The current budget allocation does not allow for changes in reimbursement rates or adjustments in eligibility requirements, however these issues are appropriate matters for the Committee and the U.S. Department of Agriculture to take into consideration for future reauthorizations.

Participation of Children Enrolled in Schools Operating During Non-Traditional Hours

The Committee recognizes that some children attend alternative schools during nontraditional hours and programs preparing students to obtain a General Educational Development credential (GED). While states are allowed to apply for a waiver to provide meals to students attending schools during non-traditional hours, the waiver is not widely used. Consistent with the Committee's desire to ensure access for all eligible children, the Committee urges the Department of Agriculture to develop guidance for states addressing meal service during non-traditional school hours. Such guidance will encourage schools to provide access to school meals for high school students enrolled in schools that operate during nontraditional hours.

Technology Improvements

H.R. 3873 contains several provisions to encourage the use of technology to enhance program operations by increasing efficiency, reducing human error, eliminating stigma associated with the identification of children receiving free- or reduced-price school meals, and significantly reducing administrative costs to schools.

Current regulations under 7 CFR §245.6 require applicants for free- or reduced-price meals to provide a written signature on a paper application. Section 201 authorizes the use of electronic signatures so that parents may transmit a complete application for free- or reduced-price meals over the Internet when a secure server is available. The electronic transmission of applications will expedite application processing, reduce common administrative errors, improve overall administrative accuracy, provide a higher level of confidentiality, and could significantly reduce administrative costs to local educational agencies.

While Internet use by individuals in low-income households is steadily increasing, the Committee acknowledges that low-income families and those living in rural areas may have limited access to computers and the Internet. For this reason, the Committee encourages schools and communities that offer electronic applications for free- and reduced-price school meals, to provide online access at public school and community libraries.

The Committee recognizes that children can be stigmatized if their peers know that their parents cannot afford to pay for daily meals. For this reason, H.R. 3873 includes legislation introduced by Representative Ric Keller of Florida to prevent children from being singled out in the lunch line as recipients of free or reduced-price meals. Schools that have adopted meal card, debit systems, or other forms of point-of-sale technologies enable every child to go through the school lunch line without being identified as a free or reduced lunch program recipient.

The Committee recognizes that while many schools have implemented technological solutions to enhance program operations and reduce stigma, many others lack the resources to do so. Section 501 provides assistance, on a competitive basis, to schools through state agencies, to help meet the cost of acquiring or upgrading technology and information systems for use in school food service programs. These funds are targeted for schools with at least 50 percent free and reduced price enrollment. If there are funds remaining in any fiscal year after these schools have received grants, the state agency is authorized to allow other schools to apply for the funds. At the option of the individual schools, the Secretary should also allow state agencies to spend the funds on behalf of schools, as this would help ensure that such systems are purchased or upgraded in a cost-effective and efficient manner.

In addition to technological support for meal application and certification processes, management information systems and other forms of technology may be used to monitor the nutrient content of foods, establishing meal card systems, and for other purposes.

Promoting Health Through Nutrition and Physical Activity

Obesity among American children has become an “epidemic,” according to public health experts. Childhood obesity has skyrocketed since the 1970s and children today are more overweight and less fit than at any other time in our history. In the past two decades the proportion of children and teens in America who are obese or at risk of becoming obese has tripled. Approximately 20 percent of American children are now considered to be overweight, with millions more at serious risk according to the Centers for Disease Control and Prevention. The problem appears most serious among minority children. If the trend continues, this generation of children may be the first in modern times to have a shorter life expectancy than their parents.

The Honorable Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, stated in testimony before the Committee:

The challenge of obesity did not appear overnight; it will not be solved overnight, and we cannot solve it alone. But our responsibilities to promote the Nation’s health demand action now. * * * The cost in increased health problems among future generations is a price that is too high to pay.

The Committee believes that schools, along with parents, must play a vital role in order to reverse the troubling trend of childhood obesity. While parents bear first responsibility for ensuring their children eat well and exercise regularly, the Committee believes that programs authorized under the Child Nutrition Act and Na-

tional School Lunch Act can play a positive role by providing nutrition education and access to nutritious meals and snacks.

Schools should support the responsibility of parents by providing information to help children make informed choices, and encourage children to choose a variety of foods, and eat in moderation. Local schools should be supported in their efforts to create such an environment, and given the flexibility they need to do so. Nutrition education and other activities are needed to inform children about the short- and long-term benefits of a healthy diet and regular physical activity.

Despite the need to encourage student selection of fruits and vegetables, whole grains, and low-fat dairy products, the Committee is concerned that significant emphasis is placed on poor dietary choices, and that food and beverages are shouldering an unfair portion of the blame. The Committee believes strongly that comprehensive policy addressing childhood obesity must address both sides of the weight loss equation—dietary intake and physical activity.

According to testimony by Dr. Kenneth H. Cooper, President and Founder of the Cooper Clinic in Dallas, Texas:

In looking at the total diet, we should identify the amount of excess calories in an individual's diet rather than declaring that individual foods are "good" or "bad." Restricting, taxing or prohibiting certain foods will almost certainly not work as these policies will do little or nothing to help people choose the best foods for their own needs.

The Critical Role of Physical Activity in Preventing and Reversing Childhood Obesity

The Committee recognizes the significant physical, mental, cognitive, and social benefits that are achieved by regular physical activity, and that physical activity among children is especially important. Studies have shown that children who participate in quality physical education programs are healthier physically and mentally than children who are inactive. Children who begin a consistent regimen of exercise will have greater self-esteem, less risk of depression, and will perform better academically in school.

The Committee is aware of the evidence that unfit children may suffer academically. As the Committee heard in testimony presented by Mr. Tim McCord, Physical Education Director in Titusville, Pennsylvania, local schools that make a commitment to help students become more physically active observe marked improvements in student achievement and a healthier school community. This statement is consistent with a December 2002 report from the National Association for Sport and Physical Education that found higher achievement was associated with greater levels of fitness. Students who met minimum fitness levels in three or more physical fitness areas showed the greatest gains in academic achievement.

The Continuing Prevalence of Hunger in America

While considerable attention has shifted from concern about hunger and malnutrition to concern about childhood obesity, the Committee recognizes that hunger and food insecurity persist as a significant problem for some American families. According to the

United States Department of Agriculture, a half million children lived in households where they experienced hunger during 2003 because the family lacked resources to purchase food. Federal child nutrition programs make worthwhile investments in children because research shows that hungry children have more health problems, are more likely to be tardy or absent from school, and score lower on academic achievement tests. Hunger and obesity co-exist in the United States and this Committee is committed to ensuring access both to enough food and to the skills and motivation to make healthy lifestyle choices.

Nutrition Education

Section 302 is intended to make available effective nutrition education opportunities for children through assistance to state agencies, schools, and other non-profit entities. The Committee recognizes the importance of nutrition education, especially for children, and strongly encourages funding to be appropriated to support the Team Nutrition Network, including state Team Nutrition Network Coordinators. Consistent with the current goal of the Department of Agriculture's Team Nutrition program to improve children's eating and physical activity habits through nutrition education, the Team Nutrition Network would provide assistance to states for the development of state-wide, comprehensive, and integrated nutrition education and physical fitness programs, including technical assistance in developing and implementing science-based education programs. State coordinators would administer and coordinate these efforts to ensure maximum reach and effectiveness. As in the current Team Nutrition program, nutrition education initiatives authorized under this Section should be based on the principles of the Dietary Guidelines for Americans issued jointly by the Department of Health and Human Services and the Department of Agriculture, the Guidelines for Personal Exercise Programs, issued by the Department of Health and Human Services, and other science-based recommendations for nutrition and physical activity.

Section 302 also authorizes state and local projects similar to those contained in H.R. 2227 introduced by Representative Michael N. Castle of Delaware. The Committee encourages the appropriation of funds to be awarded competitively to states and local educational agencies that develop innovative approaches to student wellness.

Local Wellness Policy

Recognizing that a growing number of children are obese or at risk of becoming obese, H.R. 3873 seeks to address a piece of the problem by requiring local educational agencies participating in the programs authorized by this legislation to establish local school wellness policies designed to improve nutrition education and increase physical activity in schools. While there is a limit to what local educational agencies can contribute in this area, the Committee believes that schools can play an important role in: (1) developing nutrition education programs that can provide school children with important information so that they can make informed choices with regard to the broad variety of foods and beverages available to them in schools and elsewhere; and (2) encouraging

and providing the opportunities for students to engage in physical activity as a part of a healthy lifestyle.

The Local Wellness Policy does not extend the Department of Agriculture's jurisdiction beyond current regulation of the reimbursable school meal. Rather, local schools would be responsible for the development, implementation, and oversight of its policy. The Committee does not intend to direct local educational agencies to develop nutrition guidelines for each and every food or beverage available to students on school grounds. Rather, nutrition guidelines should be based on sound nutritional science and should take into consideration the role of school food as it relates to total daily dietary intake. Moreover, H.R. 3873 requires that the guidelines selected by the local educational agency for reimbursable school meals shall not be less restrictive than current regulations and guidance issued by the Secretary pursuant to sections 10(a) and (b) of the Child Nutrition Act and sections 9(f)(1) and 17(a) of the National School Lunch Act.

The Committee also notes that physical activity does not have to be limited to physical education classes, and local educational agencies are encouraged to develop innovative ideas to motivate their students to increase their levels of physical activity.

The Committee believes that positive messages promoting a balanced diet, moderation in food consumption, and the health benefits of physical activity as part of these local school wellness policies are essential if these policies are to be successful.

Complementing Current Activities

The Committee recognizes that a variety of health promotion initiatives are underway at the local, state, and federal level. Title III of H.R. 3873 is designed to complement those efforts. For example, as part of the President's HealthierUS Initiative, the Departments of Health and Human Services and Agriculture are pursuing a vigorous nutrition promotion campaign, Eat Smart, Play Hard, to motivate healthy eating and more physical activity among children.

The Carol M. White Physical Education for Progress (PEP) program administered by the Department of Education awards competitive grants to local educational agencies to initiate and improve physical education programs. School districts may use PEP grants to fund activities including staff development and training, as well as the purchase of equipment and other supports to enable student participation in physical activities. The PEP program was funded at \$70 million in fiscal year 2004.

The Department of Agriculture's ongoing Team Nutrition activities have been a particularly effective and efficient mechanism for funding a variety of unduplicated nutrition education functions at the local, state and federal levels, and the Committee intends for these to continue. None of the provisions in H.R. 3873, particularly those found in Section 302, are intended to diminish the funds made available through appropriations to the Secretary of Agriculture for current Team Nutrition activities, including training and technical assistance for child nutrition foodservice professionals, nutrition education and publications, funding for the National Food Service Management Institute and the National Agricultural Library, and grants to States to assist in the delivery of new and innovative training programs.

The Committee recognizes that an increasing number of research and promotion activities related to nutrition, physical activity, and health are ongoing at multiple federal agencies and departments, and encourages such activities to be coordinated, to the greatest extent practicable, to leverage resources and reduce duplication of efforts. The Committee also encourages local, state, and federal collaboration with private sector efforts to leverage funding and maximize effectiveness in attaining goals of mutual interest.

Nutrition Monitoring

National nutrition monitoring provided through the combined efforts of the Department of Health and Human Services and the Department of Agriculture, is the primary source of information used by Congress to make informed, science-based decisions and to develop policy or evaluate existing food and nutrition programs. Without fully understanding nutrient intake and food patterns, this Committee could not appropriately design policies and programs that improve the quality of foods available through federal child nutrition programs. This Committee relies upon nutrition monitoring data to track consumption of agricultural commodities, to evaluate public health and nutrition assistance programs for low-income, child, and elderly populations, and to measure the adequacy of Americans' diets against nationally recognized dietary recommendations. The ongoing need for timely collection and availability of nutrition monitoring data, specifically related to the nutrition and health status of children, is of particular interest to this Committee. Nutrition monitoring data also help to support the design of nutrition education programs based on data about children's nutritional needs.

Commodity Support

The Committee recognizes the importance of donated commodities to the success of the National School Lunch Program and other nutrition assistance programs authorized under the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act. As of September 30, 2003, the combined value of entitlement and bonus commodities distributed to schools must equal 12 percent of the total cash and commodity assistance provided under the National School Lunch Program. Prior to 2004, bonus commodities could not count toward the 12 percent requirement. The Committee is aware that this may result in a decrease of overall levels of commodities distributed to schools, and support the total amount of required commodity purchases to exclude bonus commodities. The Committee regrets that resources were not available to enact this rule change.

The Committee further recognizes that Department of Agriculture's purchase decisions are often driven by economic factors, not the nutritional needs and food preferences of children, and that the conflict between these dual objectives poses an ongoing challenge for the Department. The Committee urges, to the extent practicable, that children's nutritional needs are the Department's first consideration when deciding what commodities to purchase.

The Committee commends the Department on Agriculture for initiating a broad evaluation of its commodity procurement and distribution systems. The goal of this exercise was to improve service

to both producers and consumers by improving both the efficiency of the distribution process and the quality of foods delivered. The Committee appreciates the work of the Food Distribution 2000 panel, which included representatives from the Department, schools, and state commodity distribution agencies, and encourages the continued implementation of the Panel's recommendations for change.

Promotion of Fruit and Vegetable Consumption

The Committee recognizes the value of fruits and vegetables to good health and encourages nutrition education and other activities that result in children's consumption of fruits and vegetables. The Committee supports initiatives to promote fruit and vegetable consumption as part of nutrition education programs such as Team Nutrition and WIC. A goal of Healthy People 2010 is to increase the proportion of federal food assistance program participants who consume two to three servings of fruits and vegetable daily. The Committee recognizes that several federally-supported programs exist to encourage fruit and vegetable consumption, consistent with federal dietary recommendations to eat five to nine servings of fruits and vegetables daily as prescribed by the 2000 Dietary Guidelines for Americans.

National consumption data show that most children do not consume the recommended amounts of fruits and vegetables and that fewer than fifteen percent of elementary school-aged children eat the recommended five or more servings of fruits and vegetables daily. On any given day, 45 percent of children eat no fruit, and 20 percent eat less than one serving of vegetables. Nutrition assistance programs play an important role in helping children meet federal recommendations and should continue to support increased fruit and vegetable consumption.

The Committee recognizes that schools generally receive lower levels of commodity support in the form of fruits and vegetables because the Department of Agriculture has a limited capacity to store and distribute perishable commodities. According to their own data, the Department procured about \$184 million of fruits and vegetables for child nutrition programs in 2001, of which about fifteen percent (about \$27 million) were fresh fruits and vegetables, and purchases of fresh fruits and vegetables were approximately four percent of total Department of Agriculture commodity purchases in 2002.

Due the Department of Agriculture's logistical constraints in providing perishable goods to schools, the Department of Defense (DOD) has procured and distributed fresh fruits and vegetables to schools since 1995. This program currently provides the majority of fresh produce received by schools participating in the National School Lunch Program.

While there is considerable support for the availability of more fresh produce in schools, the Committee recognizes that frozen and canned fruits and vegetables also have value. Unless otherwise modified, the term fruits and vegetables encompass those commodities whether fresh, frozen or canned. On March 25, 1998, the Food and Drug Administration (FDA) acknowledged in the Federal Register its conclusion that frozen fruits and vegetables are nutritionally comparable to raw fruits and vegetables and can be used inter-

changeably in the diet. Overall, processed fruits and vegetables do not lose nutritional value, are cost-effective, convenient for schools, and are preferred in some cases by children. Additionally, it is widely accepted that the freezing and canning processes inhibit the growth of some pathogens and therefore reduce the likelihood of serving contaminated products.

The Committee also recognizes data that suggests that 100 percent juice products, along with other forms of fruits and vegetables, promote better health and may help prevent disease. The Committee encourages the Department of Agriculture to provide access to nutritionally valuable fruit and vegetable products, including 100 percent juices, in programs authorized under this legislation. The Committee further encourages schools to make available salad bars and fruit bars to encourage consumption of a variety of fruit and vegetables. In one school district, placing these bars in primary schools resulted in a tripling of the amount of fruits and vegetables served.

H.R. 3873, as reported by this Committee, does not extend authorization of the Fruit and Vegetable Pilot Program, but strongly supports the continuation of this program, which makes free fresh and dried fruits and fresh vegetables available to students in 25 schools in each of four states and students in schools on one Indian reservation.

The Committee recognizes that the pilot has been heralded as a great success in increasing children's access to fruit and vegetables in participating schools. A recent evaluation of the fruit and vegetable pilot program by the Department of Agriculture states that this pilot was popular among parents, teachers, and students, and successfully increased children's interest in making fruits and vegetables a regular part of their diet. While this information is useful, the Committee hopes that any future evaluations of this pilot would measure its success in increasing children's overall fruit and vegetable consumption and improving children's overall consumption patterns.

H.R. 3873 also authorizes the use of nutrition education funding contained in current law to assist non-profit organizations and local educational agencies procure local foods from small and medium-sized farms for school meals. Projects must support nutrition education activities or curriculum planning and incorporate school children's participation in farm and agriculture education projects by linking schools, producers, parents, and community stakeholders. Farm-to-Cafeteria programs in operation have been shown to support local farmers, promote fresh, locally-grown produce, and complement nutrition and agriculture education in schools. The language included in Section 408 reflects farm-to-cafeteria legislation introduced by Representatives Fred Upton of Michigan and Ron Kind of Wisconsin.

The Importance of Dairy

Dairy foods, including fluid milk, provide three quarters of the calcium in the diets of children and adolescents. The daily recommended intake (DRI) for calcium in adolescents ages twelve to eighteen years is 1,300 mg—the equivalent of four servings of milk, cheese or yogurt. For children ages six to eleven, the DRI for calcium is 800 mg or three servings every day. Dairy foods like milk,

cheese and yogurt contain nine essential nutrients that are necessary for strong bones, healthy teeth, and better bodies.

The Committee recognizes the important role that fluid milk and other low-fat dairy products play in the National School Lunch Program to help foster children's healthy growth and development. Section 304 provides school food service professionals flexibility in deciding the fat contents of fluid milk offered to children. In making such decisions, the Committee encourages schools to consider children's taste preferences and make available low-fat varieties of fluid milk. The Committee also encourages schools to make lactose-free milk available to students who may experience lactose intolerance.

