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IMPROVING CHILD NUTRITION AND EDUCATION ACT OF 2016

DECEMBER 8, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5003]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 5003) to reauthorize 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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Improving Child Nutrition and Education Act of 2016".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—NATIONAL SCHOOL LUNCH ACT

Sec. 100. State agency.
Sec. 101. Apportionments to States.
Sec. 102. Repeal of nutrition promotion.
Sec. 103. Direct Federal expenditures.
Sec. 104. Nutritional and other program requirements.
Sec. 105. Miscellaneous provisions.
Sec. 106. Summer food service program for children.
Sec. 107. Commodity distribution program.
Sec. 108. Child and adult care food program.
Sec. 109. Demonstration projects.
Sec. 110. Fruit and vegetable program.
Sec. 111. Compliance and accountability.
Sec. 112. Repeal of State childhood hunger challenge grants.

Sec. 113. Duties of the Secretary relating to nonprocurement debarment.
Sec. 114. Improvements to school lunch facilities.
Sec. 115. Prohibitions.

TITLE II—CHILD NUTRITION ACT

Sec. 201. Special milk program authorization.
Sec. 202. School breakfast program.
Sec. 203. State administrative expenses.
Sec. 204. Regulations.
Sec. 205. Definition of State agency.
Sec. 206. Special supplemental nutrition program for women, infants, and children.
Sec. 207. Team nutrition network.

TITLE III—MISCELLANEOUS

Sec. 301. Reviews.
Sec. 302. Program delivery.
Sec. 303. Product availability.
Sec. 304. Procurement.
Sec. 305. School Nutrition Advisory Committee.
Sec. 306. Paperwork reduction.
Sec. 307. Technology.
Sec. 308. Improving health and safety oversight and monitoring for the child and adult care food program.
Sec. 309. Technical corrections.
Sec. 310. Budgetary effects.
Sec. 311. Effective date.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of Agriculture.

TITLE I—NATIONAL SCHOOL LUNCH ACT

SEC. 100. STATE AGENCY.

In each of the following Acts, by striking "State educational agency" and "State educational agencies" each place such term appears (including any headings) and inserting "State agency" and "State agencies", respectively:

(1) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

SEC. 101. APPORTIONMENTS TO STATES.

Section 4(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking "Beginning on" and all that follows through "the Secretary" and inserting "The Secretary";

(B) in subparagraph (E), by striking "Beginning on" and all that follows through "school food authorities" and inserting "School food authorities"; and

(C) in subparagraph (F)(iii)—

(i) in subclause (I), by inserting "(as in effect on the day before the date of the enactment of the Improving Child Nutrition and Education Act of 2016)" after "subparagraph (A)(ii)"; and

(ii) by adding at the end the following:

"(III) SUNSET.—The Secretary shall return to the general fund of the Treasury any funds that were made available under this subparagraph but not obligated by a State agency as of September 30, 2016."; and

(2) by adding at the end the following:

"(4) ANNOUNCEMENTS.—With respect to reimbursement rates described in this subsection, the Secretary shall announce the rates and, to the maximum extent practicable, any associated guidance by February 15 of the school year prior to the school year for which the rates and guidance will become effective.".

SEC. 102. REPEAL OF NUTRITION PROMOTION.

Section 5 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1754) is repealed.

SEC. 103. DIRECT FEDERAL EXPENDITURES.

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

(1) in subsection (c)—

(A) by striking "(c)(1)(A) The national average" and all that follows through "(D) Among those commodities" and inserting the following:

"(c) CALCULATION OF TOTAL ASSISTANCE.—

"(1) NATIONAL AVERAGE VALUE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the national average value of donated foods, or cash payments in lieu thereof, shall be equal to the quotient obtained by dividing, not later than February 15 of each year for the upcoming school year—

"(i) the total funds available in the preceding school year under section 4, this section, and section 11; by

"(ii) the number of lunches served in the preceding school year in all schools participating in the school lunch program under this Act.

"(B) ADJUSTMENT.—

"(i) IN GENERAL.—The value determined under subparagraph (A) shall be adjusted by the annual percentage change in a 3-month average value of the Producer Price Index for Foods Used in Schools and Institutions of the Bureau of Labor Statistics (in this subparagraph referred to as the 'Index') for the preceding September, October, and November.

"(ii) REQUIREMENT.—An adjustment under clause (i) shall be computed to the nearest ¼ cent.

"(iii) INDEX.—

"(I) IN GENERAL.—The Index shall be computed using 5 major food components in the Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils).

"(II) COMPONENTS.—Each component described in subclause (I) shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics.

"(iv) MINIMUM AMOUNT OF COMMODITY ASSISTANCE.—Not less than 12 percent of the value adjusted in accordance with this subparagraph shall be provided in the form of commodity assistance.

"(C) INSUFFICIENT AMOUNTS.—If amounts available to carry out section 4, this section, and section 11 are insufficient to meet the requirements of such sections for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirements for the school year.

"(D) AMOUNT FOR EACH STATE.—For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be equal to the product obtained by multiplying—

"(i) the number of lunches served in such State in the most recent school year for which data are available; by

"(ii) the rate determined under subparagraphs (A) and (B).

"(E) SPECIAL EMPHASIS.—Among those commodities"; and

(B) in paragraph (1), by striking "(E) Notwithstanding" and inserting the following:

"(F) MINIMUM QUANTITY OF DONATED FOODS.—Notwithstanding";

(2) by striking subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

SEC. 104. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

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

(1) by striking the section heading and designation and all that follows through the end of paragraph (1) in subsection (a) and inserting the following:

"SEC. 9. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

"(a) REQUIREMENTS.—

"(1) TECHNICAL ASSISTANCE AND TRAINING.—The Secretary shall provide—

"(A) technical assistance and training to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subsection (f) and in providing appropriate meals to children with medically certified special dietary needs, including food allergies or other special dietary needs of individual children, including religious dietary restrictions; and

"(B) additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.";

(2) in subsection (a)—

(A) in paragraph (2), by adding at the end the following:

"(D) FLUID MILK CONSIDERATIONS.—In determining varieties of fluid milk that shall be available with school meals programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and outside of the school meal programs, the Secretary, not later than 90 days after the

date of enactment of the Improving Child Nutrition and Education Act of 2016, shall carry out the following:

"(i) Consider the critical nutrient needs of children who may be at risk for inadequate intake of the recommended daily servings of milk and dairy products under the most recent Dietary Guidelines described in subparagraph (A)(i) and conform the applicable regulations to such guidelines.

"(ii) Analyze milk consumption data and trends for school-aged children, and to the extent practicable, increase actual milk consumption in schools in a manner consistent with the number of servings recommended under such Dietary Guidelines, and ensure that schools may offer any type of milk with fat levels that are in compliance with such Dietary Guidelines.

"(E) MILK VARIETY CONSIDERATIONS.—In determining milk varieties eligible for schools to offer with school meal programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and outside of the school meal programs, the Secretary shall consider the most commonly available types, sizes, containers, and varieties of milk in local, regional, and national commercial markets from which local educational agencies procure milk, to promote competition and reduce milk waste.";

(B) by striking "(4) PROVISION OF INFORMATION" and all that follows through "(C) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary" and inserting the following:

"(4) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary";

(C) in paragraph (4) (as so designated)—

(i) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and indenting appropriately; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and indenting appropriately; and

(D) by adding at the end the following:

"(6) EMERGENCY ACCESS TO POTABLE WATER.—

"(A) IN GENERAL.—To ensure that children have access to potable water during meal service, the Secretary may award funds to State agencies to assist such agencies in providing bottled water for a period of not more than 90 days (except as otherwise provided under subparagraph (C)) when—

"(i) a major disaster or emergency has been declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

"(ii) the Secretary determines that there is a significant risk to the health of school children posed by the public water system (as defined under section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f)).

"(B) MATCHING REQUIREMENT.—To receive funds under this paragraph, a State agency shall assure the Secretary that the State will utilize donated water supplies and State funding to supplement the funds that the State receives under this paragraph to provide bottled water as necessary for students.

"(C) EXTENSION OF AUTHORITY.—If the risk described in subparagraph (A)(ii) persists in a State after the first 90-day period for which funds under this paragraph are provided to such State, funds may be provided under this paragraph to such State for an additional 90-day period.

"(D) FUNDING.—Not more than $475,000 may be provided under this paragraph for a fiscal year.";

(3) in subsection (b)—

(A) in paragraph (2)(B)—

(i) in clause (i), by striking ", 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";

(ii) in clause (ii), by inserting "or reduced price" after "free";

(iii) in clause (iii)(I)—

(I) in item (aa), by striking "and" at the end;

(II) in item (bb), by striking the period at the end and inserting "; and"; and

(III) by adding at the end the following:

"(cc) individuals may report alleged fraud to the Office of the Inspector General of the Department of Agriculture."; and

(iv) by adding at the end the following:

"(iv) REPORTING OF FRAUD.—The Secretary shall ensure that the Internet website of the Department of Agriculture prominently displays a link to the Internet website of the Office of the Inspector General of the Department and the phone number of the Office of the Inspector General through which an individual may report any alleged fraud.

"(v) APPLICATION FORMS.—Not later than 120 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall—

"(I) review a sample of application forms, including paper and digital forms, used to apply for participation in the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

"(II) provide to States guidance relating to best practices, including a standard application form local educational agencies or schools may use;

"(III) provide to States guidance relating to how to improve the application to ensure families understand and can enroll in the school lunch program and the school breakfast program; and

"(IV) provide to States such information as is necessary to ensure that States understand school food authorities may not—

"(aa) require or mandate families apply for either program;

"(bb) request that a family apply for the program after the parent or guardian has informed the school that the family does not want to participate in the program or receive additional information about the program in that school year; or

"(cc) in the case of a family that has not informed the school about their choice, request more than twice in that school year that such family apply for the program if such family has not submitted an application, except that providing information about the application (including how and when the application will be sent to parents and how to fill out the application) shall not count as a request to apply.";

(B) in paragraph (3)—

(i) by striking subparagraph (D) and inserting the following:

"(D) VERIFICATION.—

"(i) STANDARD VERIFICATION OF APPLICATIONS.—

"(I) IN GENERAL.—Beginning with the second school year that begins after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, each school year, each local educational agency shall verify the eligibility of the children in a portion of the household applications approved for the school year by the local educational agency, as of November 1 of the school year, as determined by the Secretary in accordance with this subsection.

"(II) SAMPLE SIZE.—

"(aa) IN GENERAL.—The portion for a local educational agency for a school year shall equal the lesser of—

"(AA) 10,000; or

"(BB) 10 percent of approved household applications.

"(bb) CALCULATION.—Not later than July 1 of each year, the Secretary shall calculate the sample size under this subparagraph for each local educational agency based on data from the 2 most recent school years available.

