

109TH CONGRESS
1ST SESSION

H. R. 2844

To amend the National Nutrition Monitoring and Related Research Act of 1990 to foster greater understanding of human dietary eating patterns and food intake, physical activity level, food security, dietary exposure, and nutritional status; to provide timely information to public program managers and private sector decision makers to improve nutritional intake, physical activity, health, productivity and other measures of quality of life of Americans, based on scientifically established norms and the knowledge and experience developed under the National Nutrition Monitoring and Related Research Act of 1990 over the past decade; to reauthorize nutrition monitoring programs; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. HINCHEY (for himself, Mr. LATHAM, Mr. SANDERS, Mr. McNULTY, Mr. FRANK of Massachusetts, and Mr. AL GREEN of Texas) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the National Nutrition Monitoring and Related Research Act of 1990 to foster greater understanding of human dietary eating patterns and food intake, physical activity level, food security, dietary exposure, and nutritional status; to provide timely information to public program managers and private sector decision makers to improve nutritional intake, physical activity, health, productivity and other measures of quality of life of Americans, based on scientifically established norms and the knowledge and experience developed under the Na-

tional Nutrition Monitoring and Related Research Act of 1990 over the past decade; to reauthorize nutrition monitoring programs; and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “National Health, Nutri-
5 tion, and Physical Activity Monitoring Act of 2005”.

6 **SEC. 2. AMENDMENTS.**

7 The National Nutrition Monitoring and Related Re-
8 search Act of 1990 (7 U.S.C. 5301–5342) is amended—

9 (1) by amending section 2 to read as follows:

10 **“SEC. 2. FINDINGS AND PURPOSES.**

11 “(a) FINDINGS.—Congress finds the following:

12 “(1) The United States faces an epidemic due
13 to the large number of overweight and obese Ameri-
14 cans. The Department of Agriculture (in this Act re-
15 ferred to as ‘USDA’) and the Department Health
16 and Human Services (in this Act referred to as
17 ‘DHHS’) have identified obesity as a high priority
18 and are mobilizing resources and staff to address
19 this growing problem.

20 “(2) Two of the major national surveys that
21 collect data on dietary intakes of foods and nutri-
22 ents, the National Health and Nutrition Examina-
23 tion Survey (in this Act referred to as ‘NHANES’)

1 conducted by the DHHS, and the Continuing Survey
2 of Food Intakes by Individuals (in this Act referred
3 to as ‘CSFII’) previously conducted by the USDA,
4 were merged in 2002 into an integrated survey in-
5 tended to be the primary source of nationally rep-
6 resentative data on the nutritional status and die-
7 tary intakes of foods and nutrients.

8 “(3) The newly integrated NHANES obtains
9 data that contribute to our understanding of excess
10 body weight, diabetes, hypertension,
11 hypercholesterolemia, stroke, gallstones, coronary
12 heart disease, congestive heart failure, respiratory
13 problems, bladder control problems, psychological
14 disorders (such as depression and eating disorders),
15 certain types of cancer (such as breast, prostate, and
16 colon), as well as exposure via food to environmental
17 toxins and contaminants.

18 “(4) Preventable lifestyle-related diseases are
19 major contributors to poor quality of life and health
20 care expenditures for an increasing proportion of the
21 population. There is a lack of tracking of health be-
22 haviors related to dietary intakes and physical activ-
23 ity, via surveys such as the Diet and Health Knowl-
24 edge Survey, which has not been conducted since
25 1999.

1 “(5) Preventable dietary and physical activity
2 related diseases cost the economy over \$117 billion
3 annually and is predicted to rise to \$1.7 trillion in
4 the next ten years. Nevertheless, funding for the na-
5 tional, comprehensive nutrition and health moni-
6 toring system has not increased in real dollars since
7 1992.

8 “(6) The nation commits over \$35 billion to
9 Federal food and nutrition assistance and education
10 designed to maintain and improve the health of mil-
11 lions of Americans, but Federal agencies lack ade-
12 quate data from a statistically valid number of nu-
13 tritionally vulnerable individuals on dietary and die-
14 tary supplement intake, physical activity, food safe-
15 ty, food security and bioterrorism risks, and diet and
16 health knowledge to inform management decisions
17 on Federal nutrition and public health efforts.