Section 304 also clarifies that schools may make 100 percent fluid milk available to students at any time throughout the school day. The sale of 100 percent fluid milk does not violate school exclusivity contracts for the vending of other beverages provided that the vendor with which the school has entered into a contract does not supply 100 percent fluid milk.

The Committee received expert testimony from Dr. Robert Heaney, M.D., Professor of Medicine at Creighton University in Omaha, Nebraska, who noted that the extremely high lactose intolerance rates often cited for some minority populations reflects the lack of an intestinal enzyme that helps the body break down milk, and that the absence of the enzyme does not equate to an inability to consume dairy products. Even persons lacking the enzyme can usually consume two to three servings of milk per day without difficulty, according to Heaney. Heaney explained that consumption of calcium may be especially important for African Americans because of higher rates of hypertension among this population.

In addition, while lactose intolerance is more common in Asian, African American and Hispanic adults, according to the National Institute of Child Health and Human Development (NICHD), lactose intolerance is less prevalent among infants and children. The NICHD indicates that "recent studies show that even children diagnosed with lactose intolerance can drink one or two cups of milk each day without suffering abdominal discomfort."

Dairy Substitutes for Children With Medical or Special Dietary Needs

Section 304 continues current policy encouraging all children to consume cow's milk, yet gives schools the option to offer an acceptable non-dairy substitute to children who cannot drink cow's milk for medical or other special dietary reasons. Section 304 is intended to reduce barriers that may exist for participation in the National School Lunch Program by allowing greater accessibility to a fluid milk substitute for children with a medical or other special dietary need.

The Committee recognizes that schools may make substitutions, at their discretion, for individual children who do not have a disability, but who have special medical or dietary need. Such determinations are to be made on a case-by-case basis, and cover children who have milk allergies or intolerances (for example, lactose intolerance). Each request must include an explanation of the special dietary need; and which of the school selected alternative beverages is to be substituted. This provision complements the regu-

latory directive that schools should consider the ethnic and religious preferences of students when planning and preparing meals, and allows the Secretary to approve variations in the food components as long as the variations are nutritionally sound and needed to meet ethnic, religious, or economic need.

Section 304 amends Section 9(a)(2) of the Richard B. Russell National School Lunch Act by legislating certain regulatory provisions governing meal substitutions that are found in 7 CFR §210.10(g). Section 304 modifies these provisions in only one significant aspect to permit a statement from a student's parent or legal guardian identifying a medical or other special dietary need that restricts a student's diet in order to allow a substitution. Under present regulation, a request for a substitute for fluid milk is required from a licensed physician or other medical authority. Section 304 maintains current regulations requiring a statement from a licensed physician in cases of a medical disability.

The term "disability" as defined by the Americans with Disabilities Act includes severe food allergies (food anaphylaxis) or other special food needs of children with disabilities. Department of Agriculture regulations (7 CFR Part 15b) require substitutions or modifications for children whose disabilities restrict their diet. The term "medical or other special dietary need" does not include children with disabilities and schools may, but are not required to provide dietary substitutions. The Committee encourages local educational agencies and school food service personnel to consult regulations and guidance published by the Food and Nutrition Service to understand definitions established for the terms "medical need" and "special dietary needs." These documents make clear that the term "special dietary needs" among other things, includes the needs of children who do not consume animal products for religious reasons.

In implementing the substitution provisions of Section 304, the Committee intends that the privacy rights of students and parents will be safeguarded. Further, the Committee expects that the Department of Agriculture will assist schools that wish to offer substitutions in cases of medical or other special dietary needs by carrying out rulemaking that will provide certainty to schools in assessing the statutory requirement that such substitutions be nutritionally equivalent to milk. The Committee intends that in determining nutritional equivalence, the Secretary will take into account the bioavailability of the nutrients specified in the statute.

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

The Committee does not intend for Section 304 to create any additional paperwork or administrative burdens for parents or

schools, as schools already operate under a similar system. H.R. 3873 provides schools maximum flexibility in fulfilling notification requirements under this Section, and the Committee encourages schools to identify ways to make parental notification simple. For example, a written request from a parent or a legal guardian for a non-dairy substitute may be included in eligibility forms for a free or reduced price meal, provided the parent or legal guardian specifies what substitute is requested and the reason for the substitute, as indicated in this legislation. Moreover, the Committee recommends that schools permit requests for substitutions to remain in effect until the medical authority or student's parent or legal guardian revokes such request in writing.

Schools that make available to students an alternative to fluid milk would be required to notify the state agency that substitute beverages are being made available. If this information is contained in an existing report, this requirement will be considered as met.

The reporting requirements contained in Section 304 will be useful as better data is sought on the availability of fluid milk substitutes for children. The Committee hopes that better overall data on the student demand for fluid milk substitutes is available to inform future policy discussions. While the Committee received anecdotal information about the need and student interest in receiving access to fluid milk substitutes, no studies or other factual information were available to assist the Committee in making an informed policy decision.

Increasing Children's Consumption of Foods Containing Whole Grains

In Section 306, the Committee intends that the Department of Agriculture determine standards for the availability of foods containing whole grains in programs under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966. Currently, the per capita consumption of whole grains is 0.8–1 serving per day. This is far below the recommended levels set forth by numerous government and health organizations, as outlined below. However, no specific recommendation exists within the school feeding programs. Specific recommendations on the part of the Department will encourage local school food service administrators to pursue foods with whole grains as part of feeding programs.

The Healthy People 2010 report recommends that persons ages two years and older increase their consumption of grain products to six servings per day, with three of those being whole grains. The 2000 revision of the Dietary Guidelines for Americans included a separate guideline for grains, directing Americans to “choose a variety of grains daily, especially whole grains.”

Weighted Averages

Section 305 authorizes the Department of Agriculture to issue waivers to local educational agencies and states that wish to use a method of nutrient analysis for school meals other than the weighted average method. By Congressional action, the weighted average used in analyzing menus has not been required, but has been an option at the state and local level. All subsidized meals served must comply with the Dietary Guidelines for Americans

published jointly by the Department of Health and Human Services and the Department of Agriculture. A weighted nutrient analysis provides a picture of the average meal selected by students, reflecting what foods students choose to eat versus what foods are offered. The weighted analysis may capture more accurately the nutrient intake of students. However, the Committee recognizes the additional time necessary to conduct weighted analyses, which could result in school food services limiting options to students.

The Committee believes that state and local administrators should have maximum flexibility in how they achieve the goal of meeting nutritional requirements of meals served under the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act. Therefore, the Committee has included waiver authority for the requirement for weighted averages and will reconsider the necessity of this administrative activity after reviewing the results of this second cycle of menu reviews.

The Importance of Breakfast

The Department of Agriculture's Center for Nutrition Policy and Promotion shows that children who eat breakfast have better overall diets. For this reason, the Committee strongly supports increasing the number of schools that serve breakfast. In addition to providing breakfast to children who otherwise would not eat a morning meal, research shows that children who eat breakfast improve their math and reading scores as well as improve their memory in cognitive tests. School breakfast also improves student behavior and attendance. Children who eat breakfast have lower rates of absenteeism and tardiness; increased attentiveness, fewer discipline problems and visit the school nurse less often.

Breakfast consumption can play a key role in maintaining a significant weight loss as Congress looks at ways to combat childhood obesity. In a major study, regular breakfast consumption was associated with being able to maintain a significant weight loss. In over 2900 individuals that had maintained for at least a year a weight loss of at least 30 pounds, 78 percent reported eating breakfast everyday.

In another report overweight females were more likely to skip breakfast and normal weight males were least likely to skip breakfast. Breakfast skipping has been reported to be more prevalent in obese children and is particularly high in obese girls.

More than a dozen studies from around the world have reported that eating a ready-to-eat (RTE) cereal breakfast provides many nutritional benefits including consumption of less total fat, less saturated fat, less cholesterol, more dietary fiber, and more vitamins and minerals. This result is independent of age and geography as studies have been conducted in children, adults and the elderly and studies have been conducted in over six different countries.

The Child Nutrition Improvement and Integrity Act includes three provisions that the Committee hopes will result in more children eating breakfast. First, it provides increased assistance to state agencies with low proportions of schools or students that participate in the federal school breakfast program and that demonstrate the greatest need. Second, it expands the eligibility for severe need assistance for breakfast programs. Underpinning both of

these provisions is the Review of Best Practices in the Breakfast Program, which directs the Secretary, subject to the availability of funds, to engage a research organization to study the state and local impediments that keep more schools from offering breakfast, and to make recommendations and describe model breakfast programs that will help schools to overcome these obstacles. The Secretary will disseminate the results of this study to school districts, this Committee and the Senate Committee on Agriculture.

The Committee also encourages schools to develop innovative strategies to make time for student breakfasts, such as breakfast on the bus or breakfast in the classroom, a practice that has been shown to be very effective in schools across the country. Breakfast on the bus or in the classroom does not require the use of a cafeteria or additional time in the school day and are easy and efficient ways to provide a nutritious meal to children.

IMPROVING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

The WIC program helps safeguard the health of nutritionally at-risk pregnant and breastfeeding women, infants, and children up to age five by providing certain nutrient-dense foods that supplement the diet, nutrition education, and referrals to health care and other social services. The program is based on the premise that early intervention programs to at-risk populations during critical times of growth and development can prevent future medical and developmental problems.

WIC has proven to be one of the most successful nutrition and public health programs. The Honorable Eric M. Bost, Under Secretary for Food, Nutrition and Consumer Services at the Department of Agriculture testified before the Subcommittee on Education Reform about the successes of WIC:

The success of WIC is well documented. Participation in WIC leads to better pregnancy outcomes—fewer infant deaths, fewer premature births, and increased birth weights. Medicaid savings for newborns and their mothers in the first 60 days after birth average between \$1.77 and \$3.13 for every dollar spent on WIC. These results, we believe are attributable to the unique design of the program, which is comprised of:

- A nutrition prescription that allows pregnant and new mothers to purchase food dense in nutrients that are often lacking in the WIC population;
- Individualized nutrition education and counseling;
- and
- Critical referrals to other health care and social service assistance programs.

While recognizing the clear benefits of WIC, through this reauthorization the Committee seeks to address the challenges of improving the health of WIC's population and program operations.

Improving Nutrition

Just as the Committee has addressed the growing prevalence of obesity among children by improving nutrition education and promoting physical activity within the school environment, the Com-

mittee likewise believes that the WIC program may assist in reducing the incidence of obesity and overweight children among its diverse participants. While the primary role of the WIC program is to increase birth weights and fight malnutrition, the growing crisis of pediatric obesity cannot be ignored. Today, one out of every six children is overweight, with the problem growing fastest among four- to five-year-old children.

Childhood obesity raises special concerns. It places children at high risk for diseases and conditions previously only associated with adults. Nearly two-thirds of obese five- to ten-year-old children have at least one additional risk factor for cardiovascular disease. There has been a dramatic increase in the numbers of children with type-2 diabetes, the form of the disease directly linked to overweight adults. In addition, childhood obesity is a strong predictor of adult obesity. A recent study found that 77 percent of children with a body mass index greater than the 95th percentile remained obese as adults. A study just released by the Centers for Disease Control and Prevention found that if current trends continue, obesity will become the leading cause of preventable death by next year.

The WIC program already provides nutrition education and counseling as a key component of the program. Currently, nutrition education aims to achieve positive change in dietary habits, and emphasizes relationships between nutrition and health, all keeping with the individual's personal, cultural, and socioeconomic preferences. To further encourage WIC agencies to enhance nutrition education, the Committee has enhanced the definition of nutrition education so that it aims to achieve positive change in physical activity in addition to dietary habits. In addition, the language now emphasizes the relationships between nutrition, health and child development, since nutrition can dramatically impact physical and cognitive development in a child's first years.

The Committee also recognizes that the WIC food package has remained unchanged for over 30 years and is inconsistent with current dietary guidelines and nutrition science. The specific foods currently provided include eggs, milk, juice, beans, tuna, carrots, cereal, and infant formula, which vary according to the recipient type (pregnant women, breastfeeding women, infants and children).

The Committee supports the WIC program's efforts to encourage healthy food choices and healthy eating practices. To provide WIC agencies the opportunity to modify the food package to address obesity while promoting healthful choices for women and children, H.R. 3873 specifies that supplemental foods provided through the program shall promote health as indicated by current nutritional science. While many agencies are doing so now, operating according to current nutritional guidelines will ensure agencies encourage food choices that are lower in fats, cholesterol, and calories.

The Department of Agriculture already has recognized that the food packages do not reflect current nutrition science. Consequently, the Department has contracted with the Institutes of Medicine of the National Academies of Science (IOM) to review the nutritional requirements and assess the supplemental nutrition needs of the population served by the program. The Institutes of Medicine will, in part, review and assess the nutritional needs of the WIC population using current scientific research identifying

nutrient deficiencies, develop a specific set of priority nutrients and a general set of key nutritional recommendations for the food packages, review specific foods dense in the priority nutrients, recommend and prioritize scientific food selection and food package development criteria for each WIC category, and recommend relatively cost neutral changes to the WIC food packages. The Committee anticipates the IOM will complete the report in 2005. H.R. 3873 requires the Secretary of Agriculture to promulgate a rule updating the prescribed supplemental foods available through the program within six months of receiving this study.

The Committee aims to ensure that the WIC food packages will remain appropriate in the future, as well. As a result, the legislation requires the Secretary to conduct a scientific review of the supplemental foods available in the program and recommend, as necessary, changes to reflect nutrition science, current public health concerns, and cultural eating patterns. The Secretary shall begin subsequent studies ten years after the current IOM study underway began, which will be 2013, and every ten years thereafter. The Secretary is authorized to conduct such studies more frequently, if needed to reflect current scientific knowledge.

The Child Nutrition Improvement and Integrity Act also permits the Secretary to conduct demonstration projects in up to ten local sites to evaluate the inclusion of fruits and vegetables in the WIC food package. Such foods would be provided using private funds. Serving almost half of the infants and one quarter of American children ages one to five, WIC is in a unique position to contribute to federal efforts to decrease childhood obesity. These demonstration projects will provide the WIC program, USDA and the Committee with information regarding the logistical and practical challenges of providing fruits and vegetables to WIC participants and the best ways to overcome them. The pilots will also show whether any special approaches will need to be taken to increase consumption of fruits and vegetables by WIC participants and give WIC staff needed time to learn how to best promote fruits and vegetables as part of obesity prevention.

Improving Certification

The Committee seeks to reduce the burden on families during certification and recertification while maintaining program integrity and recognizing the importance of physical presence. Currently, infants and children must be present at initial certification and recertification. This attendance is valuable for fraud prevention, but more importantly it is critical for the agency to see children for purposes of health assessment and health care referrals. For instance, the agency measures a child's health and weight, consistent with the American Academy of Pediatrics' recommended schedule for preventive pediatric health care for children. This information can be used to provide appropriate nutrition education and counseling. The agencies also provide referrals for immunizations. WIC agencies play a valuable role as an adjunct to health care and this purpose must be maintained.

However, the Committee recognizes that there are occasions where it is not feasible or necessary for a child to be present for recertification. Under current law, a child need not be present for recertification if he or she is under the care of a health care profes-

sional at the local agency. H.R. 3873 adds additional flexibility so that a child need only be under the care of any health care professional, not necessarily at the local agency, for the agency to waive the requirement of physical presence. In addition, the bill adds a new waiver to the current physical presence requirements. An infant under eight weeks of age does not need to be physically present at initial certification if all certification information is provided.

Further, the Committee believes that there are circumstances that will prevent a mother, either with or without an infant or child, from keeping an appointment to apply or be recertified. Such circumstances include transportation, weather conditions, or preferring not to remove a child from child care for the day. Although the Committee acknowledges that it is general practice for local agencies to reschedule cancelled appointments, H.R. 3873 formalizes this practice. The bill requires that each local agency permit an applicant or participant to reschedule an appointment to apply or be recertified for the program. The Committee believes that the Secretary should allow reasonable extensions of certification, with appropriate limitations to avoid abuse, until a mother is able to attend a recertification meeting with her children.

Breastfeeding Promotion

The Committee seeks to promote breastfeeding among WIC participant mothers. Research shows that breastfeeding is the healthiest way to nourish infants and may result in fewer infections for the infant and a strengthened immune system. In addition, breastfeeding has health benefits for mothers, including faster return to pre-pregnancy weight and reduced risk of osteoporosis and pre-menopausal breast cancer. In order to encourage this practice, H.R. 3873 permits States to certify breastfeeding women for up to one year or until women stop breastfeeding, whichever is earlier. The Committee understands that current practice is to certify such women for six months, at which point many women discontinue breastfeeding their children. The Committee anticipates that certifying breastfeeding women for up to a year may encourage women to continue breastfeeding beyond six months.

Healthy People 2010, published by the Department of Health and Human Services, is a comprehensive set of disease prevention and health promotion objectives for the nation to achieve over the first decade of the new century. Several of the goals pertain to breastfeeding. Healthy People 2010 established a breastfeeding initiation goal of 75 percent of all mothers in the United States. A second breastfeeding goal is to have 50 percent of all mothers still breastfeeding when the child is six months of age. Currently, 64 percent of all mothers initiate breastfeeding, but only 58 percent of WIC mothers initiate breastfeeding.

There are many reasons for this discrepancy. The report indicates that the lowest rates of breastfeeding are found among those whose infants are at highest risk of poor health and development: women aged 21 years and under and women with low educational levels. Many of these women likely will qualify for WIC assistance. WIC administrators are making significant efforts to address the challenge, and since 1989 rates of breastfeeding have been increasing for this population. However, additional work remains. As a re-

sult, H.R. 3873 builds upon current law promoting breastfeeding within the WIC program by requiring State agencies to partner with communities, State and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in WIC to support the breastfeeding goals of Healthy People 2010. The Committee urges the Secretary of Agriculture to work collaboratively with the Secretary of Health and Human Services, State and local agencies, and other interested parties, in implementing efforts in support of this provision.

Program Operations

The Child Nutrition Improvement and Integrity Act also makes operational improvements to the WIC program, which should benefit participants, State and local agencies, and retailers.