"(III) SAMPLE SELECTION.—Applications shall be selected for verification by the local educational agency based on indications that information relevant to eligibility is inconsistent with the information provided on the application, including at a minimum the following:

"(aa) The household has submitted information in writing to the local educational agency that is inconsistent with the information on the application.

"(bb) The information provided on the application is consistent with a pattern of error or fraud detected by the local educational agency, the State agency, or the Secretary.

"(cc) For not more than ¼ of the sample, students who are directly certified or the application provides a case number (in lieu of income information) showing participation in—

"(AA) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

"(BB) a State program funded under the program of block grants to States for temporary assistance for needy families established 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 eligibility requirements under the State program are comparable to the requirements for participation in accordance with this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(dd) For not more than ¼ of the sample, the income information provided on the application is close to the income limit for free or reduced price meals, as determined by the local educational agency each year.

"(ee) Such other criteria as is determined by the State.

"(IV) ADDITIONAL VERIFICATION OF APPLICATIONS.—If the number of applications that match the criteria described in subclause (III) is insufficient to meet the number of applications determined under subclause (II), the local educational agency shall select additional applications at random.

"(ii) VERIFICATION FOR CAUSE.—In addition to conducting verification of a sample of applications as described in clause (i), a local educational agency may verify any household application at any point in the school year if the household application meets the criteria described in item (aa), (bb), or (cc) of clause (i)(III) or such other criteria as is determined by the Secretary.

"(iii) COMPLIANCE.—In conducting verification under this subparagraph, a State agency or local educational agency shall not select applications in a manner that violates section 12(l)(4)(M).";

(ii) in subparagraph (F)—

(I) in clause (i), in the matter preceding subclause (I), by striking "may" and inserting "shall"; and

(II) by striking clauses (iv) and (v) and inserting the following:

"(iv) DIRECT CERTIFICATION.—If eligibility for a household application is confirmed using direct verification, each child in the household shall be considered directly certified.";

(iii) in subparagraph (G)—

(I) in clause (iii), by striking "1 attempt" and inserting "2 attempts"; and

(II) by adding at the end the following:

"(v) VALIDITY OF VERIFICATION RESULTS.—

"(I) DEFINITIONS.—In this clause:

"(aa) APPROVED APPLICATION.—The term 'approved application' includes each student on a paper or electronic application approved by the local educational agency for free or reduced price lunches for the school year.

"(bb) RESPONSE RATE.—The term 'response rate' means the percentage of the approved household applications of the local educational agency for which verification information was obtained after attempted verification under this section.

"(cc) NONRESPONSE RATE.—The term 'nonresponse rate' means the percentage of the approved household applications of the local educational agency for which verification information was not obtained after attempted verification under this section.

"(dd) CONFIRMATION RATE.— The term 'confirmation rate' means the percentage of approved household applications and directly certified students selected by the local educational agency for verification under this subparagraph that had the level of benefits confirmed as a result of information obtained during the verification process.

"(II) REDUCTIONS.—

"(aa) IN GENERAL.—The sample under subparagraph (D)(i)(II) may be reduced by not more than the lesser of 2,500 applications or 2.5 percentage points for each of the criteria described in subclause (III) that are met by the local educational agency.

"(bb) LIMITATION.—Reductions under item (aa) may result in a sample of not less than 2.5 percent of approved applications.

"(III) CRITERIA.—The criteria referred to in subclause (II)(aa) are as follows:

"(aa) RESPONSE RATE.—For the preceding school year the response rate was more than 85 percent.

"(bb) NONRESPONSE RATE REDUCTION.—The nonresponse rate was at least 15 percent below the nonresponse rate for the second preceding school year.

"(cc) CONFIRMATION RATE.—The confirmation rate is 100 percent or has increased by at least 5 percent over the two most recent school years for which data is available.

"(dd) ADMINISTRATIVE BURDEN REDUCTION.—

"(AA) IN GENERAL.—The local educational agency receives a determination from the Secretary that compliance with subparagraph (D)(i)(II) would render the local educational agency unable to administer the program.

"(BB) REQUIREMENT.—The Secretary shall develop a system by which to measure cost and administrative burden associated with compliance with subparagraph (D)(i)(II) and shall consider requests from local educational agencies based on that system.";

(iv) in subparagraph (H)(i)—

(I) in subclause (I), by striking "November" and inserting "December"; and

(II) in subclause (II), by striking "December" and inserting "January";

(v) in subparagraph (K)(i), in the matter preceding subclause (I), by striking "data mining" and inserting "analyses of data";

(vi) by amending subparagraph (K)(ii) to read as follows:

"(ii) REPORT.—Not later than two years after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

"(I) the results of the feasibility study conducted under this subsection;

"(II) how a computer system—

"(aa) used to reduce verification and certification errors can be adapted to further reduce errors; and

"(bb) using technology described in clause (i) could be implemented; and

"(III) a plan to adapt or implement such system.";

(vii) by adding at the end the following:

"(L) ENHANCED VERIFICATION METHODS.—

"(i) REQUIREMENTS.—

"(I) IN GENERAL.—The Secretary shall help local educational agencies engage in alternative and enhanced methods of certification and verification to increase the effectiveness of the process, reduce certification errors, and produce more meaningful management information to facilitate local educational agency, State, and Federal oversight with respect to program integrity in the school meal programs.

"(II) BEST PRACTICES.—The Secretary shall encourage local educational agencies to adopt proven best practices with regard to verification.

"(III) SELECTION FOR IMPLEMENTATION.—To the extent necessary to refine alternative verification methods or assess the feasibility, impact, or efficacy of the methods prior to recommending the methods, the Secretary shall select States and local educational agencies that have requested to participate in the development of best practices to implement methods subject to clause (iii).

"(ii) REQUIREMENTS.—The certification and verification methods shall—

"(I) meet such terms and conditions as the Secretary considers appropriate; and

"(II) except as otherwise provided in this subparagraph, be conducted in accordance with this subsection.

"(iii) SELECTION CRITERIA.—In selecting methods, including methods for implementation under clause (i)(III), the Secretary shall—

"(I) consider the degree to which the method would improve certification accuracy and program integrity within the school meal programs;

"(II) consider whether there is evidence that the method could be replicated easily by other local educational agencies or political subdivisions;

"(III) consider whether the method would increase the efficiency and effectiveness of the verification process;

"(IV) consider whether the local educational agency or State agency has a demonstrated capacity to undertake the method and to produce the data necessary to support the evaluation; and

"(V) ensure the methods implemented under clause (i)(III) are implemented across a range of geographic areas and States, including rural and urban areas, and, when considered as a group, allow for an assessment of a range of strategies regarding verification sample selection, obtaining eligibility documentation, and the entity conducting verification, including strategies that—

"(aa) use analyses of data, particularly in large local educational agencies to develop algorithms to select error-prone applications for verification;

"(bb) use third-party data sources to confirm eligibility prior to conducting household verification under subparagraph (G);

"(cc) rely on alternative methods, including message testing, of communicating with households to assess which methods most effectively result in household responses;

"(dd) rely on agencies or organizations other than the local educational agency to conduct verification, including at a minimum the State agency; and

"(ee) could reduce the administrative burden of conducting verification for a consortia of local educational agencies, including shared online applications and shared verification procedures.

"(iv) REDUCTION.—Notwithstanding the limitation in subparagraph (D)(v)(II)(bb), a local educational agency that uses the strategies described in clause (iii)(V) may qualify for a reduction of additional 0.25 percentage points under such subparagraph, creating a floor of 2.25 percent for the verification sample size.";

(C) in paragraph (4)—

(i) in subparagraph (B), by inserting ", including a child enrolled in a nonpublic school," after "under which a child";

(ii) by striking subparagraph (E);

(iii) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively; and

(iv) in subparagraph (E) (as so redesignated)—

(I) in clause (i), by striking "means—" and all that follows through "each school year thereafter" in subclause (III) and inserting "means, for the school year";

(II) in clause (ii)—

(aa) in subclause (II), by striking "and" at the end;

(bb) in subclause (III), by striking the period at the end and inserting a semicolon; and

(cc) by adding at the end the following:

"(IV) include in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a), a description of technical assistance provided to and progress of States identified under subclause (I) toward implementing the measures and meeting the goals established by the State as required under clause (iii)(II); and

"(V) provide guidance to schools on providing meals and collecting payment for any student who is no longer able to receive meals because the student did not provide a response to the verification request for the student's school meal application."; and

(III) in clause (iii)(II)(bb), by inserting "within 3 school years" after "those measures";

(D) in paragraph (15)—

(i) in subparagraph (B)(i), by striking "section 9(b)(1)(A) of this Act" and inserting "paragraph (1)(A)"; and

(ii) in subparagraphs (C)(ii) and (D), by striking "paragraph (4)(G)" both places it appears and inserting "paragraph (4)(F)";

(4) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research specifically conducted to understand the impact for children, except that the minimum nutritional requirements—

"(i) may not prohibit the substitution of foods to accommodate the medical, including allergies, or other special dietary needs of individual students, including religious dietary restrictions; and

"(ii) shall, as possible in accommodating the medical or other special dietary needs of such students, be based on the weekly average of the nutrient content of school lunches.";

(B) in paragraph (3)(A)(ii), by striking "paragraph (3)" and inserting "paragraph (2)";

(C) by striking paragraph (4) and inserting the following:

"(4) REGULATIONS, REVIEW, AND RELIEF.—

"(A) REVIEW REGULATIONS.—The Secretary shall, at least every 3 years—

"(i) review the regulations promulgated in accordance with this Act for the school meal programs described in paragraph (1) (in this paragraph referred to as the 'school meal programs');

"(ii) with consultation from a parent, a pediatrician, a dietician who conducts child nutrition research, and stakeholders in schools (including school leaders, school boards, local educational agency administrators, and school food nutrition directors), certify that the regulations are—

"(I) appropriate for the age of children participating in the school meal programs, including for the health of children;

"(II) in compliance with the preponderance of the latest high-quality research based on school-aged children conducted to examine the health and safety of children participating in the school meal programs;

"(III) not increasing the cost to implement the requirements of the school meal programs (which costs shall be considered the total costs to implement the regulations and not limited to the cost of any changes to the regulations); and

"(IV) not discouraging students from participating in the school meal programs;

"(iii) if necessary to meet the requirements of clause (ii), revise the regulations to meet such requirements;

"(iv) not later than 30 days prior to publication under clause (v)(II) of the revised regulations—

"(I) submit the revised regulations for comment to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(II) review any comments provided under subclause (I), and further revise the regulations, if necessary to ensure the revised regulations are in compliance with clause (i); and

"(III) provide a public notice and comment period of not less than 60 days, review the public comments, and further revise the regulations, if necessary to ensure the revised regulations are in compliance with clause (i); and

"(v) publish in the Federal Register, and 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—

"(I) a notice that no changes to the regulations are required and the certification described in clause (ii); or

"(II) the regulations, as revised under clause (iv), and the certification described in clause (ii).