18 “(7) Compositional changes in agricultural com-
19 modities as a result of new technology, as well as re-
20 formulation and development of food products, have
21 brought improvements in the food supply. Any as-
22 sessment of food consumption patterns and intake
23 must take into consideration product modernization
24 and include newly available estimates of all health
25 promoting components in food.

1 “(8) The USDA and DHHS have relied on
2 data on dietary intake, physical activity, nutritional
3 status, and diet and health knowledge to advise deci-
4 sions about the ‘Dietary Guidelines for Americans
5 and the Food Guidance System’.

6 “(9) Substantial Federal resources at the Food
7 and Drug Administration (in this Act referred to as
8 ‘FDA’) are committed to developing food fortifica-
9 tion policies, food and nutrition labeling policies, and
10 risk assessments on food additives and contaminants
11 based on the dietary intake data collected by the in-
12 tegrated NHANES.

13 “(10) The Environmental Protection Agency (in
14 this Act referred to as ‘EPA’) cites the dietary in-
15 take data from the integrated NHANES as the
16 basis for exposure estimates included in risk assess-
17 ment of pesticides and toxic substances, but many
18 scientists, including those at EPA, National Insti-
19 tutes of Health (in this Act referred to as ‘NIH’),
20 and the National Academy of Sciences (in this Act
21 referred to as ‘NAS’) recommend that a larger longi-
22 tudinal study is needed to collect additional data on
23 the food consumption patterns of infants and chil-
24 dren for risk assessments.

1 “(b) PURPOSES.—The purposes of this Act are as fol-
2 lows:

3 “(1) To reauthorize the National Nutrition
4 Monitoring and Related Research Act of 1990 to
5 strengthen the combined DHHS and USDA nutri-
6 tion monitoring and research activities.

7 “(2) To affirm and enhance America’s commit-
8 ment to nutrition for all, and to ensure sufficient re-
9 sources for a national nutrition monitoring system
10 that can support both management decision-making
11 and research needed to address and improve the cri-
12 sis of obesity, nutrition-related diseases, physical in-
13 activity, food insecurity, and the poor nutritional
14 quality of the American diet, as well as provide the
15 data needed to protect the public against environ-
16 mental pathogens and contaminants.

17 “(3) To strengthen the scientific and statistical
18 basis for the comprehensive nutrition monitoring
19 system to enable effective management and informed
20 decision-making pertaining to improving outcomes of
21 dietary and physical activity guidance and nutrition
22 education, food and nutrition labeling, food fortifica-
23 tion, risk assessments of pesticides, toxic substances,
24 and food additives, and exposure to potential health
25 promoting components of foods.

1 “(4) To enhance the performance and benefits
2 of current Federal nutrition monitoring and related
3 data collection and research activities, and thereby
4 provide a scientific basis for the maintenance and
5 improvement of the nutritional status of the people
6 of the United States and the quality (including nu-
7 tritive and nonnutritive content) of food supplied
8 and consumed in the United States.

9 “(5) To improve the quality of retrievable na-
10 tional nutritional, physical activity, and health status
11 data, related data bases and networks to improve its
12 value and accessibility for public and private sector
13 decision makers at Federal and State level.

14 “(6) To coordinate the Federal nutrition moni-
15 toring activities to provide more timely and useful
16 data for the many health, nutrition, physical activ-
17 ity, food safety, and food security programs and en-
18 tities that use it; and to stimulate development and
19 adoption of uniform indicators, standards, meth-
20 odologies, technologies, and procedures for food and
21 nutrition monitoring.

22 “(7) To advance mechanisms for addressing the
23 food, nutrition, and physical activity monitoring
24 needs of the USDA nutrition assistance programs,
25 Federal dietary guidance and nutrition education ac-

1 activities, the USDA Extension Service, the USDA
2 economic, food safety, and human nutrition research
3 programs, the EPA, the Food and Drug Administra-
4 tion, the Centers for Disease Control and Prevention
5 (including the National Center for Health Statis-
6 tics), the National Institutes of Health, the Depart-
7 ment of Defense, the Department of Homeland Se-
8 curity, other Federal data users, State, and local
9 governments, scientific and engineering commu-
10 nities, health professionals, and the public.