Under current law, State agencies must conduct compliance investigations of retail vendors. Often such investigations are conducted using “secret shoppers.” While such investigations are critical for the integrity of the program, retailers ought to have the opportunity to correct violations, particularly those that are simple errors, prior to implementation of a sanction. Therefore, the bill requires that, if a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise its investigation. The Committee intends that such investigations include suspicion that the owner or manager is involved in fraudulent activity.

In developing policy guidance or regulations to implement this provision, the Committee encourages the Secretary to work collaboratively with State agencies to ensure that guidance or regulations do not compromise or prejudice current or future investigations and offer State agencies adequate flexibility and discretion so as to avoid alerting vendors that may be knowingly committing fraud that they are suspect.

The Committee recognizes that occasionally a WIC-authorized retail store may change ownership quickly, sometimes overnight. In such circumstances, participants may find that their regular store location no longer is able to accept WIC food instruments until the new store owner obtains authorization. This could hurt participant access. If a WIC-authorized retail store is sold to another entity holding a WIC authorization at another location, or a new store is opened by an entity owning another WIC-authorized location, the Committee believes States should provide for an interim WIC license for the new store in applicable situations. Such authorization could remain in effect until the state agency approves or rejects the application for license by the subsequent owner provided that an application is filed with the State agency in accordance with State regulations. Therefore, H.R. 3873 requires State agencies to include in their state plans procedures for accepting and processing vendor applications outside of the established timeframes, such as in situations in which a previously authorized vendor changes ownership under circumstances that do not permit timely notification to the State agency of the change.

The Committee understands that there may be situations in which fraudulent vendors may sell or transfer store ownership to agents or others for the purposes of circumventing investigations, charges, or prosecutions. Further, the Committee recognizes that ownership changes under these circumstances may negate disqualification processes. The Committee encourages the Secretary to work with State agencies and retailers, as appropriate, in formulating policy guidance or regulations to safeguard against such practices.

As State agencies pay WIC retailers, the Committee believes that the agencies should permit line-item rejection of a single item on a WIC food instrument, when possible, rather than rejecting the entire food instrument that contains a vendor error, if the State agencies are satisfied with the vendor's justification for the error. The practice of line-item rejection does not lessen the vendor's responsibility for correcting the problems that contribute to chronic errors in food instrument transactions. In addition to denying payment or assessing a claim, the Committee recognizes that the State agencies may sanction the vendor for such errors according to State regulations.

Federal regulations set a maximum amount of infant formula to be issued to WIC participants each month. The current amount is 944 reconstituted fluid ounces, at standard dilution. Infant formula manufacturers offer powdered formula in a variety of can sizes, which they may and do choose to change periodically. The program needs to be able to respond to changes in product packaging. Because the amount of infant formula provided currently cannot exceed the amount permitted in regulation, and because the powdered can size variations frequently do not match the authorized amount, WIC participants may be provided less formula and receive less nutritional benefit than they are authorized to receive. The Committee is concerned that, instead of choosing to purchase additional formula, parents are choosing to add more water to the powdered formula to make it last longer. Such a practice could have significant nutritional consequences for infants. Therefore, H.R. 3873 allows State agencies to round up to the next whole can of infant formula to ensure that all infants receive the full-authorized nutritional benefit specified by regulation. Because infant formula manufacturers establish their rebates based on expected quantity of formula provided, this provision will apply prospectively to future bid solicitations.

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

Electronic Benefit Transfer

The bill adds to language in current law outlining the development of Electronic Benefit Transfer (EBT) systems. Current law requires the Secretary to establish a long-range plan for the development and implementation of management information systems, in-

cluding EBT, to be used in carrying out the program. In January 2003, the Department of Agriculture published its five-year plan for WIC EBT system development, implementation, and expansion. The Department will pursue WIC EBT through support of current state projects, while testing the feasibility of technical alternatives in line with current trends in commercial retail transaction processing. The Committee believes that consistent operating rules from state to state would help standardize retail transaction processing and help reduce system design cost.

Therefore, H.R. 3873 requires that all states that receive federal funds for design or implementation of WIC EBT systems must use technical specifications or standards, as applicable, as determined by the Secretary. States with EBT systems that are in development or are issuing benefits as of the date of enactment shall be required to submit within six months after the date of enactment a plan for compliance. The Secretary may waive compliance for state EBT systems that are issuing benefits as of the date of enactment of this provision until such time that compliance is feasible.

The Committee urges the Secretary to work with WIC state agencies, retailer groups and other interested stakeholders to develop and implement specifications and standards that will promote cost effectiveness, standardization of design, and efficient adoption of technologies that support WIC EBT. Examples of standards that support WIC EBT include “Financial Transaction Messages—Electronic Benefits Transfer (EBT) Guidelines for WIC, X9.93 as published by the American National Standards Institute (ANSI), Accredited Standards Committee (ASC) X9” and the “WIC Smart Card Interoperability Specification, X9.108. The Committee intends that this provision may also apply to future specifications and standards that the Department determines are applicable.

The Committee encourages the Secretary not to impose, or allow State agencies to impose the costs of any equipment, systems, or processing required for electronic benefit transfer systems that do not comply with these specifications and standards on any retail store authorized to transact food instruments, as a condition for authorization or participation in the program. In addition, the Committee encourages the Secretary to allow states that currently are in development or issuing benefits using EBT systems to request funds for purposes of converting to these standards and specifications under the EBT competitive grant process.

The Committee understands that completion is near on the development of a national database of WIC-eligible foods and Universal Product Codes (UPCs). The Child Nutrition Improvement and Integrity Act requires the Secretary to implement a national UPC database for use by all State agencies in carrying out the program. The national coding scheme should improve transaction processing. The Committee believes the Secretary should use funds from prior fiscal years that have not been obligated to pay for these activities. The Committee intends that the Secretary will work closely with the vendor community and State and local WIC agencies in implementing this provision.

Preventing Infant Formula Theft

The Committee aims to curb a growing trend in infant formula theft. The black market sales of infant formula constitute a poten-

tial health hazard. Hazards from stolen formula include direct tampering with formula before it is sold to unsuspecting retailers, falsification of labeling to change expiration dates, counterfeiting, cutting formula with unknown and even harmful ingredients, and storage of the formula at improper temperatures in trucks and warehouses.

To address this concern, H.R. 3873 incorporates language offered by Representative John Carter that mirrors the methodology used in the State of Texas to address this issue. The bill requires the State agency to maintain a list of infant formula manufacturers, wholesalers, distributors, and retailers approved to provide infant formula. The list shall include food manufacturers, wholesalers, distributors, and retailers licensed in the State in accordance with state law and regulations to distribute infant formula and food manufacturers registered with the U.S. Food and Drug Administration that provide infant formula. Vendors authorized to participate in WIC must purchase infant formula from entities on this list.

The Committee is aware that licensing requirements and types of licenses may vary significantly among States. For instance, some States may rely on State health licensing requirements, and others may utilize State business licenses. The Committee further recognizes that this provision authorizes an additional activity for State agencies and does not intend for the State agencies to be the policing agent to the requirements of this provision.

Cost Containment

The Committee believes that containing costs through price limitations paid to vendors for supplemental foods is critical for ensuring program access for the maximum number of eligible individuals. Under current law, state agencies must, when selecting a retail store for participation in the WIC program, take into consideration the prices that the store charges for foods under the program as compared to the prices that other stores charge for the foods. To reinforce the importance of cost containment in retail pricing, H.R. 3873 places in statute and enhances requirements that currently are in regulation.

Section 409 of the bill clarifies authority regarding WIC program vendor cost containment and related matters. The bill reflects the Committee's intention that State agencies, with the support and assistance of the Department, establish clear, effective vendor cost containment requirements that assure WIC program food package costs reasonably reflect competitive prices for such foods. This charge to limit vendor prices is compelled by the need to assure efficient use of taxpayer resources and assure that WIC program participation levels will be as high as practicable within available funding. The bill requires state agencies to establish price limitations on the amount that they will pay vendors for supplemental foods, while ensuring such limitations do not result in inadequate participant access by geographic area.

H.R. 3873 would provide to state agencies significant discretion in establishing vendor cost containment requirements. State vendor authorization is to be governed by the principles of providing convenient vendor access to program participants at vendor prices that avoid excessive food package costs. States would be required to establish a vendor cost containment system that ensures competitive

prices through an evaluation of shelf prices of the vendor applicant or prices bid by the vendor applicant for supplemental foods and sets price limitations to establish the maximum prices that vendors may charge for supplemental foods.

The bill would require the state agency to establish competitive price requirements and price limitations for vendor peer groups, as necessary to ensure that prices paid to vendors are competitive. The Committee expects vendor peer group competitive price requirements and price limitations to reflect reasonable estimates of varying costs of acquiring supplemental foods by stores of differing characteristics. For example, for various reasons, independent grocery stores that have a small total sales volume may have significantly higher cost of acquisition of supplemental foods than stores that are part of a large national chain. The Committee expects the state agency to rely upon such evidence as may be available to reasonably estimate such acquisition cost variations.

In establishing competitive price and price limitation requirements, the state agency may exclude pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program. The Committee provides this discretionary authority to assure that participants may be provided access to vendors that supply medical foods or exempt infant formulas. The Committee expects the state agency to exercise diligence to assure that the vendor cost for such supplemental foods is not excessive.

The Committee also believes that WIC program funds must not be used by retail stores to purchase and provide incentive items or free merchandise to program participants, and the bill prohibits States from authorizing vendors that engage in such practices. The Committee would expect state agencies and the Department of Agriculture to seek criminal prosecution of any vendor that misused WIC program monies in such a manner. The Committee expects vendor marketing activities to be paid for exclusively with private funds. The Committee does not intend to prevent retailers from offering weekly specials, promotions, or coupons on any product, including WIC supplemental foods, if such specials, promotions or coupons are paid for with non-WIC funds, are available to any member of the public and the store accepts various payment types. Examples of payment types include checks, credit cards, and cash.

Finally, Section 409 includes a rule of construction that makes clear that nothing in the WIC statute may be construed to authorize violation of federal antitrust laws.

The Committee encourages other efforts to contain food costs under the WIC program, as well. In approving supplemental foods for use within their jurisdictions, the Committee encourages State agencies to approve private label or store branded products that are nutritionally equivalent to national brands as a cost containment measure.

The Committee believes that the delivery of supplemental foods under the program in large part relies on successful partnerships between WIC agencies and retail food vendors. Some of the provisions outlined above aim to improve those interactions. However, most operational practices are determined at the state and local level. As a result, the Committee recognizes that the benefits of maintaining a process of ongoing dialogue and collaboration between state agencies, authorized WIC vendors, representatives of

retailer associations, and other entities interested in vendor management activities. A number of state agencies have established vendor advisory panels or boards as a means of obtaining input into the development and implementation of effective vendor management policies and procedures. The Committee encourages state agencies to establish a mechanism, such as vendor advisory panels, to strengthen ongoing communication and collaboration between state agencies and the retail vendor community that provides supplemental foods.

To ease administration within states, the bill permits states to expend up to three percent of nutrition services and administration funds during the subsequent fiscal year for allowable expenses incurred during a fiscal year. Under current law, states are permitted to carry forward one percent of these funds. The Committee encourages the Secretary to work collaboratively with state and local agencies in the development of any regulations or policy guidance to implement the requirements of this provision.

Infant Formula Competitive Bidding

The WIC program has required for more than 13 years that states use sole-source competitive bidding to purchase infant formula. The manufacturer that offers the lowest next price in each State is awarded the contract to provide infant formula through the state WIC program. Competitive bidding is critical to the financing of the WIC program. Betsy Clarke, the Minnesota State WIC Director who testified before the Subcommittee on Education Reform on behalf of the National WIC Association (NWA), stated:

(T)he competitive bidding requirement for infant formula has resulted in significant savings to the WIC program. Indeed, USDA reports that use of competitive bidding reduces federal WIC costs by approximately \$1.5 billion a year. Roughly 1 in 5 WIC participants are able to participate in WIC because of the infant formula cost containment program. It generated \$1.7 billion last year in non-tax revenue for WIC.

While affirming that the current competitive bidding process provides critical cost containment to the program, the Child Nutrition Improvement and Integrity Act seeks to enhance the fairness and integrity of the contract bidding and rebate process.

Infant formula rebates are provided to each state for every can of formula sold through the program in that state. Payments to the states are based on WIC voucher redemptions. Yet despite past efforts to improve integrity issues, manufacturers may be inadvertently billed for units of formula that actually have not been provided to WIC participants. To help correct this situation, the bill requires each state agency to have a system to ensure that infant formula rebate invoices, pursuant to competitive bidding, provide a reasonable estimate or an actual count of the number of units of infant formula sold to WIC participants.

While noting that a reasonable estimate or an actual count of the number of units of infant formula sold to participants in the WIC program is desirable, the Committee is aware of the numerous infrastructure challenges state agencies and retailers face in responding to this provision. It is the intent of the Committee that this

provision not be burdensome to either State agencies or retailers. A number of states have worked collaboratively with infant formula manufacturers to develop methodologies that provide a close approximation or reasonable estimate of the number of units of infant formula, including Massachusetts, Maine, New Hampshire, Connecticut, and Pennsylvania. In every instance, these methodologies are acceptable to the infant formula manufacturers. The Committee urges state agencies, retailers and formula manufacturers that have not yet developed such methodologies to consider these best practices in responding to this provision.

All state infant formula rebate contracts are required by regulation to include contract provisions requiring manufacturers to increase the amount of their rebates on a cent-for-cent basis each time the manufacturer raises the wholesale price of its formula. The purpose of these provisions is to ensure that the net wholesale price agreed to at the time of bidding remains the same throughout the term of the contract. However, nothing encourages a cent-for-cent decrease in rebates if wholesale prices are lowered. An absence of such provisions discourages a reduction in prices. Therefore, the bill requires that bid solicitations for infant formula made on or after October 1, 2004 shall require cent-for-cent increases in the rebate amounts if there is an increase in the lowest national wholesale price for a truckload of the particular infant formula, and a corresponding cent-for-cent decrease for a decrease in the wholesale price.

Many states partner with other states for the purpose of requesting infant formula rebate bids and implementing the resulting contracts. States form these alliances for administrative simplification and with the goal of obtaining more competitive bids. However, an unintended consequence of these larger alliances is that competition may be diminished because only two infant formula manufacturers have the capacity to bid for the largest contracts.

As a result, the bill limits the size of state alliances. No state alliance may form among states whose infant participation exceeds 200,000 based on program participation as of October 1, 2003. Those alliances of that size existing on that date may continue. In addition, any state agency serving fewer than 5,000 infant participants as of October 2003, or any Indian Tribal Organization, may request to join any alliance.

Conclusion

The Committee on Education and the Workforce supports the numerous reforms included in H.R. 3873 that will ensure eligible children and families have access to services and federal resources are being effectively leveraged to serve children in need.

The federal child nutrition programs ensure millions of children have access to healthy and nutritious meals. The investment in these programs is considerable, and so is our obligation to ensure our federal resources are being used effectively and efficiently. Children and families depend on federal child nutrition programs.

H.R. 3873 will extend the life of programs that help to provide nutritional services to America's most vulnerable children, while making some common-sense reforms. It places a special emphasis on ensuring children are encouraged to make healthy choices through these taxpayer-funded programs, and on strengthening

program integrity to ensure fewer funds are diverted away from the needy children these programs are meant to serve.

The Committee appreciates Members from both sides of the aisle that worked diligently and remained dedicated to a bipartisan process. Out of that process is the Child Nutrition Improvement and Integrity Act that will result in positive reforms for millions of American children.

SECTION-BY-SECTION ANALYSIS

Section 1—Short Title. Cites the short title as the Child Nutrition Improvement and Integrity Act.

Section 2—Table of Contents. Outlays the numbers and headings of the titles and sections of this Act.

TITLE I—ENSURING ACCESS TO CHILD NUTRITION PROGRAMS

Section 101—Exclusion of Military Housing Allowances. Amends Section 9(b)(7) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758 (b)). Permanently reauthorizes a provision allowing military housing not to be considered as income in determining eligibility for free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751).

Section 102—Homeless Children and Runaway Youth, and Migratory Child Eligibility. Amends Section 9(b)(6)(A) and Section 9(d)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758 (b)(6)(A)) and (42 U.S.C. 1758(d)(2)). Includes children or youth defined as homeless under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), youth served under the Runaway and Homeless Youth Act (42 U.S.C. 5701), and migrant youth as defined in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)) as automatically eligible for free breakfast or lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751) and the Child Nutrition Act of 1966 (42 U.S.C. 1771).

Section 103—Eligibility for Severe Need Assistance. Amends Section 4(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(d)). Allows new schools to be classified as “severe need” if they are drawing attendance from schools in areas already designated as such. This changes the existing two-year wait to be classified as “severe need.” Eliminates the cost accounting requirement for severe need breakfast.

Section 104—Reauthorization of Summer Food Programs. Amends Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769 (f)(2)). Reauthorizes the Summer Food Pilot Projects and the Summer Food Service Program for Children through fiscal year 2008, and allows non-profits to participate. Expands the pilot to three additional States, selected by the greatest percentage of households determined to be food insecure with hunger.

Section 105—Child and Adult Food Program. Amends Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766). Continues to allow private day care providers with at least 25 percent of served children eligible for free and reduced price lunch to participate in this program. Changes the length of “tier 1” classification of a family or group day care home from 3 years to 5 years. Instructs the Secretary to issue regulations regarding a

standard form of agreement between States and family or group day care homes and sponsors of homes; this agreement specifies the rights and responsibilities of each party, and shall remain in effect until terminated by either party. Updates applicable fiscal years for funding allowing the Secretary to provide training and technical assistance to the States to improve program management and oversight. Adds language allowing the Secretary or State agency to disregard any overpayment to an institution that is lesser than the cost of recovering the overpaid funds, unless there is evidence of criminal fraud or violation. Adds language allowing children up to age 18 to be served meals, while residing at an emergency shelter. Adds a freestanding direction to the Secretary, in conjunction with States and participating institutions, to examine the feasibility of reducing paperwork.

Section 106—Review of Best Practices in the Breakfast Program. Adds a freestanding directive to the Secretary to enter into an agreement with a research organization to collect and disseminate a review of best practices to promote the growth of the school breakfast program under Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Section 107—Area Eligibility Demonstration. Amends Section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761). Adds a single state demonstration project in which rural areas are eligible for Summer Food Service Program if they have 40 percent of the children enrolled eligible for free or reduced price lunch. All other States enrolled in the program continue to have a 50 percent area eligibility requirement.