"(B) FIRST REVIEW.—The first review required under subparagraph (A) after the date of enactment of the Improving Child Nutrition and Education Act of 2016 shall—

"(i) be concluded not later than December 31, 2016;

"(ii) include a review of the sodium and whole grain requirements under the regulations for the school meal programs; and

"(iii) ensure that such requirements—

"(I) maintain the sodium target requirements established for the school lunch program and school breakfast program under sections 210.10(f) and 220.8(f) of title 7, Code of Federal Regulations, respectively (as such regulations are in effect on the day before the date of the enactment of the Improving Child Nutrition and Education Act of 2016) until such requirements are revised in accordance with subclause (II); and

"(II) in a case in which the sodium target requirements are revised as a result of the review described in this subparagraph, ensure that such a revision—

"(aa) is based on health requirements for children;

"(bb) is supported by a majority of research focused on school-aged children that directly establishes, through well-controlled randomized trials or well-designed, long-term observational studies, that sodium reductions are both safe and produce beneficial health outcomes for such children;

"(cc) is able to support food safety and be produced in a manner that does not significantly increase the cost of food; and

"(dd) does not take effect until 3 years after the revision has been published in the Federal Register.

"(C) SPECIAL RULE FOR REGULATION RELIEF FOR FAMILY MEAL DAYS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall issue guidance, or promulgate new rules as necessary, to ensure each State agency provides guidance to school food authorities with respect to the allowance of up to 4 family meal days, as designated by a school, which shall be exempt from the meal pattern rules specified under the regulations for the school meal programs, during which the school may—

"(I) invite parents to participate in special meals, such as a Thanksgiving meal or a parents' day meal; and

"(II) provide additional nutrition education, such as recipe building or healthy cooking classes to parents and families on making healthy meal options at home, which may be provided by an entity or individual other than a school food service director or food service personnel.

"(ii) CLARIFICATION.—In issuing guidance or promulgating rules under clause (i), the Secretary shall not establish any requirements or limitations for family meal days, except to ensure that schools have the authority to hold up to 4 family meal days per school year.

"(D) REGULATION FLEXIBILITY.—The Secretary shall provide guidance, when there is difficulty in procuring food to comply with the regulations, to allow a school food authority to substitute food items across food groups and subgroups, including in-season, locally-produced fruits and vegetables, notwithstanding the food-based meal patterns and menu planning requirements of this subsection, provided that the school food authority continues to meet applicable daily and weekly nutrient and dietary requirements under this subsection."; and

(D) by adding at the end the following:

"(5) ACCOMMODATIONS.—The accommodation requirements described in paragraph (1)(C)(i) shall apply to all programs under this Act and all programs under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except for section 17 of such Act (42 U.S.C. 1786).".

(5) by striking subsections (g) and (k);

(6) by redesignating subsections (h), (i), (j), and (l) as subsections (g), (h), (i), and (j), respectively; and

(7) in subsection (g) (as so redesignated), by striking "2011 through 2015" each place it appears in paragraphs (3) and (4) and inserting "2017 through 2021".

SEC. 105. MISCELLANEOUS PROVISIONS.

(a) UNIVERSAL MEAL SERVICE IN HIGH POVERTY AREAS THRESHOLD.—Section 11(a)(1)(F) of the Richard B. Russell National School Lunch Act (42 U.S.C. 17659a(a)(1)(F)) is amended—

(1) in clause (ii)(I), in the matter preceding item (aa), by inserting "(including a subset of schools within the local educational agency if the result obtained by dividing the total number of the identified students enrolled in such schools by

the total number of all students enrolled in such schools, is above the threshold in clause (viii))" after "on behalf of certain schools"; and

(2) by striking clause (viii) and inserting the following:

"(viii) THRESHOLD.—

"(I) IN GENERAL.—For each school year beginning on or after July 1, 2017, the Secretary shall use a threshold that is not less than 60 percent.

"(II) COMMUNITY ELIGIBILITY SELECTION TRANSITION.—In the case of a school that received special assistance payments under this subparagraph during the school year immediately prior to the school year in which the Improving Child Nutrition and Education Act of 2016 was enacted, such school shall, not later than June 30, 2018—

"(aa) meet the threshold described in subclause (I); or

"(bb) transition from receiving payments under this subparagraph in accordance with subclause (III).

"(III) TECHNICAL ASSISTANCE.—In the case of schools described in subclause (II)(bb), the Secretary shall provide technical assistance to ensure that such schools are able to effectively and efficiently transition from receiving payments under this subparagraph to receiving special assistance payments otherwise made available under this paragraph, including communicating the application process to families in a timely manner to ensure continuity of services for eligible families."; and

(3) in clause (xi)—

(A) in subclause (II), by striking "Not later than December 31, 2013" and inserting "Not later than one year after the date of enactment of the Improving Child Nutrition and Education Act of 2016"; and

(B) in subclause (III), by striking "If the Secretary uses the authority provided in clause (vii)(II)(bb) to use a different multiplier for different schools or local educational agencies, for each school year beginning on or after July 1, 2014, not later than April 1, 2014" and inserting "If the Secretary uses the authority provided in clause (vii), for each school year beginning on or after July 1, 2017, not less than one year prior to the Secretary electing to use such authority".

(b) REIMBURSEMENT RATE.—Section 11(a)(3)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 17659a(a)(3)(A)) is amended by striking "July 1" and inserting "February 15".

(c) DEFINITION OF STATE AGENCY.—Paragraph (9) of section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(9)) is amended to read as follows:

"(9) STATE AGENCY.—The term 'State agency' means—

"(A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer);

"(B) a board of education controlling the State department of education;

"(C) the State Commissioner or individual who administers agricultural programs in the State; or

"(D) a State official the State legislature designates to administer the programs under this Act.".

(d) PROCUREMENT TRAINING.—Section 12(m)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking "2015" and inserting "2021".

(e) PRICE FOR A PAID LUNCH.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is further amended by striking subsection (p) and redesignating subsections (q) and (r) as subsections (p) and (q), respectively.

SEC. 106. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by adding at the end the following:

"(C) EDUCATIONAL AND ENRICHMENT ACTIVITIES.—In determining participation under subparagraph (A), the State shall prioritize applications that include an educational or enrichment activity, or demonstrate a partnership with an entity providing such activity.";

(B) by amending paragraph (8) to read as follows:

"(8) STREAMLINING.—

"(A) SEAMLESS SUMMER.—Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program estab-

lished under this Act or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(B) SUMMER AND CACFP AT-RISK STREAMLINING.—

"(i) IN GENERAL.—Notwithstanding subsections (b)(2) and (c)(1), in order for States and service institutions to operate more effectively through the year, a State may elect to streamline and simplify program operations and requirements by reducing paperwork and other administrative burdens, and consolidating training, monitoring, and other requirements, while retaining appropriate measures of program integrity. Such State election may include the utilization of technical assistance provided to the State under clause (iv) and shall apply to service institutions that—

"(I) are described in paragraphs (6) or (7);

"(II) provide care to at-risk school children (as defined in section 17(r)(2)), and may be eligible child care centers or homes (as defined under section 17(a)(2)); and

"(III) are not public schools.

"(ii) STREAMLINED REIMBURSEMENT.—States that demonstrate streamlined and simplified program operations under clause (i) for service institutions, and that are selected by the Secretary under clause (v), shall streamline reimbursements for such service institutions by providing reimbursements for—

"(I) lunch and either breakfast or a supplement served to at-risk school children—

"(aa) during each day of operation during the months of May through September; and

"(bb) in the case of a service institution that provides meal service to such children who are not in school for a period during the school year due to a natural disaster, building repair, court order, or similar cause, at any time during such period in that school year; and

"(II) up to 1 meal and 1 supplement served to at-risk school children during each day of operation outside of school hours during the regular or continuous school calendar, including after school, weekends, and school holidays.

"(iii) RATE OF REIMBURSEMENT.—The State shall reimburse service institutions seeking reimbursement under this subparagraph at a rate that is consistent with section 17(r)(4)(B).

"(iv) TECHNICAL ASSISTANCE.—

"(I) IN GENERAL.—Not later than December 31, 2016, the Secretary shall develop guidance and provide technical assistance for States and service institutions to assist in the implementation of this subparagraph, including by identifying areas of programmatic overlap in the program under this section and the child and adult care food program under section 17 in order for States to simplify the administration and oversight of each such program.

"(II) GUIDANCE.—Such guidance shall include information on possible ways States may ensure participation under this subparagraph will lead to reduced paperwork and other administrative burdens, including recommendations for streamlined program applications, reporting requirements, inspections, and other areas of potential duplication, while retaining appropriate measures of program integrity.

"(III) OTHER STATES.—Information provided under this clause shall be provided in such a manner that any State may identify areas of programmatic overlap, and reduce paperwork and other burdens, even if such State has not yet been selected to provide reimbursements to service institutions in accordance with this subparagraph.

"(v) SUCCESSFUL IMPLEMENTATION.—

"(I) IN GENERAL.—A State seeking to provide reimbursements in accordance this subparagraph shall demonstrate to the Secretary the ways in which the State has used the election under clause (i) to reduce paperwork and other administrative burdens while retaining appropriate measures of program integrity, which may include the utilization of technical assistance provided to the State under clause (iv).

"(II) INITIAL SELECTION OF STATES.—

"(aa) IN GENERAL.—The Secretary shall select not more than 5 States to provide reimbursements in accordance with this subparagraph, beginning in May 2017, if such States have the capacity to effectively implement this subparagraph, as demonstrated by streamlining and simplifying program operations in accordance with subclause (I).

"(bb) UPDATE.—When appropriate, but not later than May 31, 2018, and consistent with subclause (V)(bb), the Secretary shall update the information under clause (iv).

"(III) NEXT SELECTION OF STATES.—

"(aa) IN GENERAL.—If the Secretary determines that additional States have the capacity described in subclause (I) and additional best practices could be provided by further implementation of this subparagraph, the Secretary may select not more than 5 such States to provide reimbursements in accordance with this subparagraph beginning in October 2018.

"(bb) UPDATE.—Not later than September 30, 2019, and consistent with subclause (V)(bb), the Secretary shall update the information under clause (iv) to reflect the further implementation of this subparagraph.

"(IV) ADDITIONAL SELECTION OF STATES.—The Secretary may select additional States to provide reimbursements in accordance with this subparagraph beginning in May 2020, and each year thereafter, if such States have the capacity described in subclause (I).

"(V) BEST PRACTICES.—

"(aa) IN GENERAL.—As a condition of being selected under this clause, a State shall provide, in such time and in such manner as the Secretary may reasonably require, information to the Secretary regarding best practices of successful implementation of this subparagraph.