11 “(8) To provide for the conduct of such sci-
12 entific research to ensure that timely collections of
13 nutrition and physical activity monitoring data ade-
14 quate for program management purposes are com-
15 pleted, and that such data are sufficient for cor-
16 ollary scientific analysis that can contribute to the
17 scientific understanding of human nutrient and food
18 consumption.

19 “(9) To secure ongoing source of funding.”;

20 (2) in section 3—

21 (A) by striking paragraphs (1), (3), and
22 (6), and

23 (B) by redesignating paragraphs (2), (4),
24 (5), (7), (8), and (9) as paragraphs (1), (2),
25 (3), (4), (5), and (6), respectively,

1 (3) in section 101—

2 (A) by striking subsection (c),

3 (B) by redesignating subsection (b) as sub-
4 section (c),

5 (C) by inserting after subsection (a) the
6 following:

7 “(b) EXTENSION OF PROGRAM.—To carry out the
8 purposes of this Act, the 10-year coordinated nutrition
9 monitoring system known as the ‘National Nutrition Mon-
10 itoring and Related Research Program’ is hereby extended
11 for the 10-year period beginning on the date of the enact-
12 ment of the ‘National Health, Nutrition, and Physical Ac-
13 tivity Monitoring Act of 2005’.”,

14 (D) in subsection (d)—

15 (i) in paragraph (1) by striking “;
16 and” and inserting a period,

17 (ii) by striking paragraph (2), and

18 (iii) by striking “shall— (1) be” and
19 inserting “shall be”,

20 (4) by amending section 102 to read as follows:

21 **“SEC. 102. IN GENERAL.**

22 “The Secretary of Agriculture and the Secretary of
23 Health and Human Services shall provide jointly for the—

24 “(1)(A) continuous collection of data that is na-
25 tionally representative;

1 “(B) periodic collection of data representative,
2 to the extent practicable, of special populations such
3 as, but not limited to Native Americans, Alaska Na-
4 tives, rural populations, the homeless, and Hispanic
5 Americans, through community Health and Nutri-
6 tion Examination Surveys;

7 “(C) timely distribution of statistics through
8 publicly accessible channels, to determine the nutri-
9 tional status, physical activity levels, food security,
10 and food consumption of Americans; and

11 “(D) collaboration and coordination with users
12 of the data to address the nutrition monitoring
13 needs of—

14 “(i) USDA nutrition assistance programs,
15 Federal dietary guidance, food guidance system,
16 and nutrition education, and USDA Extension
17 Service programs;

18 “(ii) USDA economic, food safety, and
19 human nutrition research programs;

20 “(iii) risk assessments of the EPA Office
21 of Pesticides and the EPA Office of Children’s
22 Health;

23 “(iv) risk assessments, fortification deci-
24 sions and labeling policies of FDA;

1 “(v) research, education, and programs of
2 Centers for Disease Control and Prevention (in-
3 cluding the National Center for Health Statis-
4 tics), the National Institutes of Health, the De-
5 partment of Defense, the Armed Services, the
6 Department of Homeland Security, and other
7 Federal data users;

8 “(vi) health and nutrition programs of
9 State and local governments; and

10 “(vii) food and nutrition activities of the
11 private sector (including both the food and die-
12 tary supplement industries, scientific and engi-
13 neering communities, and health professionals)
14 and the public;

15 “(2) analysis of data collected as part of the in-
16 tegrated NHANES, when new data becomes avail-
17 able, and integration with data collected under para-
18 graph (1) to the extent practicable, to determine the
19 nutrition, physical activity, and health status of
20 Americans to guide policy recommendations regard-
21 ing Federal nutrition programs and dietary and
22 physical activity guidance, as well as estimate die-
23 tary exposures of vulnerable groups to environmental
24 pathogens and contaminants, and to compile peri-
25 odic reports, at least once every 5 years, of trends