Section 108—Seamless Summer Administration. Amends Section 13(a) and 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a) and 1761(b)(1)). Adds language allowing schools that participate in the National School Lunch Program to offer summer or school vacation food service at Summer Food Service Program reimbursement rates without having to apply to be a Summer Food Service Program sponsor.

Section 109—Year Round Community Child Nutrition Program Pilot. Amends Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)). Adds a single state pilot project allowing non-profit organizations to provide meals year round without applying to the Child and Adult Care Food Program.

TITLE II—IMPROVING PROGRAM QUALITY AND INTEGRITY

Section 201—Eligibility and Certification for Free and Reduced Price Lunches. Amends Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758). Adds the subsection heading “Eligibility for Free and Reduced Price Lunches.” States that the income eligibility guidelines shall be based on the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services. Ensures that applications for free and reduced price lunch and any descriptive material are distributed, at least annually, to parents and guardians in a clear and understandable format, including in an understandable language. States that descriptive material shall contain only the income levels for reduced price lunch (with an explanation that those with a lower level of income may be eligible for free lunch), and also must contain a notice that participants in the WIC program are eligible for free or

reduced price lunch. Allows a household to submit one application for all children in the household, and allows applications to be submitted completely online, provided that they are submitted by an adult member of the household from a secure and confidential filing site. Instructs local education agencies with a high rate of non-response to focus verification on error prone applications. Allows local education agencies without a high non-response rate the option to verify a smaller percentage of applications if the verification is focused on error prone applications. Instructs State agencies, to the extent practicable, to enter into an agreement with the State agency administering the food stamp program, for the purpose of directly certifying children in households classified as migratory, receiving food stamps, or enrolled in Temporary Assistance for Needy Families as eligible for free meals. Adds language protecting the privacy of those families enrolled in the food stamp and temporary assistance for needy families programs. Adds language allowing an local education agency not to re-submit a policy statement to the State agency unless there is a substantive change in policy.

Section 202—Duration of Eligibility for Free and Reduced Price Lunches. Amends Section 9(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(3)). Adds language stating that children are to be certified for one full school year.

Section 203—Certification by Local Education Agencies. Amends Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758). Changes language to place the responsibility of the local administration of the school lunch and breakfast programs from the local school food authority to the local education agency, and defines the local education agency as it is defined in Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

Section 204—Compliance and Accountability. Amends Section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c). Adds language placing a shared responsibility for compliance and accountability on the local school food authority and the local education agency.

Section 205—Technology Improvement. Amends Section 7 of the Child Nutrition Act of 1996 (42 U.S.C. 1776). Places priority for the reallocation of funds on States that will use the funds for technology and information management improvements.

Section 206—Minimum State Administrative Expense Grants. Amends Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(1)). Adds language that raises the minimum state administrative expense grant over time, and prevents States from receiving less than they did the previous year.

Section 207—District-Wide Eligibility for Special Assistance. Amends Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)). Allows eligibility for special assistance to be determined district-wide as opposed to by each school individually.

Section 208—Administrative Error Reduction. Amends Sections 21 and 22(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1, 42 U.S.C. 1769c(b)) and Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776). Adds language providing training and technical assistance and funding for the improvement

of program integrity and administration accuracy. Institutes additional administrative and performance reviews, of which the results are to be used to develop a plan of corrective action and to identify the need for technical assistance when performance criterion are not met. Allows the Secretary require the State agency to recover funds that were expended in error and use the recovered funds to improve program integrity and administrative accuracy. Allows the Secretary or State agency to contract with a third party while conducting these activities. Instructs assistive funds to be provided to States with excessive error rates. Adds language requiring States to develop a description of how they will use technology and information management systems to improve program integrity.

TITLE III—PROMOTING NUTRITION QUALITY AND PREVENTING CHILDHOOD OBESITY

Section 301—Local School Wellness Policy. Adds a freestanding directive to local education agencies to establish a local school wellness policy including goals for nutrition education, physical activity, and nutrition guidelines, and establishes a plan for ensuring implementation of the local wellness policy. The formation of the policy shall involve parents, students, representatives of the school food authority, the school board, the school administrators, and the public.

Section 302—Supporting Nutrition Education, Improving Meal Quality, and Access to Local Foods. Amends Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788). Adds language supporting effective nutrition education through assistance to State Agencies, schools, and nonprofit entities for Team Nutrition and other nutrition education projects to improve student understanding of healthful eating and physical activity patterns. Allows the Secretary to provide assistance to States to implement a 3 year pilot project for the purpose of promoting healthy eating habits and increasing physical fitness. After 18 months of this project, the Secretary shall transmit a report on the evaluation of these projects. The Secretary may also provide assistance to State education agencies, schools, and nonprofit entities to improve meal quality and to improve access to local foods in schools through farm-to-cafeteria activities that may include the acquisition of food and the appropriate equipment, and the provision of training and education. Requires an independent evaluation of Team Nutrition.

Section 303—Fruits and Vegetable Commodities. Amends Section 6(c)(1)(D) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)(D)). Adds language to include fruits and vegetables among foods that are emphasized in commodity distribution.

Section 304—Fluid Milk. Amends Section 9(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758 (a)(2)). Adds language requiring schools to serve milk in a variety of fat contents and allowing a nutritionally equivalent non-dairy beverage to be reimbursable, if the child provides a note from parents or a doctor. Prohibits any restriction of the sale of milk on school property or at a school-sponsored event.

Section 305—Waiver of Requirements for Weighted Averages for Nutrient Analysis. Amends Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)). Extends the period of time during which the use of weighted averages are not re-

quired in a nutrient analysis of foods under the school lunch program, provided that the school food authority has an equivalent system for conducting a nutrient analysis.

Section 306—Whole Grains. Adds a freestanding directive to the Secretary to promulgate rules, based on federal nutrition guidelines, to increase the presence of whole grains in foods offered in school nutrition programs.

TITLE IV—IMPROVING THE WOMEN, INFANTS, AND CHILDREN PROGRAM

Section 401—Definition of Nutrition Education. Amends Section 17(b)(7) of 1966 (42 U.S.C. 1786(b)(7)). Adds language updating the definition to include child development and physical activity.

Section 402—Definition of Supplemental Foods. Amends Section 17(b)(14) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(14)). Adds language updating the definition to consider the most recent Dietary Guidelines for Americans.

Section 403—Improving Certification. Amends Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). Allows breastfeeding women to be certified for up to one year while they continue to breastfeed, relaxes the physical presence requirement for infants under 8 weeks of age, allows patients to reschedule an appointment to apply or be re-certified, and allows States to issue interim licenses for WIC vendors with WIC procedures already in place.

Section 404—Reviews of Available Supplemental Foods. Amends Section 17(f)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)). Requires the Secretary to conduct a scientific review of the foods available in the program and promulgate a rule to make changes, based on nutrition science, current public health concerns, cultural eating patterns, and the review of the food package undertaken by the National Academy of Sciences, Institute of Medicine in September 2003.

Section 405—Notification of Violations and Infant Formula Benefits. Amends Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)). Adds language requiring the State agency to notify vendors in writing of violations (unless the notification compromises an investigation) and allowing State agencies to round up to the next whole can size of infant formula on contracts formed after October 1, 2004.

Section 406—Healthy People 2010 Initiative. Amends Section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)). Adds language encouraging breastfeeding promotion activities for WIC participants, supporting the goals of Healthy People 2010.

Section 407—Competitive Bidding. Amends Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)). Adds language allowing infant formula rebate amounts to increase or decrease on a cent-by-cent basis according to change in the lowest national wholesale price.

Section 408—Fruit and Vegetable Projects. Amends Section 17(h)(10)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(B)(ii)). Allows private funds to be used to provide 10 sites with fresh, frozen, and canned fruits and vegetables, with an evaluation of their inclusion.

Section 409—Price Levels of Retail Stores. Amends Section 17(h)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(11)).

Clarifies that States must have policies to contain costs of WIC supplemental foods and ensure competitive pricing.

Section 410—Management Information Systems. Amends Section 17(h)(12) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(12)). Requires States to institute standards for electronic benefit systems and the Secretary to implement a national Universal Product Code Database, for use by all State agencies.

Section 411—Infant Formula Fraud Prevention. Amends Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)). Requires vendors to purchase infant formula from a list of approved manufacturers, wholesalers, distributors, and retailers, maintained by the State.

Section 412—State Alliances. Amends Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). Adds language preventing State alliances exceeding 200,000 infant participants, except for those already in existence. Allows a State agency serving under 5,000 participants or an Indian or Tribal Organization to join any State alliance.

Section 413—Limits on Expenditures. Amends Section 17(i)(3)(A)(ii)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)(A)(ii)(I)). Increases from one to three percent the amount of nutrition services and administration funds a state may expend during the subsequent fiscal year for allowable expenses incurred during a fiscal year.

Section 414—Migrant and Community Health Centers Initiative. Amends Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)). Removes outdated language.

Section 415—Demonstration Projects. Amends Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) and Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760). Removes outdated language.

Section 416—Authorization of Appropriations. Amends Section 17, subsections (g), (h), and (m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786). Authorizes appropriations for these programs through fiscal year 2008.

TITLE V—REAUTHORIZATION, MISCELLANEOUS PROVISIONS, AND EFFECTIVE DATE

Section 501—Training Technical, and other Assistance. Amends Section 21(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(a)(1)). Adds language designating training and technical assistance, and language protecting the privacy of students enrolled in these programs.

Section 502—Notice of Irradiated Food. Amends Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a). Requires the Secretary to develop policy and establish procedures regarding the purchase, distribution, notice of consumption, and provision of information regarding irradiated foods.

Section 503—Sense of Congress. Amends Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760). Adds language expressing the sense of Congress that federal resources expended for programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1750) and the Child Nutrition Act of 1966 (42 U.S.C. 1770) should be effective and not duplicative.

Section 504—Reauthorization of Programs. Amends Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)), Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)), Section 15(e) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237), Section 9(j)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 758(j)(2)(A)), Section 21(g)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(e)(1)), and Section 22(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(d)). Changes outdated language.

Section 505—Effective Dates. States the effective dates of the amendments made by Sections 101, 104, 105(a), 202, 410, 416, and 504 shall take effect on the date of enactment of this Act. The amendments made by Section 201 and Section 208(c) shall take effect on July 1, 2005. All other amendments made by this Act shall take effect October 1, 2004.)

EXPLANATION OF AMENDMENTS

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

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.R. 3873, the Child Nutrition Improvement and Integrity Act of 2004, amends and improves the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to provide children with access to food and nutrition assistance, to simplify program operations, to improve children’s nutritional health, to enhance the integrity of child nutrition programs. This bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. H.R. 3873, provides children with access to food and nutrition assistance through support for mandatory and discretionary funded programs at State and local option to participate. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES
COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 BILL H.R. 3873 DATE March 10, 2004

AMENDMENT NUMBER 5 DEFEATED 18 - 25

SPONSOR/AMENDMENT Mr. Ryan /amendment to expand the regulatory definition of foods classified as "foods of minimum nutritional value"

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman		X		
Mr. PETRI, Vice Chairman		X		
Mr. BALLENGER		X		
Mr. HOEKSTRA				X
Mr. McKEON		X		
Mr. CASTLE		X		
Mr. JOHNSON		X		
Mr. GREENWOOD		X		
Mr. NORWOOD		X		
Mr. UPTON		X		
Mr. EHLERS		X		
Mr. DeMINT		X		
Mr. ISAKSON		X		
Mrs. BIGGERT		X		
Mr. PLATTS		X		
Mr. TIBERI		X		
Mr. KELLER				X
Mr. OSBORNE		X		
Mr. WILSON		X		
Mr. COLE		X		
Mr. PORTER		X		
Mr. KLINE		X		
Mr. CARTER				X
Mrs. MUSGRAVE		X		
Mrs. BLACKBURN		X		
Mr. GINGREY		X		
Mr. BURNS		X		
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA				X
Mrs. McCARTHY	X			
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH				X
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS				X
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE		X		
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	18	25		6

ROLLCALL VOTES
COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 2 BILL H.R. 3873 DATE March 10, 2004

H.R. 3873 was ordered favorably reported, as amended, by a vote of 42 – 0

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

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. BOEHNER, Chairman	X			
Mr. PETRI, Vice Chairman	X			
Mr. BALLENGER	X			
Mr. HOEKSTRA				X
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. GREENWOOD	X			
Mr. NORWOOD	X			
Mr. UPTON	X			
Mr. EHLERS	X			
Mr. DeMINT	X			
Mr. ISAKSON	X			
Mrs. BIGGERT	X			
Mr. PLATTS	X			
Mr. TIBERI	X			
Mr. KELLER				X
Mr. OSBORNE	X			
Mr. WILSON	X			
Mr. COLE	X			
Mr. PORTER	X			
Mr. KLINE	X			
Mr. CARTER				X
Mrs. MUSGRAVE	X			
Mrs. BLACKBURN	X			
Mr. GINGREY	X			
Mr. BURNS	X			
Mr. MILLER	X			
Mr. KILDEE	X			
Mr. OWENS	X			
Mr. PAYNE	X			
Mr. ANDREWS	X			
Ms. WOOLSEY	X			
Mr. HINOJOSA				X
Mrs. McCARTHY				X
Mr. TIERNEY	X			
Mr. KIND	X			
Mr. KUCINICH				X
Mr. WU	X			
Mr. HOLT	X			
Mrs. DAVIS	X			
Ms. McCOLLUM	X			
Mr. DAVIS				X
Mr. CASE	X			
Mr. GRIJALVA	X			
Ms. MAJETTE	X			
Mr. VAN HOLLEN	X			
Mr. RYAN	X			
Mr. BISHOP	X			
TOTALS	42	0		7

CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
Washington, DC, March 19, 2004.

Congressman JOHN A. BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN BOEHNER: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 3873, "The Child Nutrition Improvement and Integrity Act." Consequently, I missed roll call number one on the amendment offered by Representative Ryan. Had I been present, I would have voted against the amendment. I also missed roll call number two on final passage of the bill. Had I been present, I would have voted in favor of the bill.

I would appreciate your including this letter in the Committee Report to accompany H.R. 3873. Thank you for your attention to this matter.

Sincerely,

PETE HOEKSTRA,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 22, 2004.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 3873, "The Child Nutrition Improvement and Integrity Act." Consequently, I missed roll call number one on the amendment offer by Representative Ryan. Had I been present, I would have voted in against the amendment.

I would appreciate your including this letter in the Committee Report to accompany H.R. 3873. Thank you for your attention to this matter.

Sincerely,

JOHN R. CARTER,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 22, 2004.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 3873, "The Child Nutrition Improvement and Integrity Act." Consequently, I missed roll call number two on final passage of the bill. Had I been present, I would have voted in favor of the bill.

I would appreciate your including this letter in the Committee Report to accompany H.R. 3873. Thank you for your attention to this matter.

Sincerely,

JOHN R. CARTER,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 22, 2004.

Hon. JOHN BOEHNER,
*Chairman, Committee on Education and the Workforce,
Rayburn House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Due to other legislative duties, I was unavoidably detained during Committee consideration of H.R. 3873, "The Child Nutrition Improvement and Integrity Act." Consequently, I missed roll call number one on the amendment offered by Representative Ryan and the roll call vote on final passage of the bill. Had I been present, I would have voted against the amendment and in favor of the bill.

I would appreciate your including this letter in the Committee Report to accompany H.R. 3873. Thank you for your attention to this matter.

Sincerely,

RIC KELLER,
Member of Congress.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

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

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3873 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 23, 2004.

Hon. JOHN A. BOEHNER,
*Chairman, Committee on Education and the Workforce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: CBO has prepared the enclosed estimate of the direct spending effects of H.R. 3873, the Child Nutrition Improvement and Integrity Act. (CBO has not yet completed an estimate of the bill's effects on spending subject to appropriation.)

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

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 3875—Child Nutrition Improvement and Integrity Act

Summary: H.R. 3873, the Child Nutrition Improvement and Integrity Act, would amend and reauthorize child nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). CBO estimates that enacting the bill would increase direct spending by \$278 million over the 2004–2009 period and about \$550 million over the 2004–2014 period. (The bill would increase direct spending by \$226 million over the 2004–2008 period, the five-year period covered by the Concurrent Resolution on the Budget for Fiscal Year 2004.)

In addition, enactment of H.R. 3873 would also affect spending subject to appropriation action. However, CBO has not yet completed an estimate of the potential discretionary spending effects of the bill.

H.R. 3873 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Because states and schools have flexibility in how they implement the child nutrition program and because they would receive new financial assistance, the new requirements of H.R. 3873 would not be intergovernmental mandates.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3873 on direct spending is shown in Table 1. The changes in direct spending fall within budget function 600 (income security).

TABLE 1.—SUMMARY OF EFFECTS OF H.R. 3873 ON DIRECT SPENDING

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated Budget Authority	17	64	52	51	52	51	52	53	54	55	56
Estimated Outlays	13	54	55	52	52	52	52	53	54	55	56

Basis of estimate: The following description and Table 2 detail those provisions that have significant budgetary effects. The estimate assumes that H.R. 3873 will be enacted this spring.

Exclusion of Military Housing Allowances

Section 101 would make permanent a provision requiring that the housing allowance of military personnel living in privatized housing units not be counted toward income when determining the eligibility of children for free and reduced-price school meals. This provision was set to expire on September 30, 2003, but was extended to March 31, 2004, by Public Laws 108–84, 108–104, 108–107, and 108–134. Based on the income, housing, and family size data for enlisted military personnel, CBO estimates that benefits for about 7,000 children would increase in 2005 as a result of this provision, eventually rising to 16,000 as more privatized units be-

come available. This provision would take effect upon enactment of the bill. CBO estimates that the increase in direct spending would not be significant (less than \$500,000) for the remainder of the 2004 fiscal year. In 2005, CBO estimates that it would cost \$1 million, rising to an average of about \$4 million a year thereafter.

Eligibility for Severe Need Assistance

Section 103 would eliminate cost accounting for breakfasts served in schools classified as “severe need” schools (defined below) and eliminate the waiting period for new schools to receive the severe need rate. CBO estimates that this provision would increase direct spending by \$1 million annually.