"(bb) UPDATE.—The Secretary shall continue to periodically update the information under clause (iv) to include the best practices provided under item (aa) for continued successful implementation of this subparagraph.";

(C) by striking paragraphs (9), (10), and (12); and

(D) by redesignating paragraph (11) as paragraph (9); and

(E) by adding at the end the following:

"(10) TEMPORARY ALLOWANCE FOR OFF-SITE CONSUMPTION.—

"(A) IN GENERAL.—Beginning in May 2017, the Secretary shall grant requests made by a State to allow children who are participating in the program but for whom an operation under paragraph (12) is not available, to consume meals away from a congregate feeding site when the program is available to such children at the site, but—

"(i) the site is closed due to extreme weather conditions;

"(ii) violence or other public safety concerns in the area temporarily prevent children from traveling safely to the site; or

"(iii) other emergency circumstances, as defined by the State, prevent access to the site.

"(B) LIMITATIONS.—In granting a request under subparagraph (A), the Secretary shall ensure that—

"(i) allowances are issued by a State only between the months of May through September;

"(ii) allowances are granted in the most efficient and effective manner to ensure programs and States can quickly respond and adapt to the circumstances described in clauses (i) through (iii) of subparagraph (A); and

"(iii) once an allowance is issued, any meal in which a component is offered but not served is not reimbursed under subsection (b).

"(C) STATE PLAN.—As part of the management and administration plan described in subsection (n), a State shall describe—

"(i) the approval process, including the timeline, the State would undertake to issue an allowance;

"(ii) standards for what circumstances merit an allowance, how long an allowance will last, and when an allowance may be extended; and

"(iii) how the program would operate once an allowance is issued.

"(11) OFF-SITE CONSUMPTION.—

"(A) IN GENERAL.—Beginning in May 2017, a State may elect for service institutions to carry out an off-site consumption operation in the State to

provide summer food service program meals to children eligible to participate in the program that such children may consume away from a congregate feeding site.

"(B) AVAILABILITY.—The operation described in subparagraph (A) shall be available to a child described in subparagraph (A) only if the child lives in an area that is eligible to participate in the summer food service program, but that is not currently being served, and such area—

"(i) is rural, as defined by the State; or

"(ii) is not rural, and is an area in which more than 80 percent of students are certified as eligible for free or reduced price meals.

"(C) ADMINISTRATION.—

"(i) IN GENERAL.—The following shall apply to an operation described in subparagraph (A):

"(I) The number of meals served to each child in a single meal service is limited to 2 meals, and the number of meals in a seven-day period shall be limited to 10 meals.

"(II) Any meal served shall meet the same standards for nutrition, safety, and quality as a meal served at a congregate feeding site.

"(III) Any meal in which a component is offered but not served shall not be reimbursed under subsection (b).

"(IV) Each State shall give priority to children who are living where congregate feeding sites are not accessible.

"(V) Nothing in this section shall be construed to allow congregate feeding sites to cease from operating in order to be replaced by off-site consumption operations under this paragraph.

"(VI) A State shall not—

"(aa) operate an off-site consumption operation simultaneously in the same service area with a congregate feeding site;

"(bb) use more than 10 percent of funds received for administrative expenses to carry out this paragraph; or

"(cc) implement an off-site consumption operation in all service areas in the State.

"(ii) STATE PLAN.—Each State choosing to provide summer food service program meals through an off-site consumption operation under this paragraph shall describe how the State plans to implement the operation in the management and administration plan in subsection (n), which shall include information on how the State will—

"(I) document operation, including implementation;

"(II) determine the method for selecting eligible areas and eligible service institutions to most effectively deliver summer food service program meals in the manner described in this paragraph;

"(III) design mechanisms by which households with children eligible to participate in the program could indicate a need for meal service through such an operation;

"(IV) develop an appropriate maintenance of effort requirement for service institutions currently operating congregate feeding sites;

"(V) develop requirements for implementing safety and security measures to ensure that safety and security through such an operation is equivalent to such measures at a congregate feeding site; and

"(VI) periodically reevaluate the potential for children to be served at a congregate feeding site.";

(2) in subsection (k)(3)—

(A) by striking "(3) To provide" and inserting the following:

"(3) NUTRITIONAL AND FOOD QUALITY MONITORING.—

"(A) IN GENERAL.—To provide"; and

(B) by adding at the end the following:

"(B) INSUFFICIENT FUNDS.—

"(i) IN GENERAL.—If funds provided under subparagraph (A) are insufficient to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality, as required under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), State agencies may elect to use funds described in paragraph (1) for those activities.

"(ii) LIMITATION.—Funds described in clause (i) shall not exceed the lesser of—

"(I) actual costs; or

"(II) 1 percent of program funds.";

(3) by amending subsection (n) to read as follows:

"(n) STATE PLAN.—Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit, by February 15, a management and administration plan for the program for the fiscal year, which shall include, at a minimum—

"(1) the State's administrative budget for the fiscal year; and

"(2) the State's plans for—

"(A) use of program funds and additional State or private funds to reach children with the greatest need, to the maximum extent practicable;

"(B) strengthening the congregate feeding model for program delivery, including a process for identifying gaps in service and barriers to access;

"(C) administrative and fiscal plans for using the allowance described in subsection (a)(10) and, if applicable, the option described in subsection (a)(11) to assist service institutions in reaching children with the greatest need;

"(D) providing technical assistance and training for eligible service institutions;

"(E) monitoring and inspecting service institutions, feeding sites, and food service management companies and ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently, and in compliance with the program;

"(F) timely and effective action against program violators; and

"(G) ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary."; and

(4) in subsection (r), by striking "2015" and inserting "2021".

SEC. 107. COMMODITY DISTRIBUTION PROGRAM.

Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in subsection (f), in the third sentence—

(A) by striking "section 9(a) of this Act" and inserting "section 9(f)"; and

(B) by striking "represent the four basic food groups, including" and inserting "include"; and

(2) by striking subsection (h).

SEC. 108. CHILD AND ADULT CARE FOOD PROGRAM.

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

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (B), in the matter preceding clause (i), by striking "if" and inserting "if, during the month preceding the date of submission of the applicable initial application or reapplication";

(ii) in subparagraph (E), by striking "and" at the end;

(iii) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

"(G) any public or licensed nonprofit private residential child care institution (as defined in subsection (v)(1)) that is not concurrently receiving reimbursement under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

"(H) any boarding school funded by the Bureau of Indian Education that is not concurrently receiving reimbursements under such school lunch program or school breakfast program."; and

(B) in paragraph (3), by striking "subsection (r)" and inserting "subsections (r) and (v)"; and

(C) by adding at the end the following:

"(7) DURATION OF DETERMINATION.—With respect to an institution described in paragraph (2)(B), an eligibility determination under this subsection shall remain in effect for a period of 4 months after the date such institution is approved by the State under subsection (d).";

(2) in subsection (b), by striking "For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the" and inserting "The";

(3) in subsection (d)—

(A) in paragraph (4)—

(i) by striking "In consultation" and inserting the following:

"(A) IN GENERAL.—In consultation"; and

(ii) by adding at the end the following:

"(B) REPORTS.—Each sponsoring organization shall, on an annual basis, submit to the applicable State agency a report that describes, with respect to the preceding fiscal year—

"(i) the expenditures of program funds by the sponsoring organization; and

"(ii) the amount of meal reimbursements retained by the sponsoring organization for administrative costs, if applicable."; and

(B) in paragraph (5), by adding at the end the following:

"(F) SERIOUS DEFICIENCY PROCESS.—

"(i) IN GENERAL.—Not later than 1 year after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review the serious deficiency process for the program under this section.

"(ii) REVIEW.—In carrying out clause (i), the Secretary shall review the processes for, and those involved in—

"(I) a finding of serious deficiency, including—

"(aa) what measures automatically result in a finding of serious deficiency; and

"(bb) how differentiation is being made between—

"(AA) a reasonable margin of human error and systematic or intentional noncompliance; and

"(BB) State-specific requirements and Federal law and regulations, if applicable;

"(II) appeals and mediation in any case in which there is a finding of serious deficiency;

"(III) determining the circumstances under which a corrective action plan is acceptable;

"(IV) information sharing between Departments of Agriculture and Health and Human Services; and

"(V) termination and disqualification, including maintenance of the list under subparagraph (E).

"(iii) GUIDANCE AND REGULATIONS.—

"(I) IN GENERAL.—After conducting the review under this subparagraph, the Secretary shall use findings from such review to assist sponsoring organizations, State agencies, and the Food and Nutrition Service in ensuring a fair, uniform, and effective administration of the serious deficiency process, while retaining program integrity, by issuing guidance, and, as appropriate, regulations, on the following:

"(aa) Clarity on the different measures for noncompliance.

"(bb) Parameters for an appeals process to review a finding of serious deficiency or a determination that a corrective action plan is inadequate.

"(cc) Adequate timeframes under a corrective action plan for compliance that are consistent for all types of institutions participating in the program, including family or group day care homes.

"(II) INFORMATION SHARING.—Within such guidance or regulation, and as soon as practicable, the Secretary shall ensure information about findings are shared with the Secretary of Health and Human Services as to allow for maximum health, safety, oversight, and monitoring of participating child care and Head Start facilities.";

(4) in subsection (f)—

(A) in paragraph (2)(C), by adding at the end the following:

"(iii) CARRYOVER FUNDS.—Not more than 10 percent of the amount reserved by sponsoring organizations under clause (i) for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year for administrative purposes."; and

(B) in paragraph (3)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(5) in subsection (g), by striking paragraph (6) and inserting the following:

"(6) USE OF DONATED FOODS.—To the maximum extent practicable, each institution shall use in its food service foods that are donated by the Secretary.";

(6) in subsection (h)(1), by adding at the end the following:

"(E) ENGAGEMENT WITH STATE AND LOCAL AGENCIES.—

"(i) IN GENERAL.—Subject to clause (ii), institutions participating in the program under this section may engage with State agencies and local educational agencies to use existing infrastructure to enhance the use of, and increase access to, donated commodities.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph shall compel a local educational agency unwillingly to serve any institution participating in the program under this section.";

(7) in subsection (i)(2)(B)(i), by striking "if the State agency demonstrates" and all that follows through the period at the end and inserting "if the State agency demonstrates that the State agency can use funds to improve program management, oversight, and integrity, including by working with other State agencies involved with the monitoring of institutions under this section in order to streamline and coordinate the efforts of such State agencies.";

(8) in subsection (r), by striking paragraphs (5) and (6);

(9) in subsection (s)(2)(C), by striking "parents of enrolled children at enrollment" and inserting "parents or legal guardians of enrolled children in an easily accessible manner";

(10) in subsection (u)(3)—

(A) in subparagraph (C)(i), by inserting "for distribution to participants and families of participants" after "nutrition education"; and

(B) in subparagraph (H), by adding at the end the following:

"(iii) SUNSET.—The Secretary shall return to the general fund of the Treasury any funds that were—

"(I) made available under this subparagraph; and

"(II) not obligated as of the date of the enactment of the Improving Child Nutrition and Education Act of 2016."; and

(11) by adding at the end the following:

"(v) PARTICIPATION BY RESIDENTIAL CHILD CARE INSTITUTIONS.—

"(1) DEFINITION OF RESIDENTIAL CHILD CARE INSTITUTION.—In this subsection, the term 'residential child care institution' means any public or nonprofit private residential child care institution, or distinct part of such an institution, that—

"(A) operates principally for the care of children; and

"(B) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or local agency.