1 identifying nutrition, physical activity, and health
2 status concerns that are to be made available to the
3 public;

4 “(3) continuous updating, in consultation with
5 public and private stakeholders and relevant profes-
6 sional groups, of the food composition tables, using
7 all reliable nutrient composition data and all avail-
8 able resources to analyze foods, to keep tables cur-
9 rent with the food supply in the marketplace for
10 maximum usefulness in program design, and man-
11 agement and evaluation, as well as scientific re-
12 search;

13 “(4) development of data collection methods
14 and standards for analyses that could be used by
15 USDA or made available to other entities, for as-
16 sessment of nutritional and physical activity data;

17 “(5) awarding competitive grants to States,
18 public, and nonprofit entities to encourage and assist
19 local and State governments in collecting and ana-
20 lyzing nutritional and physical activity data, based
21 on the methodology developed for the integrated
22 NHANES or developed under paragraph (4);

23 “(6) provision of competitive grants and other
24 programs to accelerate the development of uniform
25 and cost-effective standards and indicators for the

1 assessment and monitoring of nutritional, dietary,
2 and physical activity status and for relating food
3 consumption and physical activity patterns to nutri-
4 tional and health status and to further the purposes
5 of and implement the provisions of this Act;

6 “(7) availability of technical assistance, stand-
7 ards, and methodologies, to the extent practicable, to
8 grantees supported by this subsection and other fed-
9 erally funded nutrition programs, to maximize the
10 data quality and comparability with other studies;
11 and

12 “(8) consultation, at least annually, with Fed-
13 eral agencies, State and local governments, the pri-
14 vate sector, scientific communities, health profes-
15 sionals, and the public, regarding monitoring and re-
16 lated research needs for determining the nutritional
17 status and physical activity levels of the United
18 States population, especially infants, children, youth,
19 ethnic minorities, and persons with mobility-limiting
20 physical disabilities of all ages.”,

21 (5) by striking sections 103, 104, and 105, and
22 inserting the following:

23 **“SEC. 103. RULE OF CONSTRUCTION.**

24 “Nothing in this title may be construed to grant any
25 new regulatory authority or to limit, expand, or otherwise

1 modify any regulatory authority under existing law, or to
2 establish new criteria, standards, or requirements for reg-
3 ulation under existing law.”,

4 (6) in section 106—

5 (A) in subsection (a)—

6 (i) by striking “Committees on Agri-
7 culture and Science, Space, and Tech-
8 nology of the House of Representatives
9 and to the Committees on Agriculture, Nu-
10 trition and Forestry, and Governmental
11 Affairs of the Senate” and inserting “Com-
12 mittee on Agriculture, the Committee on
13 Appropriations, the Committee on the
14 Budget, and the Committee on Energy and
15 Commerce of the House of Representa-
16 tives, and to the Committee on Agri-
17 culture, Nutrition, and Forestry, the Com-
18 mittee on Appropriations, the Committee
19 on Budget, and the Committee on Home-
20 land Security and Governmental Affairs of
21 the Senate”,

22 (ii) by redesignating subsections (a)
23 and (b) as subsections (c) and (d), respec-
24 tively, and

1 (iii) by inserting before subsection (c),
2 as so redesignated, the following:

3 “(a) There are authorized to be appropriated
4 \$44,600,000 for fiscal year 2006, \$46,200,000 for fiscal
5 year 2007, \$47,800,000 for fiscal year 2008, \$49,500,000
6 for fiscal year 2009, \$51,200,000 for fiscal year 2010,
7 \$53,000,000 for fiscal year 2011, \$54,800,000 for fiscal
8 year 2012, \$56,700,000 for fiscal year 2013, \$58,700,000
9 for fiscal year 2014, and \$60,754,500 for fiscal year 2015,
10 for the National Center for Health Statistics, Centers for
11 Disease Control and Prevention, and \$15,525,000 for fis-
12 cal year 2006, \$16,100,000 for fiscal year 2007,
13 \$16,700,000 for fiscal year 2008, \$17,300,000 for fiscal
14 year 2009, \$17,900,000 for fiscal year 2010, \$18,500,000
15 for fiscal year 2011, \$19,100,000 for fiscal year 2012,
16 \$19,800,000 for fiscal year 2013, \$20,500,000 for fiscal
17 year 2014, \$22,217,500 for fiscal year 2015, for the Agri-
18 cultural Research Service, to—