TABLE 2.—ESTIMATED DIRECT SPENDING EFFECTS OF H.R. 3873, BY PROVISION

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Title I, Ensuring Access to Child Nutrition Programs											
Exclusion of Military											
Housing Allowances:											
Estimated Budget											
Authority	*	2	3	4	4	4	4	4	4	5	5
Estimated Outlays	*	1	3	4	4	4	4	4	4	5	5
Eligibility for Severe											
Need Assistance:											
Estimated Budget											
Authority	0	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1	1	1	1	1	1
Reauthorization of Summer Food Program:											
Estimated Budget											
Authority	1	1	2	2	2	2	2	2	2	2	2
Estimated Outlays	1	1	2	2	2	2	2	2	2	2	2
Child and Adult Care											
Food Program:											
Estimated Budget											
Authority	15	44	45	46	47	48	50	51	52	53	55
Estimated Outlays	12	39	45	45	47	48	49	51	52	53	54
Area Eligibility Demonstration:											
Estimated Budget											
Authority	0	1	1	1	1	1	1	1	1	1	1
Estimated Outlays	0	*	1	1	1	1	1	1	1	1	1
Year-Round Community											
Child Nutrition Program Pilot:											
Estimated Budget											
Authority	0	7	10	10	10	11	11	12	12	13	14
Estimated Outlays	0	6	9	10	10	11	11	12	12	13	14
Title II, Improving Program Quality and Integrity											
Eligibility and Certification for Free and Reduced Price											
Lunches:											
Estimated Budget											
Authority	0	1	-16	-17	-19	-20	-21	-22	-23	-25	-26
Estimated Outlays	0	1	-13	-17	-18	-19	-21	-22	-23	-24	-26
Minimum State Administrative Expense											
Grants:											
Estimated Budget											
Authority	0	1	1	1	2	2	2	2	2	2	2
Estimated Outlays	0	1	1	1	2	2	2	2	2	2	2

TABLE 2.—ESTIMATED DIRECT SPENDING EFFECTS OF H.R. 3873, BY PROVISION—Continued

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Administrative Error Reduction:											
Estimated Budget Authority	0	6	6	5	5	3	3	3	2	2	2
Estimated Outlays	0	3	7	5	5	4	3	3	3	3	3
	Total Changes in Direct Spending										
Estimated Budget Authority	17	64	52	51	52	51	52	53	54	55	55
Estimated Outlays	13	54	55	52	52	52	52	53	54	55	56

Note.—Less than \$500,000.

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

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

Reauthorization of Summer Food Programs

Section 104 would reauthorize the Summer Food Service Program (SFSP) and extend and expand the current Summer Food Pilot Project (known as the “Lugar pilot”). In the SFSP, sponsors are reimbursed for actual costs incurred for providing meals, up to the maximum reimbursement rate. In the current pilot, SFSP sites in 13 states and Puerto Rico, other than those run by private, non-profit sponsors, automatically receive the maximum reimbursement per meal. This provision would extend the pilot to three additional states as well as allow private, nonprofit sponsors to participate in the pilot. That expansion would result in serving about 300,000 additional meals, for an incremental cost of close to \$1 million a year. By 2007, CBO estimates that roughly six million meals in the SFSP will be reimbursed 16 cents more per meal than under cur-

rent law. CBO estimates that, taken together, these changes would cost \$1 million to \$2 million a year over the 2004–2014 period.

Child and Adult Care Food Program

Section 105 would expand eligibility for participation in the Child and Adult Care Food Program (CACFP) and reauthorize a management improvement initiative. CBO estimates that this entire provision would increase direct spending by \$237 million from 2004 through 2009 and \$497 million over the 2004–2014 period.

Section 105(a) would make permanent a provision to allow for-profit child care centers to participate in the CACFP if at least 25 percent of the children served by a center are income-eligible for free and reduced-price school meals. Under current law, the authority expires March 31, 2004. Based on the estimated growth in the number of for-profit centers that have participated in CACFP under this provision since it was instituted, CBO anticipates that about 2,000 for-profit centers would participate in CACFP once this provision is made permanent. Each center would receive about \$21,000 on average in reimbursements from CACFP. CBO estimates that this expansion would cost \$481 million over the 2004–2014 period.

Section 105(f) would increase the age limit for children served in emergency shelters participating in the CACFP from 12 to 18. CBO estimates that about 1,500 additional homeless youth would be served through the increase in the age limit and a small increase in providers participating in the CACFP. This estimate is based on data from the National Survey of Homeless Assistance Providers and Clients on the number and age of homeless youth in emergency shelters. CBO estimates that this provision would cost \$14 million through 2014.

Section 105(d) would reauthorize mandatory spending for the CACFP management support for 2005 and 2006 at \$1 million a year. Under the provision, the Secretary provides management training and technical assistance to state CACFP agencies.

Area Eligibility Demonstration

Section 107 would permanently authorize a demonstration project to lower the area eligibility requirements for the SFSP in rural areas of Pennsylvania. Under current law, organizations are eligible to participate in the SFSP if they are located in a neighborhood where at least 50 percent of the children are eligible for free or reduced-price school meals or if at least 50 percent of the children enrolled in the program meet those income requirements. In this demonstration project, the requirement would be lowered to 40 percent. Based on data on rural schools in Pennsylvania and SFSP participation rates in rural areas, CBO estimates that by 2006, 60 new sites would participate in the SFSP, increasing federal costs by about \$1 million a year.

Year-Round Community Child Nutrition Program Pilot

Section 109 would a pilot program in California to allow private, nonprofit sponsors to serve up to three meals and two snacks on any day during the year, reimbursed at the SFSP rate. CBO estimates that this pilot would cost \$109 million over the 2004–2014 period.

Under current law, sites are limited to serving two meals and one snack or three meals on school vacation days. This provision would allow private, nonprofit SFSP sites to expand their service throughout the school year. It is also likely to induce organizations participating in the CACFP at-risk snack program during the school year and CACFP day care centers in low-income areas to switch to this program because of the higher SFSP reimbursement rate and greater number of meals.

Based on the current distribution of meals served in the SFSP, CBO assumes that only sites that serve the current maximum number of allowed meals will add a snack as a result of the pilot. CBO assumes that about 15-to-20 percent of the SFSP sites that would be eligible for this pilot will expand their services to days when school is in session and serve a snack. We assume that about one-third of current private, nonprofit SFSP sponsors participate in the CACFP at-risk snack program described below in the winter.

Under current law, after-school programs that provide educational enrichment and are located in areas where at least 50 percent of the students are eligible for free or reduced-price meals can receive reimbursement for snacks at the free rate through the CACFP at-risk snack program. CBO assumes that all of the private, nonprofit organizations in California that participate in the at-risk program now would switch to the pilot program because it would offer a higher reimbursement rate and great flexibility in the number of meals and days of operation. We assume that most of these sites would start to offer a dinner during the school year. This is based on data on the growth of dinners in CACFP at-risk programs in the seven states that allow these programs to serve a snack as well as a dinner. We also assume that about a quarter of these programs would expand to serve meals during the day in the summer.

CBO assumes that virtually all of the private, nonprofit day care centers participating in CACFP that meet the area eligibility requirements would also switch to the pilot program for the higher reimbursement levels and greater number of meals. Under the pilot, these centers would be reimbursed at the free rate for all of their meals, regardless of income. Under current law, CACFP centers offer meals at the free, reduced, and paid rates. We assume that sites that currently offer three meals and one snack to children will add an additional snack and a small number of centers will add a dinner.

Eligibility and Certification for Free and Reduced-Price Lunches

Section 201 would make changes to the verification requirements for free and reduced-price meal applications and require direct certification, to the extent practical, of students in Food Stamp households. CBO estimates that this entire provision would result in net savings of \$182 million through 2014.

Under current regulations, local school food authorities are required to verify either: 3 percent or 3,000 free and reduced-price meal applications drawn at random from all applications; or the lesser of 1 percent or 1,000 of total applications from non-Food Stamp households with monthly incomes within \$100 of the monthly income eligibility limit for free or reduced-price meals plus the lesser of 0.5 percent or 500 applications from households that pro-

vide a Food Stamp, Temporary Assistance to Needy Families (TANF), or Food Distribution Program on Indian Reservations (FDPIR) case number.

This provision would change the verification requirements for local education agencies with high nonresponse rates in their verification procedures. A nonresponse rate is the percentage of applications chosen for verification for which the local education agency is not able to get the required documentation from the household. Districts that are unable to verify at least 75 percent of applications chosen for verification or districts that receive 20,000 or more applications and do not decrease their nonresponse rate by at least 10 percent over the second prior year would be required to comply with the new verification procedures. These districts would be required to verify the lesser of 3,000 or 3 percent of all applications selected from households that report monthly incomes within \$100 of the monthly income eligibility limit.

CBO estimates that about 70 percent of free and reduced-price students are in districts that will be subject to the new income verification procedures. Under the new verification procedures, a slightly greater share of applications will be verified nationwide and a greater share of them will be error-prone (within \$100 of the monthly income limit). The increased verification procedures will increase savings by uncovering more errors in reporting of household income. When the verification process uncovers errors in underreporting household income, the student's meal eligibility status is reduced. In a few cases, however, households may have overreported income leading to an increase in meal benefits. In addition, some students will lose meal benefits because they fail to provide the necessary documents for verification. When a household fails to respond to a verification request, the student loses his free or reduced-price certification. By 2010, CBO estimates that an additional 80,000 students annually will have meal benefits reduced by an average of \$355 as a result of increased verification procedures. This estimate is based on data from FNS on the results of the verification process for both a random and error-prone sample of applications.

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

This bill would require state agencies, to the extent practical, to enter into direct certification agreements with the appropriate local agencies and would require schools to directly certify eligible children. CBO assumes that about half of the students receiving free and reduced-price meals in districts that do not currently use direct certification would be directly certified as a result of this provision. This assumption is based on data from ERS, that indicate that about half of the districts that do not currently use direct certification cite difficulty in working with the local Food Stamp/TANF/

FDPIR agency as a significant factor in why they do not use direct certification.

The overwhelming majority of students who will now be directly certified are students who are already receiving free meals because they have submitted a paper application. Research from ERS on direct certification indicates that direct certification leads to a small increase in participation among students eligible for free meals. By 2010, CBO estimates that meal benefits will increase by about \$340 on average for roughly 25,000 students due to the increase in direct certification.

Minimum State Administrative Expense Grants

Section 206 would add snacks served through the National School Lunch Program to the calculations for state administrative expense grants. Currently, state administrative grants are calculated as 1.5 percent of federal spending in the state for school lunches, breakfasts, and milk in the second preceding fiscal year. This section would also increase the minimum state administrative expense grant by \$100,000 to \$200,000 a year and require that no state shall receive a grant for 2005 through 2007 that is less than the amount it received in 2004. CBO estimates these changes would increase direct spending by about \$1 million a year for 2005, 2006, and 2007. These costs would rise to \$2 million a year beginning in 2008.

Administrative Error Reduction

Section 208 would provide funds for training and technical assistance to reduce administrative error in school meals programs as well as increase the number of administrative reviews of certain local education agencies' meals programs. Section 208(a) would provide \$3 million in each of 2005 and 2006 and \$2 million a year thereafter for federal training and technical assistance to state and local agencies on best management and administrative practices.

Section 208(b) would require an additional review for a local education agency that the Secretary of Agriculture determines to be at high risk for administrative error. Under current regulations, school food authorities (SFA) are required to have an administrative review at least once every five years and a follow-up review if it fails to meet review standards. If the audit reveals that an SFA has received payments in error, FNS recovers those overpayments. For example, if a student is found to have been incorrectly certified as eligible for free meals when he is actually only eligible for reduced-price meals, FNS recoups those overpayments. This provision also would extend the maximum period of time for which overpayments be collected to 60 days for initial reviews or 90 days in follow-up reviews. Based on data on the amount of money recouped from the current administrative review procedure, CBO estimates that the additional review and the extended period of collection will result in savings of \$1 million to \$2 million annually over the 2004–2014 period.

Section 208(c) would require each state to provide annual training on administrative practices to local school food authority personnel. This provision would provide \$4 million a year to the Secretary to assist states in providing training and conducting additional administrative reviews.

CBO estimates that all of these provisions would increase direct spending by \$40 million over the 2004–2014 period.

Estimated impact on state, local, and tribal governments: For large entitlement programs like the child nutrition program, the Unfunded Mandates Reform Act defines an increase in the stringency of conditions or a cap on federal funding as an intergovernmental mandate if the affected governments lack authority to offset those costs while continuing to provide required services. H.R. 3873 would alter, and in some cases increase, some of the conditions for receiving assistance under the child nutrition program; however, the bill also would increase federal reimbursements for administrative expenses and would provide funding for some of the requirements. In other cases, schools and school food authorities currently have sufficient flexibility in the program to enable them to comply with the changes and still provide the required services. Consequently, H.R. 3873 contains no intergovernmental mandates as defined in UMRA.

Estimated impact on the private sector: H.R. 3873 contains no private-sector mandates as defined in UMRA.

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

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

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with Clause (3)(c) of House rule XIII, the goal of H.R. 3873 is to provide children with access to food and nutrition assistance, to simplify program operations, to improve children's nutritional health, and to enhance the integrity of child nutrition programs. The Committee expects the Department of Agriculture to comply with H.R. 3873 and implement the changes to the law in accordance with the changes.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 3873. The Committee believes that the amendments made by this bill, which appropriate and authorize appropriations for nutrition, are within Congress' authority under Article I, section 8, Clause 1 of the Constitution.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 3873. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

* * * * *

DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) * * *

* * * * *

(c)(1)(A) * * *

* * * * *

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products), *and fruits and vegetables.*

* * * * *

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a)(1) * * *

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

[(A) shall offer students fluid milk; and

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

(2) *FLUID MILK.*—

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

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

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

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

(B) *SUBSTITUTES.*—

(i) STANDARDS FOR SUBSTITUTION.—*Schools may substitute for the fluid milk provided under subparagraph (A), a non-dairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards as established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk) for students who cannot consume fluid milk because of a*

medical or other special dietary need other than a disability described in subparagraph (A)(iii).

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

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

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

(i) on the school premises; or

(ii) at any school-sponsored event.

* * * * *

[(b)(1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

[(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

[(i) the official poverty line (as defined by the Office of Management and Budget); by

[(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

[(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the

income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

[(B) Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

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

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

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

[(II) a family that is receiving assistance under the State program funded under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

[(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

[(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

[(II) a person directly connected with the administration or enforcement of—

[(aa) a Federal education program;

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

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

[(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

[(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph; and

[(IV) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the school food authority so elect.

[(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

[(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

[(vi) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in clause (iii)(IV) shall ensure that any school food authority acting in accordance with that option—

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

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

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

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

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

[(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged for a reduced price lunch shall not exceed 40 cents.]

(b) *ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES.*—

(1) *INCOME GUIDELINES.*—

(A) *IN GENERAL.*—*Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year. The income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size income levels contained in the nonfarm income poverty guidelines issued by the Secretary of Health and Human Services, as adjusted annually in accordance with subparagraph (B). Such guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.*

(B) *FORMULA FOR REVISION.*—*The revision required by subparagraph (A) of this paragraph shall be made by multiplying—*

(i) the official poverty line (as defined by the Secretary of Health and Human Services); by

(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the Consumer Price

Index data required to compute the adjustment becomes available.

(2) CERTIFICATION OF ELIGIBILITY.—

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

(B) APPLICATIONS.—

(i) IN GENERAL.—*Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand, shall be distributed at least annually to the parents or guardians of children in attendance at the school.*

(ii) INCOME LEVELS.—*Applications and descriptive material shall contain only the family size income eligibility guidelines for reduced price meal eligibility, with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such applications and descriptive material may not contain the income eligibility guidelines for free lunches.*

(iii) NOTIFICATION.—*Descriptive materials shall contain a notification that participants in 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. 1771 et seq.), the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), or a State program funded under part A of title IV of the Social Security Act (if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995) are eligible for free or reduced price lunches. Such descriptive materials shall also contain a notice to parents that documentation may be requested for verification.*

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

(C) ELIGIBILITY.—

(i) *HOUSEHOLD APPLICATIONS.*—

(I) *IN GENERAL.*—If an eligibility determination for a child is not made under clause (ii) or (iii), an eligibility determination shall be made on the basis of a complete household application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary.

(II) *ADDITIONAL BASES.*—Eligibility may be determined by the local educational agency on the basis of a complete application executed by an adult member of the household, or in accordance with other guidance issued by the Secretary, including an electronic signature when the application is submitted electronically, and if the application filing system meets confidentiality standards established by the Secretary.

(III) *CHILDREN IN HOUSEHOLD.*—

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

(bb) *SEPARATE APPLICATIONS.*—A State educational agency or local educational agency may not request a separate application for each child in the household.

(IV) *VERIFICATION.*—The Secretary, State, or local educational agency may verify any data contained in such application. In accordance with guidance issued by the Secretary, each local educational agency shall verify a sample of approved free and reduced price applications and shall make appropriate changes in the eligibility determination with respect to such applications on the basis of such verification. The sample selected for verification shall be as follows:

(aa) For local educational agencies able to obtain verification information for at least 75 percent of all applications selected for verification in the prior year, or local educational agencies receiving more than 20,000 applications and that in the prior year had a verification non-response rate that was 10 percent below the verification non-response rate of the second prior year, the sample selected shall be either—

(AA) the lesser of 3,000 or 3 percent of approved applications selected at random by the local educational agencies from all approved applications; or

(BB) the lesser of 1,000 or 1 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals, plus the lesser of 500 or $\frac{1}{2}$ of 1

percent of approved applications that provided a case number in lieu of income information showing participation in the food stamp program or Temporary Assistance for Needy Families program selected from those approved applications that provided a case number in lieu of income information verifying such participation.

(bb) For all other local educational agencies, the sample selected shall be the lesser of 3,000 or 3 percent of all approved applications selected from applications that indicate monthly income that is within \$100, or annual income that is within \$1,200, of the income eligibility limits for free or reduced price meals. If, for any local educational agency, the total number of such applications is less than 3,000 or 3 percent of all approved applications, the local educational agency shall select additional applications at random from all approved applications in order to obtain a total sample for verification of 3,000 or 3 percent of all approved applications.