"(2) ADMINISTRATION.—Except as otherwise provided in this subsection, a residential child care institution shall be considered eligible for reimbursement for meals and supplements served to eligible children residing at the residential child care institution, so long as the institution does not simultaneously participate in the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(3) MEAL OR SUPPLEMENT REIMBURSEMENT.—

"(A) LIMITATIONS.—A residential child care institution may claim reimbursement under this section—

"(i) only for a meal or supplement served to children residing at the residential child care institution, who are—

"(I) not more than 18 years of age; or

"(II) children with disabilities; and

"(ii) for not more than—

"(I) 1 breakfast, 1 lunch, and 1 supplement per child per day; or

"(II) 1 breakfast, 1 supper, and 1 supplement per child per day.

"(B) RATE.—A meal or supplement eligible for reimbursement under this subsection shall be reimbursed at the rate at which free, reduced price, and paid meals and supplements, respectively, are reimbursed under subsection (c).".

(b) ADVISORY COMMITTEE.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish and convene an advisory committee—

(A) to examine the feasibility of reducing unnecessary or duplicative paperwork resulting from regulations and recordkeeping requirements, including paperwork resulting from additional State requirements, for individuals and entities participating or seeking to participate in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) (as amended by subsection (a)), including (within the meaning of that Act (42 U.S.C. 1751 et seq.))—

(i) State agencies;

(ii) family child care homes;

(iii) child care centers;

(iv) sponsoring organizations; and

(v) families.

(B) to provide recommendations to reduce unnecessary or duplicative paperwork for those program participants while ensuring that proper accountability and program integrity are maintained.

(2) REPRESENTATION.—The advisory committee under this subsection shall include representation from each of the following (within the meaning of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), as applicable):

(A) Public and private nonprofit organizations.
(B) Home-based day care providers.
(C) Head Start centers.
(D) For-profit proprietary organizations.
(E) Shelters for homeless families.
(F) Adult day care centers.
(G) State agencies.
(H) Sponsor organizations that provide administrative support to multiple providers.

(3) CONSIDERATIONS.—In developing the recommendations under this subsection, the advisory committee shall take into consideration, as appropriate—

(A) any existing information, recommendations, and reports from the paperwork reduction work group convened by the Food and Nutrition Service in response to section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; 118 Stat. 755);

(B) the use of technology for electronic recordkeeping to reduce paperwork burdens on program participants and providers; and

(C) input from additional advocates and stakeholders for a broader knowledge base, if the advisory committee determines necessary.

(4) SECRETARIAL ACTION.—

(A) GUIDANCE OR REGULATIONS.—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue guidance or regulations, as appropriate, based on the recommendations of the advisory committee under paragraph (1) regarding streamlined and consolidated paperwork and recordkeeping requirements, including applications, monitoring and auditing requirements, and any other areas recommended by the advisory committee intended to reduce administrative burden.

(ii) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall implement any changes resulting from the guidance or regulations described in clause (i).

(B) REPORT.—After issuing any guidance or regulations under subparagraph (A), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and the Workforce of the House of Representatives a report describing any recommendations for legislative changes to further strengthen and streamline the application and monitoring process and reduce administrative burden on grantees, participants, local and State governments, and the Federal Government.

SEC. 109. DEMONSTRATION PROJECTS.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsections (g), (h), (j), and (k);

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

(3) in subsection (g)(5), as so redesignated, by striking "2011 through 2015" and inserting "2017 through 2021";

(4) by inserting after subsection (c) the following:

"(d) ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.—

"(1) PROGRAM.—The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural producers, and nonprofit entities through grants, technical assistance, and research to implement farm to school programs that improve access to local foods and improve nutrition education in eligible schools.

"(2) DEFINITIONS.—In this subsection:

"(A) AGRICULTURAL PRODUCER.—The term 'agricultural producer' means a farmer, rancher, or fisher (including of farm-raised fish).

"(B) ELIGIBLE SCHOOL.—The term 'eligible school' means a school or institution that participates in—

"(i) a program under this Act, including the summer food service program for children under section 13 and the early care and afterschool portions of the child and adult care food program under section 17; or

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

"(3) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award competitive grants under this subsection to be used for implementing farm to school programs for the purposes of improving access to local foods and improving nutrition education, through—

"(i) research, training, and technical assistance;

"(ii) supporting operations;

"(iii) planning;

"(iv) purchasing equipment;

"(v) developing school gardens; and

"(vi) developing partnerships to facilitate nutrition education and healthy eating.

"(B) REGIONAL BALANCE.—In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

"(i) geographical diversity; and

"(ii) equitable treatment of urban, rural, and tribal communities.

"(C) IMPROVED PROCUREMENT AND DISTRIBUTION.—Funds provided under this subsection may be used to improve local food procurement and distribution options between agricultural producers and eligible schools, including innovative approaches to aggregation, processing, transportation, and distribution.

"(D) AWARDS.—

"(i) MAXIMUM AMOUNT.—The total amount provided to a grant recipient under this subsection shall not exceed $150,000.

"(ii) TERM.—The term of an award shall not exceed 3 years.

"(iii) LIMITATION.—The Secretary shall not award any entity more than 1 grant at any given time.

"(iv) PURPOSE AND SCOPE.—In carrying out this subsection, the Secretary shall make awards of diverse amounts and duration so as to best match a variety of purposes, scopes, and needs of the project proposals.

"(E) LIMITATION.—The Secretary shall not award a grant under this subsection if the majority of grant funds would be used solely for the purpose of carrying out a conference.

"(4) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of costs for a project funded through a grant awarded under this subsection shall not exceed 75 percent of the total cost of the project.

"(B) FEDERAL MATCHING.—As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

"(5) CRITERIA FOR SELECTION.—

"(A) IN GENERAL.—To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give priority to proposals to—

"(i) serve a high proportion of children who are eligible for free or reduced price meals;

"(ii) incorporate nutrition education activities that encourage the participation of school children in farm and garden-based agricultural education activities;

"(iii) provide families the opportunity to participate in educational programming, including through materials and engagement activities, to improve nutrition outside the school environment;

"(iv) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;

"(v) make local food products available on the menu of reimbursable meals under this Act at the eligible school;

"(vi) demonstrate the potential for long-term program sustainability with non-Federal funds; and

"(vii) expand the selection of local commodities available for eligible schools.

"(B) TRIBAL COMMUNITY PROJECTS.—In the case of projects serving tribal communities, the Secretary shall, to the maximum extent practicable, give highest priority to projects that propose to use products from tribal agricultural producers, in addition to the priorities under subparagraph (A).

"(6) EVALUATION.—As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation of the program by the Secretary.

"(7) TECHNICAL ASSISTANCE AND RESEARCH.—

"(A) IN GENERAL.—The Secretary shall provide technical assistance, research, and information through amounts reserved under this subsection for such purposes, to assist schools, State and local agencies, Indian tribal organizations, agricultural producers, and nonprofit entities—

"(i) to facilitate the coordination and sharing of information and resources that may be applicable to the farm to school program;

"(ii) to collect and share information on best practices;

"(iii) to disseminate research and data on existing farm to school programs and the potential for programs to begin in underserved areas; and

"(iv) to increase awareness of, and participation in, farm to school programs among agricultural and aquiculture producers or agricultural producer groups, including beginning, veteran, and socially disadvantaged farmers and ranchers.

"(B) REVIEW.—Not later than 1 year after the date of the enactment of the Improving Child Nutrition and Education Act of 2016 and every 3 years thereafter, the Secretary shall review and submit to the Committee on Agriculture and 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 that describes the regulatory and other barriers related to including locally or regionally produced food products in school food programs, including any progress that has been made in identifying and eliminating such barriers through examining—

"(i) barriers to the development and implementation of successful farm to school programs;

"(ii) the direct and indirect costs affecting the production and marketing of locally or regionally produced agricultural food products for school food programs;

"(iii) the costs local school food programs incur by acquiring such local foods for school meal programs in comparison to the costs for other foods in such school meal programs; and

"(iv) local and regional market access for such food products, partnerships, small-scale production, and any barriers to and long-term feasibility of such access.

"(8) FUNDING.—

"(A) IN GENERAL.—On October 1, 2016, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $10,000,000, 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.

"(C) ADMINISTRATION.—Of the funds made available to the Secretary under subparagraph (A), not more than 5 percent may be used to pay administrative costs incurred by the Secretary in carrying out this subsection and evaluating the program in accordance with paragraph (6).

"(e) SUMMER MEAL SERVICE THROUGH BUSINESS PARTNERSHIP.—

"(1) IN GENERAL.—From the funds made available under the summer food service program under section 13, the Secretary shall award grants on a competitive basis to not more than 4 State agencies to improve delivery of such summer food service program for low-income children in underserved areas during the summer through sustainable, scalable, business-driven solutions.

"(A) DURATION.—A grant awarded under this subsection shall be for a period of not more than 3 years.

"(B) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to State agencies that have met the application requirements under this subsection and which demonstrate a severe unmet need for serving children in additional eligible areas in the State through the summer food service program under section 13.

"(C) LIMITATION.—Funds under this subsection will—

"(i) be awarded for the purpose of reducing childhood hunger and allowing parents to better participate in the labor force or an education or workforce development program; and

"(ii) not preempt or prevent operation of the summer food service program under section 13.

"(2) STATE APPLICATION.—A State seeking to improve delivery of the summer food service program in such State in accordance with this subsection shall submit an application at such time and in such manner as the Secretary may reasonably require. The application shall contain—

"(A) State plans to implement and manage the program in accordance with other applicable Federal requirements under this Act;

"(B) a determination of the eligible areas in the State in which poor economic conditions exist in accordance with the program, but where an eligible service institution is not currently in operation, where the State may reimburse a vendor;

"(C) identified eligible vendors which the State has determined to be qualified to provide meals in accordance with this subsection;

"(D) a proposed timeline for entering into contracts with eligible vendors and strategies for effective communication; and

"(E) an assurance that funds will be used to provide meals to the most vulnerable, underserved, and rural populations, as determined by the State.