19 “(1) collect continuously dietary, health, phys-
20 ical activity, diet and health knowledge data on a na-
21 tionally representative sample;

22 “(2) collect periodically data on special popu-
23 lations;

24 “(3) distribute data to the public in a timely
25 fashion;

1 “(4) analyze data when new data becomes avail-
2 able;

3 “(5) update continuously food composition ta-
4 bles;

5 “(6) research and develop data collection meth-
6 ods and standards;

7 “(7) provide competitive grants and technical
8 assistance for local and State government data col-
9 lection and analysis; and

10 “(8) hold annual meeting with stakeholders and
11 users of the data.

12 “(b) The funding for the comprehensive nutrition
13 monitoring should include, but not be limited to, con-
14 tinuing the integrated NHANES on at least 5000 individ-
15 uals on an annual basis. An additional \$7,000,000 for the
16 National Center for Health Statistics of the Centers for
17 Disease Control and Prevention for each fiscal year is au-
18 thorized to be appropriated to plan and commence in fiscal
19 year 2006 and each subsequent year, the community
20 Health and Nutrition Examination Survey. Additional
21 funds are authorized to be appropriated for Agriculture
22 Research Service to commence a food consumption longi-
23 tudinal survey of at least 15,000 individuals in fiscal year
24 2007.”.

25 (7) by striking title II, and

1 (8) in title III—

2 (A) in section 301—

3 (i) in subsection (a) by amending
4 paragraph (1) to read as follows:

5 “(1) IN GENERAL.—The Secretary of Agriculture
6 and the Secretary of Health and Human Services shall
7 publish, at least every 10 years, coordinated with any
8 other Department effort to set health goals, a report enti-
9 tled ‘Dietary Guidelines for Americans’ that shall be based
10 on the preponderance of the nutrition monitoring data and
11 the scientific and medical knowledge that is current at the
12 time. This publication shall be promoted by each Federal
13 agency in carrying out any Federal food, nutrition, or
14 health program and should serve as the basis for nutrition
15 education, nutrition information, and food assistance pro-
16 grams.”,

17 (ii) in subsection (b)(2) by amending
18 subparagraph (A) to read as follows:

19 “(A) IN GENERAL.—(i) During the 60-day review pe-
20 riod established in paragraph (1), the Secretaries shall re-
21 view, and approve or disapprove, such guidance to assure
22 that the guidance either is consistent with the ‘Dietary
23 Guidelines for Americans’ or that the guidance is based
24 on medical or new scientific knowledge that is determined

1 to comply with the standard of significant scientific agree-
2 ment.

3 “(ii) If after such 60-day period neither Secretary no-
4 tifies the proposing agency that such guidance has been
5 disapproved, then such guidance may be issued by the
6 agency. If both Secretaries disapprove of such guidance,
7 it shall be returned to the agency.

8 “(iii) If either Secretary finds that such guidance is
9 inconsistent with the ‘Dietary Guidelines for Americans’
10 and so notifies the proposing agency, such agency shall
11 follow the procedures set forth in this subsection before
12 disseminating such proposal to the public in final form.

13 “(iv) If after such 60-day period, either Secretary dis-
14 approves such guidance as inconsistent with the ‘Dietary
15 Guidelines for Americans’ the proposing agency shall—

16 “(I) publish a notice in the Federal Register of
17 the availability of the full text of the proposal and
18 the preamble of such proposal that shall explain the
19 basis and purpose for the proposed dietary guidance;

20 “(II) provide in such notice for a public com-
21 ment period of 30 days; and

22 “(III) make available for public inspection and
23 copying during normal business hours any comment
24 received by the agency during such comment pe-
25 riod.”,

1 (iii) by redesignating section 301 as
2 section 201, and

3 (iv) by striking section 302, and
4 (B) by redesignating title III as title II.

○