(V) SUBSTITUTIONS.—

(aa) IN GENERAL.—In accordance with the regulations prescribed by the Secretary, the local educational agency may, upon individual review, decline to verify any application selected under subclause (IV) and replace it with another application to be verified. Such agency may decline to verify no more than 2 percent of the applications selected for verification under this subclause.

(bb) SUBSTITUTE CRITERIA IN CASES OF EMERGENCIES.—The Secretary may substitute alternative criteria for the sample size and sample selection criteria in subclause (IV) to address a natural disaster, civil disorder, strike, or other local condition.

(VI) DIRECT VERIFICATION.—

(aa) IN GENERAL.—In accordance with regulations promulgated by the Secretary, in verifying the sample selected in accordance with subclause (IV), the local educational agency may first obtain from certain public agencies administering the programs identified in item (bb) of this subclause, and similar income-tested programs, information to verify eligibility for free or reduced price meals.

(bb) PUBLIC AGENCY RECORDS.—Public agency records that may be used to verify eligibility for free meals shall include income information relied upon within 12 months prior to verification under subclause (IV) in the administration of the following programs: the

food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); the State program funded under part A of title IV of the Social Security Act; the Food Distribution Program on Indian Reservations (FDPIR) authorized under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in a State in which the income eligibility limit described in section 1902(l)(2)(C) of the Social Security Act is no higher than 133 percent of the income official poverty line as specified in section 1902(l)(2)(A) of such Act, in the case of eligibility for free meals, and 185 percent of the income official poverty line as specified in such section in the case of reduced price meals.

(VII) PLAIN, UNDERSTANDABLE LANGUAGE.—Any and all communications to parents regarding verification under subclause (IV) shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

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

(I) IN GENERAL.—Each State agency shall, to the extent practicable, enter into an agreement with the State agency conducting eligibility determinations for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(II) PROCEDURES.—Subject to clause (iv), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the program referred to in subclause (I) shall be certified as eligible for free meals under this Act, without further application.

(III) DIRECT CERTIFICATION.—Subject to clause (iv), under the agreement, the local educational agency conducting eligibility determinations for a school meal program conducted under this Act shall certify a child who is a member of a household receiving assistance under the program referred to in subclause (I) as eligible for free meals under this Act without further application.

(IV) NOTICE.—The appropriate local educational agency shall provide annually to the parents or guardians of all students who are members of a household receiving assistance under the program referred to in subclause (I), notification, in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, that any school-aged child in that household is eligible for free lunches or breakfasts.

(iii) *DIRECT CERTIFICATION OF CHILDREN IN OTHER HOUSEHOLDS.*—Subject to clause (iv), any local educational agency may certify any child as eligible for free lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)), or a member of a family that is receiving assistance under a State program funded under part A of title IV of the Social Security Act if the Secretary determines the State program complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.

(iv) *DISCLOSURE OF INFORMATION.*—The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clauses (ii) and (iii), shall be limited to—

(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

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

(aa) a Federal education program;

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

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

(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program requirements under paragraph (1) or this paragraph; and

(IV) a person directly connected with the administration of the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the local educational agency so elect.

(v) *LIMITATION.*—Information provided under clause (iv)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii) or (iii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(vi) *PENALTY FOR UNAUTHORIZED DISCLOSURE.*—A person described in clause (iv) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(vii) *REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.*—A State that elects to exercise the option described in clause (iv)(IV) shall ensure that any local educational agency acting in accordance with that option—

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

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

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

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

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

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

(A) *FREE LUNCHES.*—Any child who is a member of a household whose income, at the time the application is sub-

mitted, is at an annual rate which does not exceed the applicable family size income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch.

(B) REDUCED PRICE LUNCHES.—

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

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

(C) DURATION.—*Except as otherwise specified in section 11(a) or section 9(b)(2)(C)(i)(IV), eligibility for free or reduced price meals for any school year shall remain in effect—*

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

(ii) ending on the date of the beginning of school in the subsequent school year or as otherwise specified by the Secretary.

* * * * *

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

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

(i) * * *

(ii) a member of a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) that the Secretary determines complies with standards established by the Secretary that ensure that the

standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995; **[or]**

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

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

(v) *a youth served by programs under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or*

(vi) *a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).*

(B) Proof of receipt of food stamps or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), *or documentation showing the child's status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2))*, shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).

(7) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—

[For each of fiscal years 2002 and 2003 and through March 31, 2004, the amount] *The amount* of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.

* * * * *

(d)(1) * * *

(2) No member of a household may be provided a free or reduced price lunch under this Act unless—

(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate **[local school food authority]** *local educational agency* so that **[such authority]** *the local educational agency* may calculate the total income of such household;

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 has been provided to the appropriate **[local school food authority; or]** *local educational agency*;

(C) documentation has been provided to the appropriate **[local school food authority]** *local educational agency* showing that the family is receiving assistance under the State program

funded under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995[.];

(D) *documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(6); or*

(E) *documentation has been provided to the appropriate local educational agency showing the child's status as a migratory child, as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399(2)).*

* * * * *

(f)

(1) * * *

* * * * *

[(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 meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).]

(5) WAIVER OF REQUIREMENTS FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—*State educational agencies may grant waivers to school food authorities to the requirement for weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if—*

(A) *the school food authority has an equivalent system for conducting a nutrient analysis, subject to State agency approval; and*

(B) *the equivalent system adequately documents the extent to which the school food authority is meeting the Dietary Guidelines for Americans and other nutrition standards.*

In addition, the Secretary may waive, on a case by case basis, the requirement for a State agency to use weighted averages when conducting a nutrient analysis as part of a review (of compliance with the Dietary Guidelines and other nutrition standards) of a school food authority not using nutrient standard menu planning, when, in the Secretary's determination, an alternative analysis would yield results that would adequately measure a school food authority's compliance with current nutrition standards for school meals.

* * * * *

(j) PURCHASES OF LOCALLY PRODUCED FOODS.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—

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

* * * * *

SPECIAL ASSISTANCE

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

* * * * *

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

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

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

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

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

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

(ii) A school or school district described in clause (i) may reapply to the State at the end of the 4-school-year period, and at the end of each 4-school-year period thereafter for which the school or

school district receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 4-school-year period.

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

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

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

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

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

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

* * * * *

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) * * *

* * * * *

(d) For the purposes of this Act—

(1) * * *

* * * * *

(3) *LOCAL EDUCATIONAL AGENCY.*—

(A) *IN GENERAL.*—The term “local educational agency” has the meaning given the term in section 9101 of the *Elementary and Secondary Education Act of 1965* (20 U.S.C. 7801).

(B) *INCLUSION.*—The term “local educational agency” includes, in the case of a private nonprofit school food authority, an appropriate entity determined by the Secretary.

[(3)] (4) “School” means (A) any public or nonprofit private school of high school grade or under, and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor). For purposes of this paragraph, the term “nonprofit”, when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

[(4)] (5) “School year” means the annual period from July 1 through June 30.

[(5)] (6) “Secretary” means the Secretary of Agriculture.

[(6)] (7) “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

[(7)] (8) “State educational agency” means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

[(8)] (9) *DISABILITY.*—The term “disability” has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C 760 et seq.).

* * * * *

[(p)] *GRANT FOR DEMONSTRATION PROJECT.*—[(1)] *USE OF FUNDS FOR WIC DEMONSTRATION PROJECT.*—

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

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

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

[(B)] *APPORTIONMENT.*—A State that receives a grant under subparagraph (A) shall apportion the funds received

to ensure that each site in the State receives not more than \$10,000 for any fiscal year.

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

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

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

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

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

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

[(3) FUNDING.—

[(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection \$1,000,000 for the period of fiscal years 2001 through 2004, to remain available until expended but not later than September 30, 2004.

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

(p) *SENSE OF CONGRESS.—It is the sense of Congress that Federal resources provided under this Act and the Child Nutrition Act of 1966 dedicated to child nutrition should support the most effective programs within the Federal agency that is most capable of assisting children in nutritional need. Congress encourages the elimination of initiatives that are duplicative of other Federal efforts, particularly those that are duplicative of programs conducted under this Act and the Child Nutrition Act of 1966.*

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

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

* * * * *

(8) *Service institutions that are public or private nonprofit school food authorities may administer summer or school vacation food service under the provisions of the school lunch program established under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as determined by the Secretary.*

(9) *YEAR ROUND COMMUNITY CHILD NUTRITION PROGRAM PILOT.—*

(A) *IN GENERAL.—A service institution as defined in paragraph (7) may be reimbursed for up to 3 meals and 2 supplements for any day for which services are being offered at such institution. Such service institution shall be reimbursed for costs consistent with section 13(b).*

(B) *MAXIMUM REIMBURSEMENT.*—No reimbursement may be made to any institution under this paragraph for more than 3 meals and 2 supplements per child per day.

(C) *LIMITATION.*—The Secretary shall limit reimbursement under this paragraph for meals and supplements served under a program to service institutions defined paragraph (7) located in California.

(b) SERVICE INSTITUTIONS.—

(1) PAYMENTS.—

(A) * * *

* * * * *

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

* * * * *

(q) For the period beginning October 1, 1977, and ending [March 31, 2004] September 30, 2008, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(r) *DEMONSTRATION PROGRAM.*—The Secretary shall support a demonstration program in rural areas of the State of Pennsylvania under the same terms and conditions as contained in this section, except that the threshold for determining “areas in which poor economic conditions exist” under subsection (a)(1)(C) for such program shall be 40 percent of children enrolled are eligible for free or reduced price school meals and the State agency shall report to the Secretary on the effect of the demonstration on program participation in rural areas.

COMMODITY DISTRIBUTION PROGRAM

SEC. 14. (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending [March 31, 2004] September 30, 2008, shall—

(1) * * *

* * * * *

(h) *NOTICE OF IRRADIATED FOOD.*—The Secretary shall develop policy and establish procedures for the purchase and distribution of irradiated food products in Federal school meals programs. The policies and procedures shall ensure at a minimum that—

(1) *irradiated food products are made available only at the request of States and school food authorities;*

(2) *reimbursements to schools for irradiated food products are equal to reimbursements to schools for non-irradiated products;*

(3) *States and school food service authorities are provided factual information on the science and evidence regarding irradiation technology, including notice that irradiation is not a substitute for safe food handling techniques and any such other information necessary to promote food safety in school meal programs;*

(4) States and school food service authorities are provided model procedures for providing factual information on the science and evidence regarding irradiation technology and any such other information necessary to promote food safety in school meals to school food service authorities, parents, and students regarding irradiation technology;

(5) irradiated food products distributed to the Federal school meals program are labeled with a symbol or other printed notice indicating that the product was treated with irradiation and is prominently displayed in a clear and understandable format on the container;

(6) irradiated products are not commingled with non-irradiated products in containers; and

(7) encourages schools that offer irradiated foods to offer alternatives to irradiated food products as part of the meal plan used by schools.

* * * * *

SEC. 17. CHILD AND ADULT CARE FOOD PROGRAM.

(a) GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

(1) * * *

(2) DEFINITION OF INSTITUTION.—In this section, the term “institution” means—

(A) * * *

(B) any other private organization providing nonresidential child care or day care outside school hours for school children, if—

(i) [during the period beginning on the date of enactment of this clause and ending on March 31, 2004], at least 25 percent of the children served by the organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; or

* * * * *

(f) STATE DISBURSEMENTS TO INSTITUTIONS.—

(1) * * *

* * * * *

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) * * *

* * * * *

(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) * * *

* * * * *

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for [3] 5 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent

census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

* * * * *

[(i) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent) of the funds used by each State in the program under this section, during the second preceding fiscal year.

[(j) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.]

(i) AUDITS.—

(1) FUNDS FOR AUDITS.—*The Secretary shall make available for each fiscal year to a State administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except in the case of fiscal years 2005 through 2007, 1 percent) of the funds used by the State in the program under this section during the second preceding fiscal year.*

(2) AUDIT PROCEDURES.—

(A) IN GENERAL.—*Subject to subparagraph (B), in conducting management evaluations, reviews, or audits of the program under this subsection, the Secretary or a State agency may disregard any overpayment to an institution if the total overpayment for any fiscal year does not exceed an amount, consistent with the disregards allowed in other programs under this Act, which recognizes the cost of collecting small claims.*

(B) CRIMINAL OR FRAUD VIOLATIONS.—*In carrying out this subsection, the Secretary and a State agency shall not disregard any overpayment for which there is evidence of a violation of a criminal law or civil fraud law.*

(j) AGREEMENTS.—

(1) IN GENERAL.—*The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.*

(2) DURATION.—*An agreement under paragraph (1) shall remain in effect until terminated by either party to the agreement.*

* * * * *

[(p)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out State-wide demonstration projects in three States under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this sec-

tion. An organization may participate in a demonstration project described in the preceding sentence if—

[(A) at least 25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less, meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

[(B) as a result of the participation of the organization in the project—

[(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

[(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

[(2) Under each such project, the Secretary shall examine—

[(A) the budgetary impact of the change in eligibility being tested;

[(B) the extent to which, as a result of such change, additional low-income children can be reached; and

[(C) which outreach methods are most effective.

[(3) The Secretary shall choose to conduct demonstration projects under this subsection in—

[(A) 1 State that—

[(i) has a history of participation of for-profit organizations in the child care food program;

[(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

[(iii) has other funding mechanisms that support parental choice for child care;

[(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

[(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program;

[(B) 1 State in which—

[(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

[(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

[(iii) at least $\frac{1}{3}$ of the licensed child care centers and preschools operate as for-profit facilities;

[(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

[(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act; and

[(C) one other State—

[(i) with fewer than 60,000 children below 5 years of age;

[(ii) that serves more than the national average proportion of children potentially eligible for assistance provided under the Child Care and Development Fund (as indicated in data published by the Department of Health and Human Services in October 1999);

[(iii) that exempts all low-income families from cost sharing requirements under programs funded by the Child Care and Development Fund; and

[(iv) in which State spending represents more than 50 percent of total expenditures reported for fiscal year 1998 under the Child Care and Development Fund.]

(q) MANAGEMENT SUPPORT.—

(1) * * *

* * * * *

(3) FUNDING.—For each of fiscal years [1999 through 2003] 2005 and 2006, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section.

* * * * *

(t) PARTICIPATION BY EMERGENCY SHELTERS.—

(1) * * *

* * * * *

(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

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

(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

(I) not more than [12] 18 years of age; or

[(II) children of migrant workers, if the children are not more than 15 years of age; or]

[(III)] (II) children with disabilities; and

* * * * *

PILOT PROJECTS

SEC. 18. (a) * * *

* * * * *

(f) SUMMER FOOD PILOT PROJECTS.—

(1) * * *

(2) ADDITIONAL STATES ELIGIBLE.—*In addition to the States meeting the criteria set forth in paragraph (1), the 3 States with the highest percentage of households that are determined to be food insecure with hunger, as determined annually by the Secretary, shall be “eligible States” for purposes of this subsection.*

[(2)] (3) PILOT PROJECTS.—During the period beginning October 1, 2000, and ending [March 31, 2004] September 30, 2008, the Secretary shall carry out a summer food pilot project in each eligible State to increase the number of children participating in the summer food service program in the State.

[(3)] (4) SUPPORT LEVELS FOR SERVICE INSTITUTIONS.—

(A) FOOD SERVICE.—Under the pilot project, a service institution [(other than a service institution described in

section 13(a)(7)) in an eligible State shall receive the maximum amounts for food service under section 13(b)(1) without regard to the requirement under section 13(b)(1)(A) that payments shall equal the full cost of food service operations.

(B) ADMINISTRATIVE COSTS.—Under the pilot project, a service institution [(other than a service institution described in section 13(a)(7))] in an eligible State shall receive the maximum amounts for administrative costs determined by the Secretary under section 13(b)(4) without regard to the requirement under section 13(b)(3) that payments to service institutions shall equal the full amount of State-approved administrative costs incurred.

* * * * *

[(4)] (5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for maintenance of a summer food service program shall not be diminished as a result of assistance from the Secretary received under this subsection.

[(5)] (6) EVALUATION OF PILOT PROJECTS.—

(A) * * *

* * * * *

[(6)] (7) REPORTS.—

(A) * * *

* * * * *

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

(a) GENERAL AUTHORITY.—The Secretary—

[(1) subject to the availability of, and from, amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

[(A) food service programs carried out with assistance under this Act;

[(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

[(C) as appropriate, other federally assisted feeding programs; and]

(1) subject to the availability of and from amounts appropriated pursuant to subsection (e)(1), shall provide—

(A) training and technical assistance to improve the skills of individuals employed in food service programs carried out under this Act, section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), and, as appropriate, other federally assisted feeding programs;

(B) training and technical assistance to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including training and technical assistance to ensure compliance with section 12(n) of this Act (42 U.S.C. 1760(n));

(C) assistance, on a competitive basis, to State agencies for the purpose of aiding schools and school food authorities with at least 50 percent of enrolled children certified to receive free or reduced price meals, and, if there are any remaining funds, other schools and school food authorities in meeting the cost of acquiring or upgrading technology and information management systems for use in food service programs carried out under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) if the school or school food authority submits to the State agency an infrastructure development plan that addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology in—

(i) methods to ensure that there shall not be any overt identification of any such child by special tokens or tickets, announced or published list of names, or by any other means;

(ii) processing and verifying applications for free and reduced price school meals;

(iii) integrating menu planning, production, and serving data to monitor compliance with section 9(f)(1); and

(iv) establishing compatibility with statewide reporting systems;

(D) assistance, on a competitive basis, to State agencies with low proportions of schools or students that participate in the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and that demonstrate the greatest need, for the purpose of aiding schools in meeting costs associated with initiating or expanding a school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including outreach and informational activities; and

* * * * *

(e) **ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIALS.**—In collaboration with State educational agencies, school food authorities, and local educational agencies of varying sizes, the Secretary shall develop and distribute training and technical assistance materials relating to the administration of school meal programs that are—

(1) prepared by the Secretary (based on research or other sources), a State educational agency, a school food authority, or a local educational agency; and

(2) representative of the best management and administrative practices of State agencies, school food authorities, and local educational agencies as determined by the Secretary.