"(3) ELIGIBLE VENDOR.—For purposes of this subsection, an eligible vendor is a food vendor which the State determines has the administrative capacity and proven operating performance to provide eligible meals to children in underserved areas in accordance with this subsection and the summer food service program requirements on management responsibilities of sponsors and self-preparation sites, including requirements that the vendor—

"(A) accepts final administrative and financial responsibility for management of an effective food service, including auditing and reporting responsibilities, but will not receive administrative funding from the State to do so;

"(B) has not been determined ineligible to participate in any other program under this Act or the Child Nutrition Act of 1966 by reason of violation of the requirements of that program;

"(C) will provide adequate supervisory and operational personnel for monitoring and management of a self-preparation site;

"(D) contracts directly with the State as a sponsor;

"(E) ensures that meals are inspected periodically as required under existing program regulations;

"(F) participates in applicable State and Federal reporting and auditing requirements under this Act as appropriate, including to provide other information determined relevant by the Secretary in accordance with paragraph (5);

"(G) has State or local health certification for the facilities in which meals will be prepared and distributed for use in the program, and ensures that State and local health and sanitation requirements are met at all times; and

"(H) has the organizational capacity to offer meals in underserved communities, including preparation and delivery logistics.

"(4) STATE DISBURSEMENT.—A State shall use the grant awarded to the State under this subsection to reimburse an eligible vendor for meals served to eligible children in accordance with the summer food service program under section 13 and with this subsection, as follows:

"(A) Reimbursements shall be available for an eligible vendor operating in an eligible area in which poor economic conditions exist where no sponsor is currently operating the program under section 13.

"(B) To the extent practicable, a State shall give priority to eligible vendors that—

"(i) demonstrate partnerships with entities providing summer enrichment activities such as schools, local government agencies, and nonprofit agencies; and

"(ii) provide meals at a congregate site.

"(C) A State shall follow established procedures in entering into contracts with a vendor, such as through a Request for Proposal, Invitation for Sealed Bid, Small Purchase Procedure, or other common method.

"(5) AUDITING.—

"(A) STATE REPORTING.—Not later than 1 year after the end of the grant period for a grant awarded to a State under this subsection, the State shall submit to the Secretary a report on—

"(i) the activities carried out with such grant; and

"(ii) the impacts of such activities on children, families, and eligible service institutions during the summer.

"(B) REPORT FROM SECRETARY.—No later than 4 years after the first grant is awarded under this subsection, the Secretary shall provide 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 the grant program under this subsection, which shall include—

"(i) a review of information submitted by States under subparagraph (A); and

"(ii) best practices on reducing childhood hunger in the summer months.

"(6) LIMITATIONS.—The following rules shall apply with respect to this subsection:

"(A) No commodities shall be provided to businesses or vendors under this subsection.

"(B) Vendors shall assume all administrative costs under this subsection.

"(C) Meals shall be provided to children eligible for the summer food service program under section 13.

"(D) A vendor receiving reimbursements shall not profit directly from such reimbursements under this subsection.

"(E) The Secretary shall include payments to States under this subsection in its calculations for administrative costs incurred by States under subsection (k)(1) of section 13.

"(f) SUMMER ELECTRONIC BENEFIT TRANSFER FOR CHILDREN.—

"(1) PURPOSE.—The purposes of the provision of electronic benefits provided through this subsection are to assess the use of alternate methods of providing access to food for children during the summer months when school is not in regular session that are intended to—

"(A) increase summer food service program effectiveness and efficiency;

"(B) reduce or eliminate the food insecurity and hunger of children; and

"(C) improve the nutritional status of children.

"(2) DEMONSTRATION.—

"(A) ELECTION.—A State that, as of the date of enactment of the Improving Child Nutrition and Education Act of 2016, is operating, or has operated, a summer electronic benefit transfer for children demonstration may elect to continue operating such demonstration in accordance with the requirements of this subsection as an alternative to other delivery models of providing meals to children during the summer months when school is not in regular session.

"(B) STATE REQUIREMENTS.—As a condition of participating in the demonstration under this subsection, a State shall—

"(i) comply with the requirements under this subsection; and

"(ii) agree to provide such information the Secretary may require for the evaluation of the demonstration as required under this subsection.

"(3) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE HOUSEHOLD.—The term 'eligible household' means a household that includes 1 or more school-aged child determined as eligible to receive free or reduced price school meals during the prior school year, but such child is not participating in a program that provides food during the summer through the summer food service program under section 13.

"(B) STATE.—The term 'State' includes a tribal entity.

"(C) SUMMER ELECTRONIC BENEFIT TRANSFER FOR CHILDREN DEMONSTRATION.—The term 'summer electronic benefit transfer for children demonstration' means an electronic benefit transfer demonstration project under section 748(g)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132).

"(4) BENEFIT LEVELS.—

"(A) IN GENERAL.—The Secretary shall approve States seeking to make an election under paragraph (2)(A) that will evaluate the impact of providing a variety of differentiated benefit levels to eligible children as a way to reach such children to the greatest extent practicable. The values of such benefits shall be determined by the State, but shall be between $15 and $30 per month for each school-aged child in an eligible household.

"(B) RATE DETERMINATION.—In determining the values under subparagraph (A), a State may consider differentiating rates based on the need for such benefits, which may be determined through factors such as—

"(i) the proportion of applicants that are eligible for free price meals;

"(ii) total number of households and children seeking to participate;
"(iii) food security in children across communities in such State;
"(iv) average redemption rates of benefits;
"(v) impact of such values at improving food security in children;
"(vi) availability of other community programs that provide meals to children during the summer months when school is not in regular session where children might otherwise receive nutrition assistance; and
"(vii) any other information a State determines is useful for determining such rates.

"(C) LIMITATIONS.—
"(i) TIME.—No child may receive more than 3 months of benefits under this paragraph in any 12-month period.
"(ii) AMOUNT.—No child may receive more than $30 of benefits under this paragraph per month.

"(D) COST SHARING.—Nothing in this paragraph shall be construed to prohibit States or local entities from providing additional non-Federal resources for the purposes of this subsection.

"(5) EFFECTIVE IMPLEMENTATION.—
"(A) IN GENERAL.—In administering this subsection and providing benefits to children in accordance with this subsection, a State shall consider previous State experiences and best practices in implementing the summer electronic benefit transfer for children demonstration carried out before the date of enactment of the Improving Child Nutrition and Education Act of 2016, including information evaluating findings of the demonstration (including the 2013 final report published by the Department of Agriculture).
"(B) TECHNICAL ASSISTANCE.—The Secretary shall provide, and periodically update, technical assistance to States for purposes of this paragraph.

"(6) USE OF BENEFITS.—
"(A) IN GENERAL.—Benefits issued to families through the election under paragraph (2)(A) may be used only for the purchase of food for consumption by school-aged children in such family.
"(B) TIMING.—Benefits issued through the election described in this subparagraph may be redeemed only when school is out of session for the summer period.

"(7) ADMINISTRATION.—In administering this subsection, the State shall—
"(A) ensure that benefits are issued only to eligible households that live—
"(i) in areas with high rates of poverty or long-term poverty that are rural and have no congregate feeding sites or access to meals otherwise provided through the summer food service program authorized under section 13; or
"(ii) outside an area in which poor economic conditions exist but in an area with no access to meals otherwise provided through the summer food service program authorized under section 13;
"(B) issue benefits to eligible households only after such household has made an oral or written request to receive electronic benefit transfer benefits under this subsection; and
"(C) document how the election will be administered in the management and administration plan described in subsection (n), including the process for identifying areas in which benefits will be issued.

"(8) EVALUATION.—The Secretary shall provide for an ongoing, independent evaluation of the demonstration carried out under this subsection, including quasi-experimental or other methods that are capable of producing scientifically valid information to determine effectiveness in achieving the purposes described in paragraph (1), including examining or assessing—
"(A) feasibility of, or barriers to, successful implementation of this subsection;
"(B) varied approaches in State implementation of this subsection, including different approaches, challenges, and lessons learned;
"(C) specific levels of use and receipt of benefits;
"(D) impact on children's food security and nutritional impacts, including by the different impacts on children in a variety of geographical areas such as rural, urban, and suburban areas, localities, and States;
"(E) total cost (including administrative cost) of implementing and operating this subsection, including in comparison to other methods of providing summer meal service to school-aged children;
"(F) impacts and results of such evaluation in comparison to evaluations of the summer electronic benefits transfer for children demonstration published by the Secretary of Agriculture; and

"(G) the potential for benefits provided under this subsection to improve effectiveness and efficiency of the summer food service program in comparison to other methods of providing summer meal service to school-aged children.

"(9) REPORT.—Not later than one year after amounts are first appropriated under paragraph (10), and each year thereafter, the Secretary shall submit to Congress a report that—

"(A) includes the information resulting from the most recent evaluation under paragraph (8); and

"(B) takes into consideration evaluations of the summer electronic benefits transfer for children demonstration published by the Secretary of Agriculture.

"(10) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection not more than $10,000,000 for each of fiscal years 2018 through 2020, to remain available until expended.

"(B) LIMITATIONS.—Of such appropriations, for each fiscal year—

"(i) each State shall utilize a portion for administrative funds that shall be equal to the levels necessary to effectively and efficiently administer the State's demonstration under this subsection, as determined by the State;

"(ii) not more than 1 percent may be spent on administrative funds by the Secretary; and

"(iii) not more than $499,999 shall be available for the Secretary to comply with paragraph (8).

"(11) GUIDANCE.—Not later than December 31, 2016, the Secretary shall provide guidance to States to implement this subsection, including recommendations for States to successfully continue to implement the summer electronic benefit transfer for children demonstration while complying with the new or additional requirements of this subsection."; and

(5) by adding at the end the following:

"(h) STATE ADMINISTRATION OF CHILD NUTRITION PROGRAMS.—

"(1) PURPOSES.—The purposes of this subsection are to provide States flexibility to develop programs and policies to best meet the nutritional needs of school-aged children in the State by providing flexibility over school meal programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and other programs to address such needs more effectively and efficiently with less Federal involvement, including by—

"(A) removing duplication, redundancies, regulatory burden, and unnecessary requirements resulting from the Federal administration of the school meal programs;

"(B) more efficiently using Federal, State, local, and nongovernmental resources to strengthen delivery of the school meal programs and other programs; and

"(C) supporting healthy meals through involvement by parents, family members, and the community, including nonprofit organizations, health organizations, and school officials from large and small urban, suburban, and rural areas in the State.

"(2) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to up to 3 States to enable the States to carry out the activities described in this subsection.

"(B) CONSIDERATIONS.—In awarding grants under this subsection, the Secretary shall—

"(i) in a case in which more than 3 States apply for a grant under this subsection, give priority to States by taking into consideration regional diversity; and

"(ii) ensure each State awarded a grant under this subsection meets the required assurances under paragraph (3)(D), except that the Secretary shall not approve or disapprove an application on the basis of a State's plan or proposed program.

"(C) DURATION OF GRANTS.—A grant to a State under this subsection—

"(i) shall be awarded to the State for a 3-year period; and

"(ii) may be renewed by the Secretary for an additional 3-year period if the State can demonstrate success in meeting the nutritional needs of the school-aged children in the State.

"(D) AMOUNT OF GRANTS.—The amount of a grant awarded to a State under this subsection for each year of the grant period shall be equal to the amount described in paragraph (3)(C).

"(E) MATCHING REQUIREMENT.—Each State that receives a grant under this subsection shall provide funds from non-Federal sources (which may be provided in cash, commodities, or in kind) to support the activities under this subsection.

"(F) LIMITATIONS.—A State that receives a grant under this subsection may not, during any period during which the State receives such grant, receive funds under any of the following:

"(i) The school lunch program under this Act.

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

"(iii) The special milk program under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772).

"(iv) The State administrative expenses funding under section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776).

"(v) The team nutrition network under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788).

"(3) APPLICATION.—To receive a grant under this subsection, a State shall submit an application at such time and in such manner as the Secretary may reasonably require. The application shall contain—

"(A) an assurance that each school-aged child in the State will have access to at least one affordable meal service option during the school day at the school in which the child is enrolled, and a plan for how the State will carry out such assurance, including—

"(i) the income thresholds or other needs-based determinations to be used for determining—

"(I) which students are eligible for free meals;

"(II) which students are eligible for reduced price meals; and

"(III) which students are required to pay the full price for meals;

"(ii) the estimated number of students in the State eligible for the thresholds for each meal category described in clause (i);

"(iii) the price to be charged to students eligible for reduced price meals and the price to be charged to students required to pay the full price for meals;

"(iv) how the State will identify and verify eligibility of such students, such as through census data, application processes, or any other State-determined method;

"(v) an identification of any non-Federal sources, including State funds, the State will utilize to meet the needs of school-aged children in the State if the grant received under this subsection is not sufficient to cover the cost of the meals to be served during the period in which the State receives such grant;

"(vi) any other factors the State will use to determine distribution of funds received under the grant to each elementary school and secondary school in the State to reimburse the schools for the cost of the meals served, including how the State will ensure a fair distribution of such funds to address the need for such meals at each such school; and

"(vii) the monitoring plan the State will use to ensure the funding described in clause (v) will be used in accordance with this subsection;

"(B) a description of the requirements for meals provided under this subsection that the State will require, including requirements for meal standards and pricing;

"(C) a request for an amount of grant funds for each year that the State will receive a grant under this subsection, which may not, for each such year exceed the amount the State received for fiscal year 2016—

"(i) for free and reduced price meal reimbursements under the programs described in clauses (i) and (ii) of paragraph (2)(F), excluding any additional reimbursements received under section 4(b)(3) of this Act; and

"(ii) under the programs described in paragraphs (iii) through (v) of paragraph (2)(F); and

"(D) assurances that the State will—

"(i) provide healthy meals to school-aged children in the State to ensure maximum participation of students in the State;

"(ii) provide technical assistance to local educational agencies and schools to ensure maximum participation of students in the State;

"(iii) provide an annual report to the Secretary that outlines the activities and progress made in providing healthy meals to students in a more cost efficient manner than such meals were provided prior to the State receiving such grant; and

"(iv) work with school leaders, school nutrition providers, and health professionals to develop and implement the plan under subparagraph (A) and to ensure that meals provided in schools in the State using the grant will be healthy and provided in an efficient and cost effective manner.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—A State that receives a grant under this subsection shall use the grant funds to—

"(i) provide meals to school-aged children in accordance with paragraph (3);

"(ii) carry out the activities described in subparagraph (B) of this paragraph; and

"(iii) carry out any other activities the State determines will support the goals of this subsection.

"(B) ADDITIONAL STATE ACTIVITIES.—Each State that receives a grant under this subsection shall, in addition to the activities described in clauses (i) and (ii) of subparagraph (A), provide nutritional assistance to low-income and vulnerable children, as determined by the State, by—

"(i) addressing specific State and community nutritional needs;

"(ii) engaging partners to deliver the meal programs to spur innovation in such delivery, including local governments and school officials, businesses, non-profit and faith-based organizations, and other community partners;

"(iii) developing or strengthening private sector partnerships to support the community and nutritional needs of school-aged children; and

"(iv) achieving administrative and other programmatic cost savings.

"(C) LIMITATION.—A State may use not more than 10 percent of the grant received under this subsection for administrative and outreach expenses.

"(5) STATE REPORTING.—Not later than 2 years after receiving a grant under this subsection, a State shall submit to the Secretary a report on how the State was better able to operate school meals and other programs to address needs more effectively compared to how the State addressed such needs before the grant was awarded to the State. The report shall include—

"(A) a description of how the State used the grant funds, the State costs of carrying out the activities under this subsection (including food, administrative, labor, oversight, and any other costs), and any revenue the State received by carrying out such activities (including Federal, non-Federal, and family contributions);

"(B) the strategies and activities undertaken at the State and, if applicable, local level to meet the goals of this subsection;

"(C) financial efficiencies the State has identified through the grant, including the extent to which activities under the grant have led to the addition, blending, or braiding of other Federal or private funding, and the specific or estimated amount of cost-savings, reduced burdens, and other efficiencies;

"(D) the impacts the State has made in meeting the goals of this subsection;

"(E) any barriers the State has identified in providing school meals, and ways in which to overcome such barriers; and

"(F) other State-determined and voluntarily provided information intended to share best practices for future implementation of this subsection.

"(6) LIMITATIONS ON FEDERAL INTERFERENCE.—Nothing in this subsection shall be construed to authorize the Secretary to establish, as a condition to receive a grant under this subsection or as requirement to operate such a grant, any criterion that specifies, defines, or prescribes—

"(A) nutritional guidelines, standards, or meal requirements, including the methods that a State uses to develop, implement, or improve such nutritional guidelines, standards, or meal requirements;

"(B) specific aspects, parameters, or measures of programmatic quality, including measures of compliance or evaluation;

"(C) nutritional curriculum, programs of instruction, or instructional content;

"(D) any aspect of meal provision criteria, including nutritional requirements, timing, duration, type, price, amount, or any other aspect of meals or meal program operation;

"(E) any term under this subsection as such term applies to activities carried out by a State, including the terms healthy, affordable meal, school day, and nutritional needs;

"(F) the ways in which a State identifies and verifies eligibility for benefits, including child, family, and provider eligibility;

"(G) differentiated payment rates a State may use;

"(H) the amount or sources of non-Federal funds that a State must provide;

"(I) the percentages or amounts of grant funds to be used for specific activities within or among programs;

"(J) the scope or structure of programs, including number of meals served, timing within the day, and length or time of year a program operates; and

"(K) any aspect or parameter of programmatic evaluation.

"(7) FEDERAL REPORTING.—Not later than 4 years after the first grant is awarded under this subsection, the Secretary shall provide to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to States, a report on the feasibility of scaling the implementation of this subsection, including the efficiencies, cost savings, and other benefits identified by State implementation of the programs described in paragraph (2)(F) under this subsection. Such determination of feasibility shall be based on information including—

"(A) State reports submitted under paragraph (5);

"(B) a determination of the level of Federal cost-savings achieved and the amount of future cost-saving implications;

"(C) programmatic simplifications the Federal Government could pursue; and

"(D) other information provided by States or private entities that would be useful in recommendations to the public, States, and to Congress.".

SEC. 110. FRUIT AND VEGETABLE PROGRAM.

Section 19 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a) is amended—

(1) in the heading, by striking "**FRESH**";

(2) by striking "fresh" each place it appears in subsections (a), (b), and (e); and

(3) in subsection (i)—

(A) by striking paragraphs (5) and (7);

(B) by redesignating paragraph (6) as paragraph (5); and

(C) by adding at the end the following:

"(6) CLARIFICATION.—

"(A) GUIDANCE.—The Secretary shall issue guidance with respect to how funds under the program may be used, which—

"(i) clarifies to States that such funds may be used on all forms of fruits and vegetables, provided the fruit or vegetable product meets the requirements of section 210.11 of title 7, Code of Federal Regulations (as in effect on the date of enactment of the Improving Child Nutrition and Education Act of 2016);

"(ii) provides the appropriate exemptions described in such section 210.11 of the Code of Federal Regulations; and

"(iii) encourages schools to introduce fruits and vegetables to children in new contexts, including by allowing schools to offer combinations of fruits and vegetables with tree nuts, which provide a good source of protein per serving and meet the nutrition standards of such section 210.11 of the Code of Federal Regulations, except that the Secretary shall provide exemptions from the total fat requirements under such section 210.11 for tree nut products.

"(B) LOCAL DECISION.—Nothing in this section shall be construed to require a school participating in the program to select forms of fruit or vegetables other than fresh.".

SEC. 111. COMPLIANCE AND ACCOUNTABILITY.

Section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c) is amended—

(1) in subsection (a)—

(A) by striking "(1) IN GENERAL.—There shall be" and inserting "There shall be"; and

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) in subsection (b)—

(A) in paragraph (1)(C)(i), by striking "3-year cycle" and inserting "5-year cycle";

(B) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively;

(C) by striking paragraph (3) and inserting the following:

"(3) ERROR REDUCTION PLANS.—

"(A) IN GENERAL.—Each State agency shall work with the local educational agencies that have the highest rates of certification errors according to the verification process under section 9(a)(D) to develop an error reduction plan and monitor implementation of the plan over the remainder of the review cycle.

"(B) PLAN COMPONENTS.—Each error reduction plan shall include—

"(i) specific measures that the local educational agency shall take to reduce certification errors, including at a minimum—

"(I) increasing the standard verification sample size, except such increase shall not result in a verification sample size of more than 15 percent;

"(II) improvements in the application;

"(III) the use of technology to minimize opportunities for error; and

"(IV) enhanced training and oversight of staff involved in the certification and verification process;

"(ii) a timeline for the local educational agency to implement those measures within the review cycle;

"(iii) annual goals for reductions in certification errors;

"(iv) technical assistance to be provided by the State agency; and

"(v) working with an educational service agency to help conduct the verification process and other aspects of the program as necessary to help reduce errors in the administration of the program.

"(C) STATE AGENCY RESPONSIBILITIES.—Each State agency shall—

"(i) assist the local educational agencies identified under subparagraph (D) with developing an error reduction plan that complies with subparagraph (B);

"(ii) provide technical assistance as described in the error reduction plan under subparagraph (B)(iv);

"(iii) conduct annual reviews focused on the direct certification, application, certification, verification, meal counting, and meal claiming processes; and

"(iv) report annually to the Secretary on the progress of the State in reducing errors.