(f) **FEDERAL ADMINISTRATIVE SUPPORT.**—

(1) **FUNDING.**—

(A) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection—

(i) on October 1, 2004 and October 1, 2005, \$3,000,000; and

(ii) on October 1, 2006, and October 1, 2007, \$2,000,000.

(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(C) AVAILABILITY OF FUNDS.—Funds transferred under subparagraph (A) shall remain available until expended.

(2) USE OF FUNDS.—The Secretary may use funds provided under this subsection—

(A) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

(B) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

(C) to carry out the activities described in subsection (e).

[(e)] (g) AUTHORIZATION OF APPROPRIATIONS.—

(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated to carry out subsection (a)(1) \$3,000,000 for fiscal year 1990, \$2,000,000 for fiscal year 1991, and \$1,000,000 [for each of fiscal years 1992 through 2003] for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008.

* * * * *

SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities *and local educational agencies* that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code.

(b) FUNCTIONS OF SYSTEM.—

(1) IN GENERAL.—Under the system described in subsection

(a), each State educational agency shall—

(A) require that local food service authorities *and local educational agencies* comply with the provisions of this Act; and

* * * * *

(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities *and local educational agencies*.

(3) ADDITIONAL REVIEW REQUIREMENT FOR SELECTED LOCAL EDUCATIONAL AGENCIES.—

(A) *DEFINITION OF SELECTED LOCAL EDUCATIONAL AGENCY.*—In this paragraph, the term “selected local educational agency” means a local educational agency that has a demonstrated a high level of, or a high risk for, administrative error, as determined by the Secretary.

(B) *ADDITIONAL ADMINISTRATIVE REVIEW.*—In addition to any review required by subsection (a) or paragraph (1), each State educational agency shall conduct an administrative review of each selected local educational agency during the review cycle established under subsection (a).

(C) *SCOPE OF REVIEW.*—In carrying out a review under subparagraph (B), a State educational agency shall only review the administrative processes of a selected local educational agency, including application, certification, verification, meal counting, and meal claiming procedures.

(D) *RESULTS OF REVIEW.*—If the State educational agency determines (on the basis of a review conducted under subparagraph (B)) that a selected local educational agency fails to meet performance criteria established by the Secretary, the State educational agency shall—

(i) require the selected local educational agency to develop and carry out an approved plan of corrective action;

(ii) except to the extent technical assistance is provided directly by the Secretary, provide technical assistance to assist the selected local educational agency in carrying out the corrective action plan; and

(iii) conduct a follow-up review of the selected local educational agency under standards established by the Secretary.

(4) *RECOVERING FUNDS AFTER ADMINISTRATIVE REVIEWS.*—

(A) *IN GENERAL.*—Subject to subparagraphs (B) and (C), if the local educational agency fails to meet administrative performance criteria established by the Secretary in both an initial review and a follow-up review under paragraph (1) or (3) or subsection (a), the Secretary may require the State educational agency to recover funds from the local educational agency that would otherwise be paid to the school food authority or local educational agency for school meals programs under procedures prescribed by the Secretary.

(B) *AMOUNT.*—The amount of funds recovered under subparagraph (A) shall equal the value of any overpayments made to the school food authority or local educational agency as a result of an erroneous claim during the time period described in subparagraph (C).

(C) *TIME PERIOD.*—The period for determining the value of any such overpayments under subparagraph (B) shall be the period—

(i) beginning on the date the erroneous claim was made; and

(ii) ending on the earlier of the date the erroneous claim is corrected or—

(I) in the case of the first review conducted by the State educational agency of the local educational agency under this section after July 1,

2005, the date that is 60 days after the beginning of the period under clause (i); or

(II) in the case of any subsequent review conducted by the State educational agency of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

(5) *USE OF RECOVERED FUNDS.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), funds recovered under paragraph (4) shall—

(i) be returned to the Secretary under procedures established by the Secretary, and may be used—

(I) to provide training and technical assistance related to administrative practices designed to improve program integrity and administrative accuracy in school meals programs (including administrative requirements established by the Child Nutrition Improvement and Integrity Act and amendments made by that Act) to State educational agencies and, to the extent determined by the Secretary, to school food authorities and local educational agencies;

(II) to assist State educational agencies in reviewing the administrative practices of school food authorities, to the extent determined by the Secretary; and

(III) to carry out section 21(e); or

(ii) be credited to the child nutrition programs appropriation account.

(B) *STATE SHARE.*—Subject to subparagraph (C), a State educational agency may retain not more than 25 percent of an amount recovered under paragraph (4), to carry out school meals program integrity initiatives to assist school food authorities and local educational agencies that have repeatedly failed (as determined by the Secretary) to meet administrative performance criteria.

(C) *REQUIREMENT.*—To be eligible to retain funds under subparagraph (B), a State educational agency shall—

(i) submit to the Secretary a plan describing how the State educational agency will use the funds to improve school meals program integrity, including measures to give priority to school food authorities and local educational agencies from which funds were retained under paragraph (4); and

(ii) obtain the approval of the Secretary for the plan.

(c) *ROLE OF SECRETARY.*—In carrying out this section, the Secretary shall—

(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities and local educational agencies; and

(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities and local educational agencies with regulations issued under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) \$3,000,000 for each of the fiscal years 1994 through ~~2003~~ 2008.

* * * * *

CHILD NUTRITION ACT OF 1966

* * * * *

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. (a)

(b)(1)(A) * * *

* * * * *

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

* * * * *

[(d)(1) Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—

[(A) those schools in which the service of breakfasts is required pursuant to State law; and

[(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.

The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.]

(d) SEVERE NEED ASSISTANCE.—

(1) IN GENERAL.—*Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price (or those new schools drawing their attendance from schools receiving severe need assistance).*

(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive [100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or] the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act[, whichever is less].

* * * * *

[STATE ADMINISTRATIVE EXPENSES

[SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the Richard B. Russell National School Lunch Act and sections 3 and 4 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.]

SEC. 7. STATE ADMINISTRATIVE EXPENSES.

(a) AMOUNT AND ALLOCATION OF FUNDS.—

(1) AMOUNT AVAILABLE.—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), each fiscal year the Secretary shall make available to the States for their Administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, 17, and 17A of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753, 1759a, 1766, and 1766a) and sections 3 and 4 of this Act during the second preceding fiscal year.*

(B) *MINIMUM AMOUNT.*—*In the case of each of fiscal years 2005 through 2007, the Secretary shall make available to each State for their administrative costs not less than the initial allocation made to the State under this subsection for fiscal year 2004.*

(C) *ALLOCATION.*—*The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection.*

(D) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.*

(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the Richard B. Russell National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the Richard B. Russell National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the Richard B. Russell National School Lunch Act and sections 3 and 4 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such

State was allocated in the fiscal year ending September 30, 1981, or **[\$100,000]** \$200,000, whichever is larger.

* * * * *

(5)(A) * * *

(B) REALLOCATION OF FUNDS.—

(i) * * *

(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. *The Secretary shall give priority consideration to States that will use the funds for improvements in technology and information management systems described in subsection (e)(2).*

* * * * *

(b) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; **[and for staff development]** *for staff development; and technology and information management systems.*

* * * * *

[(e) Each] (e) *PLANS FOR USE OF ADMINISTRATIVE EXPENSE FUNDS.—*

(1) *IN GENERAL.—Each* State shall submit to the Secretary for approval by October 1 of the initial fiscal year a plan for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel. **[After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.]**

(2) *UPDATES AND INFORMATION MANAGEMENT SYSTEMS.—After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan. Each State plan shall at a minimum include a description of how technology and information management systems will be used to improve program integrity by—*

(A) *monitoring the nutrient content of meals served;*

(B) *training schools and school food authorities how to utilize technology and information management systems for activities such as menu planning, collecting point of sale data, processing applications for free and reduced price meals and verifying eligibility for free and reduced price meals using existing databases to access program participation or income data collected by State or local educational agencies; and*

(C) *using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data across schools and school food authorities.*

(3) *TRAINING AND TECHNICAL ASSISTANCE.—Each State shall submit to the Secretary for approval a plan describing the manner in which the State intends to implement subsection (g) and section 22(b)(3) of the Richard B. Russell National School*

Lunch Act (as added by section 208 of the Child Nutrition Improvement and Integrity Act).

* * * * *

(g) *STATE TRAINING.*—

(1) *IN GENERAL.*—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to school food authority administrative personnel and other appropriate personnel, with emphasis on the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

(2) *FEDERAL ROLE.*—The Secretary shall—

(A) provide training and technical assistance (including training materials and information developed under subsections (e) and (f) of section 21 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1)) to a State to assist the State in carrying out paragraph (1); or

(B) at the option of the Secretary, directly provide training and technical assistance described in paragraph (1).

(3) *THIRD-PARTY CONTRACTING.*—In carrying out this subsection, the Secretary or a State may contract with a third party under procedures established by the Secretary.

(4) *REQUIRED PARTICIPATION.*—Under procedures established by the Secretary that consider the various needs and circumstances of school food authorities, each school food authority or local educational agency shall ensure that an individual conducting or overseeing administrative procedures described in paragraph (1) receives training at least annually, unless determined otherwise by the Secretary.

(h) *FUNDING FOR TRAINING AND ADMINISTRATIVE REVIEWS.*—

(1) *FUNDING.*—

(A) *IN GENERAL.*—On October 1, 2004, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subsection \$4,000,000, to remain available until expended.

(B) *RECEIPT AND ACCEPTANCE.*—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(2) *USE OF FUNDS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), the Secretary shall use funds provided under this subsection to assist States in carrying out subsection (g) and administrative reviews of selected school food authorities and local educational agencies under section 22(b)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(b)(3)).

(B) *EXCEPTION.*—The Secretary may retain a portion of the amount provided to cover costs of activities carried out by the Secretary in lieu of the State.

(3) *ALLOCATION.*—The Secretary shall allocate funds provided in this subsection to States based on the number of local educational agencies that have demonstrated a high level of or a high risk for administrative error, as determined by the Sec-

retary, taking into account the requirements established by the Child Nutrition Improvement and Integrity Act and the amendments made by that Act.

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

[(g)] (i) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [2003] 2008, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

* * * * *

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 17. (a) * * *

(b) As used in this section—

(1) * * *

* * * * *

(7) “Nutrition education” means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits *and physical activity*, and emphasize relationships between [nutrition and health] *nutrition, health, and child development*, all in keeping with the individual’s personal, cultural, and socioeconomic preferences.

* * * * *

(14) “Supplemental foods” means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children *and foods that promote health as indicated in the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)*, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

* * * * *

(22) “State alliance” means 2 or more State agencies that join together for the purpose of procuring infant formula by soliciting competitive bids.

* * * * *

(d)(1) * * *

* * * * *

(3)(A) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary. A State may certify breast-feeding women for up to 1 year, or until women stop breast-feeding, whichever is earlier.

* * * * *

(C) PHYSICAL PRESENCE.—

(i) * * *

(ii) **WAIVERS.**—If the agency determines that the requirement of clause (i) would present an unreasonable barrier to participation, a local agency may waive the requirement of clause (i) with respect to—

(I) an infant or child 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]**;

(II) an infant or child who—

(aa) * * *

* * * * *

(cc) has one or more parents who work**[.]**; and

(III) *an infant under 8 weeks of age—*

(aa) who cannot be present at certification for a reason determined appropriate by the local agency; and

(bb) for whom all necessary certification information is provided.

* * * * *

(f)(1)(A) * * *

* * * * *

(C) The plan shall include—

(i) * * *

* * * * *

(ix) procedures whereby a State agency may accept and process vendor applications outside of the established time-frames, such as in situations in which a previously authorized vendor changes ownership under circumstances that do not permit timely notification to the State agency of such change in ownership;

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

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

* * * * *

[(11)] The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.]

(11)(A) The Secretary shall prescribe by regulations the supplemental foods to be made available in the program under this section. To the degree possible the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

(B) Beginning in 2013 and every 10 years thereafter, or more frequently if determined by the Secretary to be necessary to reflect current scientific knowledge, the Secretary shall conduct a scientific review of the supplemental foods available in the program and rec-

ommend, as necessary, changes to reflect nutrition science, current public health concerns, and cultural eating patterns.

* * * * *

(19) The State agency shall adopt policies that—

(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; **[and]**

(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification**[.]**; and

(C) *require local agencies to permit an applicant or participant to reschedule an appointment to apply or be recertified for the program.*

* * * * *

(25) **NOTIFICATION OF VIOLATIONS.**—*If a State agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a sanction, the State agency shall notify the vendor of the initial violation in writing prior to documentation of another violation, unless the State agency determines that notifying the vendor would compromise its investigation.*

(26) **INFANT FORMULA BENEFITS.**—

(A) **IN GENERAL.**—*The State agency may round up to the next whole can of infant formula to ensure that all infants receive the full-authorized nutritional benefit specified by regulation.*

(B) **LIMITATION.**—*Subparagraph (A) applies only to infant formula contracts awarded under bid solicitations made on or after October 1, 2004.*

[(g)(1) There are authorized to be appropriated to carry out this section \$2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1995 through 2003.]

(g) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—*There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2004 through 2008. As authorized by section 3 of the Richard B. Russell National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.*

* * * * *

(h)(1) * * *

(2)(A) For each of the fiscal years **[1995 through 2003]** *2004 through 2008*, the Secretary shall allocate to each State agency

from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula—

(i) * * *

* * * * *

(4) The Secretary shall—

(A) * * *

* * * * *

(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding; [and]

(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program[.]; and

(F) *partner with communities, State and local agencies, employers, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the program under this section to support the breastfeeding goals of the Healthy People 2010 initiative.*

* * * * *

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

* * * * *

(iv) *REBATE INVOICES.—Each State agency shall have a system to ensure that infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section.*

(v) *CENT-FOR-CENT ADJUSTMENTS.—A bid solicitation for infant formula under the program made on or after October 1, 2004 shall require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires—*

(I) *a cent-for-cent increase in the rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular infant formula; or*

(II) *a cent-for-cent decrease in the rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular infant formula.*

(vi) *SIZE OF STATE ALLIANCES.—No State alliance may form among States whose infant participation exceeds 200,000 based on program participation as of October 2003, except that—*

(I) *an alliance among States with a combined 200,000 infant participants as of October 2003 may continue, and may expand to include more than 200,000 infants, but may not expand to include any additional State agencies that were not*

included in the alliance as of October 1, 2003, other than as provided in subclause (II); and

(II) any State agency serving fewer than 5,000 infant participants as of October 2003, or any Indian Tribal Organization, may request to join any State alliance.

* * * * *

(10)(A) For each of fiscal years **1995 through 2003** **2004 through 2008**, the Secretary shall use for the purposes specified in subparagraph (B), \$10,000,000 or the amount of nutrition services and administration funds and supplemental foods funds for the prior fiscal year that has not been obligated, whichever is less.

(B) Funds under subparagraph (A) shall be used for—

(i) * * *

(ii) special State projects of regional or national significance to improve the services of the program under this section, *which may include demonstration projects in up to 10 local sites, determined to be geographically and culturally representative of local States and Indian agencies, to evaluate the inclusion of fresh, frozen, or canned fruits and vegetables (to be made available through private funds) as an addition to the supplemental food provided under this section; and*

(11) CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.—

(A) * * *

* * * * *

(C) **ADDITIONAL REQUIREMENTS.**—

(i) *The State agency shall evaluate a vendor applicant based on its shelf prices or on the prices it bids for supplemental foods, which may not exceed its shelf prices.*

(ii) *The State agency shall establish price limitations on the amount that it will pay vendors for supplemental foods. The State agency shall ensure that price limitations do not result in inadequate participant access by geographic area.*

(iii) *In establishing competitive price and price limitation requirements, the State agency may exclude pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program.*

(iv) *The State agency shall establish competitive price requirements and price limitations for vendor peer groups, as necessary to ensure that prices paid to vendors are competitive. Vendor peer group competitive price requirements and price limitations may reflect reasonable estimates of varying costs of acquisition of supplemental foods.*

(D) **INCENTIVE ITEMS.**—*The State agency shall not authorize a retail food store that provides incentive items or other free merchandise to program participants if funds available under this program were used to purchase such items or merchandise.*

(E) RULES OF CONSTRUCTION.—Nothing in this section may be construed to authorize violation of the Sherman Antitrust Act (15 U.S.C. 1 et seq.) or the Robinson-Patman Act (15 U.S.C. 13 et seq.).

(12) MANAGEMENT INFORMATION SYSTEM PLAN.—

(A) * * *

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

[(C) INTERIM PERIOD.—Prior to the date of submission of the report of the Secretary required under subparagraph (B), a State agency may not require retail stores to pay the cost of systems or equipment that may be required to test electronic benefit transfer systems.]

(B) ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

(i) IN GENERAL.—All States that receive Federal funds for design or implementation of electronic benefit transfer (EBT) systems for the program under this section shall use technical specifications or standards, as applicable, as determined by the Secretary, except as provided in clause (ii).

(ii) EXISTING SYSTEMS.—EBT systems for the program under this section that are in development or are issuing benefits as of the date of enactment shall be required to submit within 6 months after the date of enactment of this subparagraph a plan for compliance.

(iii) WAIVER.—The Secretary may waive compliance with this subparagraph for State EBT systems for the program under this section that are issuing benefits as of the date of enactment of this subparagraph until such time that compliance is feasible.

(C) UNIVERSAL PRODUCT CODES DATABASE.—The Secretary shall implement a national Universal Product Code Database for use by all State agencies in carrying out the program and shall make available from appropriated funds such sums as may be required for hosting, hardware, and software configuration, and support.

(13) APPROVED PROVIDERS OF INFANT FORMULA.—

(A) IN GENERAL.—The State agency shall maintain a list of infant formula manufacturers, wholesalers, distributors, and retailers approved to provide infant formula to vendors.

(B) LIST.—The list required under subparagraph (A) shall include food manufacturers, wholesalers, distributors, and retailers licensed in the State in accordance with State law and regulations to distribute infant formula and food manufacturers registered with the U.S. Food and Drug Administration that provide infant formula.

(C) PURCHASE REQUIREMENT.—Vendors authorized to participate in the program under this section shall purchase infant formula from the list required under subparagraph (A).

* * * * *

(i)(1) * * *

* * * * *

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

(i) * * *

(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]** 3 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

* * * * *

(j)(1) * * *

* * * * *

[(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

[(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

[(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.]

[(5)] (4) As used in this subsection:

(A) The term “community health center” has the meaning given the term in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

* * * * *

(m)(1) * * *

* * * * *

(9) FUNDING.—

(A) IN GENERAL.—

[(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$8,000,000 for fiscal year 1994, \$10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 2003.]

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2008.

* * * * *

[(r) DEMONSTRATION PROJECT RELATING TO USE OF THE WIC PROGRAM FOR IDENTIFICATION AND ENROLLMENT OF CHILDREN IN CERTAIN HEALTH PROGRAMS.—

[(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall establish a demonstration project in not more than 20 local agencies in one State under which costs of nutri-

tion services and administration (as defined in subsection (b)(4)) shall include the costs of identification of children eligible for benefits under, and the provision of enrollment assistance for children in—

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

[(B) the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.).

[(2) STATE-RELATED REQUIREMENTS.—The State in which a demonstration project is established under paragraph (1)—

[(A) shall operate not fewer than 20 pilot site locations;

[(B) as of the date of establishment of the demonstration project—

[(i) with respect to the programs referred to in subparagraphs (A) and (B) of paragraph (1)—

[(I) shall have in use a simplified application form with a length of not more than two pages;

[(II) shall accept mail-in applications; and

[(III) shall permit enrollment in the program in a variety of locations; and

[(ii) shall have served as an original pilot site for the program under this section; and

[(C) as of December 31, 1998, shall have had—

[(i) an infant mortality rate that is above the national average; and

[(ii) an overall rate of age-appropriate immunizations against vaccine-preventable diseases that is below 80 percent.

[(3) TERMINATION OF AUTHORITY.—The authority provided by this subsection terminates September 30, 2003.]

* * * * *

NUTRITION EDUCATION AND TRAINING

SEC. 19. (a) * * *

[(PURPOSE

[(b) It is the purpose of this section to establish a system of grants to State educational agencies for the development of comprehensive nutrition education and training programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

[(DEFINITIONS

[(c) For purposes of this section, the term “nutrition education and training program” means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training child nutrition program personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nu-

trition education; (D) developing and using classroom materials and curricula; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health.

【NUTRITION INFORMATION AND TRAINING

【(d)(1) The Secretary is authorized to formulate and carry out a nutrition education and training through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the Richard B. Russell National School Lunch Act, and (C) the conduct of nutrition education activities in schools, child care institutions, and institutions offering summer food service programs under section 13 of the Richard B. Russell National School Lunch Act, and the provision of nutrition education to parents and caregivers.

【(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of State educational agencies, the Department of Health and Human Services, and other interested groups and individuals concerned with improvement of child nutrition.

【(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health and Human Services, the Secretary may make funds authorized in this section available to the Department of Health and Human Services to fund the nutrition education component of the State program without requiring an additional grant application.

【(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational, school food service, child care, and summer food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management, in coordination with the activities authorized under section 21 of the Richard B. Russell National School Lunch Act. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

【(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant

colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute, other institutions of higher education, and other public or private non-profit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools, and in child care institutions and summer food service institutions, with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs.

【AGREEMENTS WITH STATE AGENCIES

【(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

【USE OF FUNDS

【(f)(1) The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for—

【(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

【(B) undertaking an assessment of the nutrition education needs of the State;

【(C) developing a State plan of operation and management for nutrition education;

【(D) applying for and carrying out planning and assessment grants;

【(E) pilot projects and related purposes;

【(F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel;

【(G) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

【(H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section;

【(I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials; and

【(J) other appropriate related activities, as determined by the State.

【(2) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.

[ACCOUNTS, RECORDS, AND REPORTS]

[(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.]

[(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.]

[STATE COORDINATORS FOR NUTRITION; STATE PLAN]

[(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State, prepare a State plan, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.]

[(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education and training needs of the State.]

(b) *PURPOSE.*—*It is the purpose of this section to support effective nutrition education through assistance to State agencies, schools, and nonprofit entities for Team Nutrition and other nutrition education projects that improve student understanding of healthful eating patterns, including an awareness and understanding of the Dietary Guidelines for Americans, the quality of school meals and access to local foods in schools and institutions operating programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and section 4 of this Act.*

(c) *TEAM NUTRITION NETWORK.*—

(1) *PURPOSE.*—*The purpose of the Team Nutrition Network is to—*

(A) *promote the nutritional health of the Nation's school children through nutrition education, physical activity and other activities that support healthy lifestyles for children based on the Dietary Guidelines for Americans, issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, and the physical fitness guidelines issued by the Secretary of Health and Human Services;*

(B) *provide assistance to States for the development of State-wide, comprehensive, and integrated nutrition education and physical fitness programs; and*

(C) *provide training and technical assistance to States, school and community nutrition programs, and child nutrition food service professionals.*

(2) *STATE COORDINATOR.*—*The State Team Nutrition Network Coordinator shall—*

(A) administer and coordinate a comprehensive integrated statewide nutrition education program; and

(B) coordinate efforts with the Food and Nutrition Service and State agencies responsible for children's health programs.

(3) *TEAM NUTRITION NETWORK.*—Subject to the availability or appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall, on a competitive basis, provide assistance to States for the purpose of creating model nutrition education and physical activity programs, consistent with current dietary and fitness guidelines, for students in elementary schools and secondary schools.

(4) *REQUIREMENTS FOR STATE PARTICIPATION.*—To be eligible to receive assistance under this subsection, a State Coordinator shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of how the proposed nutrition and physical activity program will promote healthy eating and physical activity and fitness and address the health and social consequences of children who are at risk of becoming overweight or obese;

(B) information describing how nutrition activities are to be coordinated at the State level with other health activities conducted by education, health and agriculture agencies;

(C) information describing how initiatives to promote physical activity are to be coordinated at the State level with other initiatives to promote physical activity conducted by education, health, and parks and recreation agencies;

(D) a description of the consultative process that the State Coordinator employed in the development of the model nutrition and physical activity programs, including consultations with individuals and organizations with expertise in promoting public health, nutrition, or physical activity, and organizations representing the agriculture, food and beverage, fitness, and sports and recreation industries;

(E) a description of how the State Coordinator will evaluate the effectiveness of its program; and

(F) a description of how any and all communications to parents and guardians of all students who are members of a household receiving or applying for assistance under the program shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

(5) *DURATION.*—Subject to the availability of funds made available to carry out this subsection, a State Coordinator shall conduct the project for a period of 3 successive school years.

(6) *AUTHORIZED ACTIVITIES.*—An eligible applicant that receives assistance under this subsection may use funds to carry out one or more of the following activities—

(A) collecting, analyzing, and disseminating data regarding the extent to which children and youth in the State are overweight or physically inactive and the programs and services available to meet those needs;

(B) developing and implementing model elementary and secondary education curricula to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;

(C) developing and implementing pilot programs in schools to increase physical activity and to enhance the nutritional status of students, including through the increased consumption of fruits and vegetables, whole grains, and lowfat dairy products;

(D) developing and implementing State guidelines in health, which include nutrition education, and physical education and emphasize regular physical activity during school hours;

(E) collaborating with community based organizations, volunteer organizations, State medical associations, and public health groups to develop and implement nutrition and physical education programs targeting lower income children, ethnic minorities, and youth at a greater risk for obesity;

(F) collaborating with public or private organizations that have as a mission the raising of public awareness of the importance of a balanced diet and an active lifestyle; and

(G) providing training and technical assistance to teachers and school food service professionals consistent with the purpose of this section.

(7) *LIMITATION.*—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

(8) *REPORT.*—Within 18 months of completion of the projects and the evaluations, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of the demonstration programs and shall make such reports available to the public, including through the Internet.

(9) *INDEPENDENT EVALUATION.*—

(A) *IN GENERAL.*—The Secretary shall enter into an agreement with an independent, non-partisan science-based research organization to conduct a comprehensive independent evaluation of the effectiveness of the Team Nutrition initiative and the Team Nutrition Network authorized by this subsection and to identify best practices in—

(i) improving student understanding of healthful eating patterns;

(ii) engaging students in regular physical activity and improving physical fitness;

(iii) reducing diabetes and obesity rates in school children;

(iv) improving student nutrition behaviors on the school campus including healthier meal choices evidenced by greater inclusion of fruits, vegetables, whole

grains, and lean dairy and protein in meal and snack selections;

(v) providing training and technical assistance for food service professionals resulting in the availability of healthy meals that appeal to ethnic and cultural taste preferences;

(vi) linking meals programs to nutrition education activities; and

(vii) successfully involving school administrators, the private sector, public health agencies, non-profit organizations, and other community partners.

(B) *REPORT.*—Not later than October 1, 2007, the Secretary shall transmit the findings of the independent evaluation to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) *LOCAL NUTRITION AND PHYSICAL ACTIVITY PROJECT.*—

(1) *IN GENERAL.*—Subject to the availability of appropriations to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall provide assistance to not more than 100 local educational agencies, at least one per State, for the establishment of pilot projects for purposes of promoting healthy eating habits and increasing physical activity, consistent with the Dietary Guidelines for Americans issued jointly by the Secretary of Agriculture and the Secretary of Health and Human Services, among elementary and secondary education students.

(2) *REQUIREMENT FOR PARTICIPATION IN PILOT PROJECT.*—To be eligible to receive assistance under this subsection, a local educational agency shall, in consultation with individuals who possess education or experience appropriate for representing the general field of public health, including nutrition and fitness professionals, submit to the Secretary an application that shall include—

(A) a description of the local educational agency's need for nutrition and physical activity programs;

(B) a description of how the proposed project will improve health and nutrition through education and increased access to physical activity;

(C) a description of how funds under this subsection will be coordinated with other programs under this Act, the Richard B. Russell National School Lunch Act, or other Acts, as appropriate, to improve student health and nutrition;

(D) a statement of the local educational agency's measurable goals for nutrition and physical education programs and promotion;

(E) a description of how the proposed project will be aligned with the local wellness policy required under the Act;

(F) a description of the procedures the agency will use for assessing and publicly reporting progress toward meeting those goals; and

(G) a description of how communications to parents and guardians of participating students regarding the activities under this subsection shall be in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand.

(3) *DURATION*.—Subject to the availability of funds made available to carry out this subsection, a local educational agency receiving assistance under this subsection shall conduct the project during a period of 3 successive school years.

(4) *AUTHORIZED ACTIVITIES*.—An eligible applicant that receives assistance under this subsection—

(A) shall use funds provided to—

(i) promote healthy eating through the development and implementation of nutrition education programs and curricula based on the Dietary Guidelines for Americans; and

(ii) increase opportunities for physical activity through after school programs, athletics, intramural activities, and recess; and

(B) may use funds provided to—

(i) educate parents and students about the relationship of a poor diet and inactivity to obesity and other health problems;

(ii) develop and implement physical education programs that promote fitness and lifelong activity;

(iii) provide training and technical assistance to food service professionals to develop nutritious, more appealing menus and recipes;

(iv) incorporate nutrition education into physical education, health education, and after school programs, including athletics;

(v) involve parents, nutrition professionals, food service staff, educators, community leaders, and other interested parties in assessing the food options in the school environment and developing and implementing an action plan to promote a balanced and healthy diet;

(vi) provide nutrient content or nutrition information on meals served through the school lunch or school breakfast programs and items sold a la carte during meal times;

(vii) encourage the increased consumption of a variety of healthy foods through new initiatives such as salad bars and fruit bars; and

(viii) provide nutrition education, including sports nutrition education, for teachers, coaches, food service staff, athletic trainers, and school nurses.

(5) *LIMITATION*.—Materials prepared under this subsection regarding agricultural commodities, food, or beverages must be factual and without bias.

(6) *REPORT*.—Within 18 months of completion of the projects and evaluations, the Secretary shall transmit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Agriculture, Nutrition and Forestry of the Senate a report describing the results of the evaluation of

the pilot projects and shall make such reports available to the public, including through the Internet.

(e) NUTRITION EDUCATION SUPPORT.—

(1) IN GENERAL.—In carrying out the purpose of this section to support nutrition education, the Secretary may provide for technical assistance and grants to improve the quality of school meals and access to local foods in schools and institutions.

(2) SCHOOL MEALS INITIATIVE.—The Secretary may provide assistance to enable State educational agencies to—

(A) implement the recommendations of the Secretary's School Meals Initiative for Healthy Children;

(B) increase the consumption of fruits, vegetables, low-fat dairy products, and whole grains;

(C) reduce saturated fat and sodium in school meals;

(D) improve school nutritional environments; and

(E) conduct other activities that aid schools in carrying out the Secretary's School Meals Initiative for Healthy Children.

(3) ACCESS TO LOCAL FOODS.—The Secretary may provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities for projects that—

(A) improve access to local foods in schools and institutions participating in programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and Section 4 of this Act through farm-to-cafeteria activities that may include the acquisition of food and appropriate equipment and the provision of training and education;

(B) are, at a minimum, designed to procure local foods from small- and medium-sized farms for school meals;

(C) support nutrition education activities or curriculum planning that incorporates the participation of school-children in farm and agriculture education activities;

(D) develop a sustained commitment to farm-to-cafeteria projects in the community by linking schools, agricultural producers, parents, and other community stakeholders;

(E) require \$100,000 or less in Federal contributions;

(F) require a Federal share of costs not to exceed 75 percent;

(G) provide matching support in the form of cash or in kind contributions (including facilities, equipment, or services provided by State and local governments and private sources); and

(H) cooperate in an evaluation to be carried out by the Secretary.

[(i)] (f) 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.]

(1) *IN GENERAL.*—*There is authorized to be appropriated such sums as may be necessary for carrying out this section for fiscal years 2004 through 2008.*

* * * * *

SECTION 15 OF THE COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS OF 1987

SEC. 15. PAYMENT OF COSTS ASSOCIATED WITH REMOVAL OF COM- MODITIES THAT POSE A HEALTH OR SAFETY RISK.

(a) * * *

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(e) *TERMINATION DATE.*—The authority provided by this section terminates effective [April 1, 2004] *October 1, 2008*.

ADDITIONAL VIEWS

H.R. 3873, the Child Nutrition Improvement and Integrity Act sets the stage for important reforms in federal child nutrition programs. It will eliminate various barriers to participation for low-income children and families and ensure greater access to these critical nutrition programs. However, we are concerned that this bill misses a key opportunity by not addressing a critical health issue for children and youth: the increasing rate of childhood obesity.

According to the 1999–2000 National Health and Nutrition Examination Survey (NHANES), the percentage of children ages 12 through 19 who are overweight is 15.5 percent, among children 6–11 years of age is 15.3 percent, and among children between 2 and 5 years old is 10.4 percent. These numbers have grown significantly over the last decade. Chronic diseases associated with adulthood are showing up in our overweight children, including “adult-onset” diabetes and hypertension. This health threat comes with numerous costs. Children who are obese report greater levels of emotional distress than children who suffer from cancer, and children who are obese are more likely to become overweight or obese adults. We also know that there has been a threefold increase in annual hospital costs for obesity-related diseases in children over the past twenty years.

Federal child nutrition programs should ensure that the foods available to children are nutritious and healthy and provide children with choices necessary to achieve a healthy lifestyle. Unfortunately, there is much evidence to suggest that many of the foods available to children during the school day do not advance this goal. Over the last decade there has been a shocking trend toward increasing sales of unhealthful beverages and snacks in competition with the provision of breakfasts and lunches offered through the Federal school meals program. According to the most recent national data, 98 percent of high schools, 74 percent of middle schools and 43 percent of elementary schools have vending machines, school stores or snack bars. The most common foods they sell are carbonated sodas, fruit drinks with low percentages of juice, salty snacks and high fat baked goods. School cafeteria “a la carte” lines most commonly sell desserts, ice cream, chips and fruit drinks with little or no juice content.

While there are federal dietary guidelines for meals served that are reimbursed through the federal meals program, federal nutrition standards for foods that are not offered through the federal meals program are lacking. As a result, children are faced with numerous food choices during the school day with little nutritional value.

The statutory authority to regulate foods sold in competition with the reimbursable meal is extremely limited. During school meal periods, foods of minimal nutritional value are not allowed to be sold

in the food service areas, but may be sold anywhere else in the school at any time. Our colleague, Representative Tim Ryan (D-OH) offered an amendment in Committee that would have resulted in enormous improvements in the school nutrition environment for children. His amendment would have given the Secretary clear authority in the development of regulations to control the sale of less healthful beverages and snacks to children in schools that offer school breakfast and lunch programs. The amendment also would have required the Secretary to commission a study by the Institute of Medicine to recommend nutrition standards, based on nutritional science, for foods sold on the school campus. This study would have been invaluable in assisting the Secretary in the development of national standards for competitive foods, and it also would have been a very helpful reference for the local wellness councils required by the bill as they review nutrition standards for foods sold in schools. We regret that the Amendment failed along party lines. Nutritional quality should not be a partisan issue.

Additionally, we feel it is critical that Congress address the issue of safety in summer camps. Congressman Robert Andrews offered an amendment during the mark up that would have increased health and safety standards for children at summer camps in states without standards, but withdrew the measure in the hopes of working with the majority on report language. The concern was not addressed in the report, and members urge Congress to take strides in closing the health and safety gap at summer camps.

Elimination of Reduced Price School Meals

Democratic Members strongly support the elimination of the reduced price meal category to allow more children to receive free meals. Currently, there are three income categories in the school meal program (school lunch and breakfast): free meals for children with family income below 130% of poverty; reduced price meals (usually, 40¢) between 130% and 185% of poverty; paid meals above 185%. The Special Supplemental Feeding Program for Women, Infants and Children, known as WIC, targets its services and benefits to low-income women and their children below 185% of poverty.

School boards all over the country are reporting that many parents are finding it increasingly difficult to pay the reduced price lunch and breakfast charge, each day, for all children. For some families, the fee is an insurmountable barrier to participation. Over 500 school boards, including many state boards of education, have passed resolutions urging the Congress to eliminate the reduced price charge. Such action would make the school meal programs more accessible to low-income families; better prepare students to learn; and make the programs easier to administer.

While funding is not presently available under the Republican budget resolution to eliminate the reduced price lunch category, Democratic Members believe this should be a priority. Committee Democratic Members support elimination of the reduced price category and look forward to making this a priority for future budget allocations.

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