"(D) SELECTION OF LOCAL EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—Each State agency shall select up to 10 percent of the local educational agencies in the State to develop an error reduction plan.

"(ii) LIMITATION.—The percentage of local educational agencies selected under clause (i) shall not be comprised of more than 50 percent of small local educational agencies, as determined by the Secretary.

"(iii) ASSESSMENT OF CERTIFICATION ERROR.—In selecting local educational agencies under this paragraph, certification error shall be assessed based on a measure determined by the Secretary that considers—

"(I) the results of the reviews conducted under paragraph (1) and

"(II) the percentage of household applications verified under section 9(b)(3)(D)(i) that had the level of benefits changed as a result of information obtained during the verification process, excluding benefit terminations resulting from not obtaining information during household verification conducted under section 9(b)(3)(G).

"(4) HIGH PERFORMANCE.—

"(A) IN GENERAL.—If a local educational agency is determined to be in the top 20 percent of local educational agencies in the State, as determined by the State under subparagraph (B), the sample size under section 9(b)(3)(D)(i)(II) shall be a verification sample size of 2.5 percent.

"(B) CONSIDERATIONS.—The State shall determine whether a local educational agency is in the top 20 percent of local educational agencies in the State by considering error rates, confirmation rates, non-response rates, response rates, and other factors as necessary to make such determination."; and

(D) in paragraph (6) (as redesignated by subparagraph (B)), in subparagraph (A), by striking "paragraph (4)" each place it appears and inserting "paragraph (5)"; and

(3) in subsection (d), by striking "2011 through 2015" and inserting "2017 through 2021".

SEC. 112. REPEAL OF STATE CHILDHOOD HUNGER CHALLENGE GRANTS.

Section 24 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769e) is repealed.

SEC. 113. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

Section 25 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f) is amended—

(1) by redesignating subsection (g) as subsection (h); and

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

"(g) FINES.—

"(1) IN GENERAL.—In a situation in which a contractor is found guilty in any criminal proceeding or found liable in any civil or administrative proceeding, of the activities listed in paragraph (2), in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, the Secretary shall impose a civil penalty of not more than $100,000,000, as determined by the Secretary, to provide restitution to the program for harm done to the program.

"(2) INCLUDED ACTIVITIES.—Activities include, at a minimum—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) any other obstruction of justice.

"(3) USE OF FUNDS.—Any funds collected under this subsection shall be credited to the child nutrition programs appropriations account.".

SEC. 114. IMPROVEMENTS TO SCHOOL LUNCH FACILITIES.

The Richard B. Russell National School Lunch Act is amended by inserting after section 26 (42 U.S.C. 1769g) the following:

"SEC. 27. IMPROVEMENTS TO SCHOOL LUNCH FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) DURABLE EQUIPMENT.—The term 'durable equipment' means durable food preparation, handling, cooking, serving, and storage equipment greater than $500 in value.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a local educational agency or a school food authority administering or operating a school lunch program under this Act;

"(B) a tribal organization; or

"(C) a consortium that includes a local educational agency or school food authority described in subparagraph (A), a tribal organization, or both.

"(3) INFRASTRUCTURE.—The term 'infrastructure' means a food storage facility, kitchen, food service facility, cafeteria, dining room, or food preparation facility.

"(4) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(5) SCHOOL FOOD AUTHORITY.—The term 'school food authority' has the meaning given the term in section 210.2 of title 7, Code of Federal Regulations (or a successor regulation).

"(6) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(b) LOAN GUARANTEES.—

"(1) AUTHORITY.—The Secretary shall issue a loan guarantee to an eligible lender for purposes of financing the construction, remodeling, or expansion of infrastructure or the purchase of durable equipment that will assist the eligible entity in providing healthy meals through the school lunch program authorized under this Act.

"(2) PREFERENCE.—In issuing a loan guarantee under this subsection, the Secretary shall give a preference to an eligible entity that, as compared with other eligible entities seeking a loan guarantee under this subsection, demonstrates substantial or disproportionate—

"(A) need for infrastructure improvement or durable equipment; or

"(B) impairment in durable equipment.

"(3) OVERSIGHT.—The Secretary, acting through the Under Secretary for Rural Development, shall establish procedures to oversee any project or purchase for which a loan guarantee is issued under this subsection.

"(4) GUARANTEE AMOUNT.—A loan guarantee issued under this subsection may not guarantee more than 80 percent of the principal amount of the loan.

"(5) FEES AND COSTS.—

"(A) IN GENERAL.—The Secretary shall establish fees for loan guarantees under this subsection that are, to the maximum extent practicable, equal to all costs of the loan guarantees as determined under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.), as determined by the Secretary.

"(B) FEE SHORTFALL.—To the extent that the Secretary determines that fees described in subparagraph (A) are not sufficient to pay for all of the costs for the loan guarantees pursuant to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.), the Secretary may use funds described in paragraph (6) to pay for the costs of loan guarantees not paid for by the fees.

"(6) FUNDING.—Subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for fiscal year 2017 and each fiscal year thereafter.

"(c) GRANTS.—

"(1) AUTHORITY.—Beginning in fiscal year 2017 and subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this subsection, the Secretary shall make grants, on a competitive basis, to eligible entities for the purchase of durable equipment and infrastructure needed to serve healthier meals and improve food safety.

"(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to eligible entities that—

"(A) are located in States that have enacted comparable statutory grant funding mechanisms or that have otherwise appropriated funds for the purpose described in paragraph (1); and

"(B) have identified and are reasonably expected to meet an unmet local or community need—

"(i) through a public-private partnership or partnership with a food pantry or other low-income assistance agency; or

"(ii) by allowing related community organizations to use kitchen or cafeteria space.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of costs for assistance funded through a grant awarded under this subsection shall not exceed 80 percent of the total cost of the durable equipment or infrastructure.

"(B) MATCHING.—To receive a grant under this subsection, an eligible entity shall provide matching support in the form of cash or in-kind contributions.

"(C) WAIVER.—The Secretary may waive or vary the requirements of subparagraphs (A) and (B) if the Secretary determines that undue hardship or effective exclusion from participation would otherwise result.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated $25,000,000 to carry out this subsection for fiscal year 2017 through fiscal year 2019.

"(B) LIMIT.—The Secretary may use not more than 5 percent of the funds made available under subparagraph (A) to provide technical assistance.

"(d) SALAD BARS.—Not later than 180 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review or revise any guidance in existence on that date of enactment so as to ensure that school food authorities have flexibility in the establishment and implementation of salad bars.".

SEC. 115. PROHIBITIONS.

The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) is further amended by adding at the end the following:

"SEC. 30. PROHIBITIONS.

"Nothing in this Act, the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Healthy, Hunger-Free Kids Act of 2010, or the Improving Child Nutrition and Education Act of 2016 shall—

"(1) authorize the Secretary to issue or establish any regulations or requirements not explicitly authorized under any such Act; or

"(2) authorize the Secretary to require, as a condition of participation in any program under any such Act—

"(A) any curriculum or education requirements for participating schools or child care providers; or

"(B) the adoption of any specific education standards for nutrition education.".

TITLE II—CHILD NUTRITION ACT

SEC. 201. SPECIAL MILK PROGRAM AUTHORIZATION.

Section 3(a)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(7)) is amended by striking "on an annual basis each" and inserting "annually by February 15 for the upcoming".

SEC. 202. SCHOOL BREAKFAST PROGRAM.

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

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

"(F) INCREASED REIMBURSEMENT.—(i) For school year 2018–2019, the Secretary shall increase by 2 cents the annually adjusted payment for each breakfast (free, reduced price, and paid) described in subparagraph (B).

"(ii) For school year 2019–2020, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the result obtained under such clause (i) applicable to such breakfast, as annually adjusted for the school year in accordance with subparagraph (B).

"(iii) For school year 2020–2021, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the annually adjusted payment for such breakfast, as determined under clause (ii) of this subparagraph, plus 1 cent.

"(iv) For school year 2021–2022, and each succeeding school year, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the result obtained under clause (iii) of this subparagraph applicable to such breakfast, as annually adjusted for the school year in accordance with subparagraph (B).".

(2) in subsection (e)(1)(B), by striking ", including technical" and all that follows through "established under this section,".

SEC. 203. STATE ADMINISTRATIVE EXPENSES.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (a)—

(A) in paragraph (3), in the second sentence, by striking ", except as provided in paragraph (5)";

(B) by striking paragraph (5); and

(C) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively;

(2) in subsection (b)—

(A) by striking "expenses, for administrative" and inserting the following: "expenses for—"

"(1) administrative"; and

(B) by striking "for support" and all that follows through "for staff" and inserting the following:

"(2) support services;

"(3) office equipment;

"(4) State-operated purchasing programs; and

"(5) staff";

(3) in subsection (g)(2)(B), by amending clause (iii) to read as follows:

"(iii) MINIMIZING DISRUPTIONS.—The Secretary shall encourage school food authorities to consider—

"(I) providing the training required under this subparagraph to local food service personnel during paid, regular hours; and

"(II) that to the extent that training must occur during nonwork hours, it is minimally disruptive to employees' other work obligations if employees are provided with sufficient notice of training.";

(4) in subsection (i)—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting before the period at the end the following: "and for the purposes described in section 749(h) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2133)"; and

(ii) by adding at the end the following:

"(C) PRIORITY.—In awarding funds to States under this paragraph, the Secretary shall give priority to States in which local educational agencies, school food authorities, or schools submit a plan under subparagraph (B) that includes the use of technology or information management systems to provide assistance to tribal organizations administering the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) for purposes of improving the rate of direct certification of children in households participating in that program."; and

(B) in paragraph (4), by striking "2015" and inserting "2021";

(5) in subsection (j), by striking "2015" and inserting "2021";

(6) by redesignating subsection (j) as subsection (k); and

(7) by inserting after subsection (i) the following:

"(j) CENTRALIZED EXCHANGE NETWORK.—

"(1) ESTABLISHMENT.—The Secretary shall establish a centralized exchange network to facilitate State exchange of information and best practices, for programs authorized under this Act or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

"(2) NETWORK TOPICS.—State exchanges of information and best practices described in paragraph (1) may include, at a minimum, research methods and data related to—

"(A) improved efficiency in the delivery of benefits;

"(B) improved compliance in the programs; and

"(C) reduction of fraud, waste, and abuse in the programs.

"(3) ADMINISTRATIVE FUNDS.—The Secretary shall not use more than $450,000 for such network.".

SEC. 204. REGULATIONS.

Section 10(b)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1779(b)(1)(C)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) ensure that the nutrition standards under this paragraph do not apply to fundraisers held by student groups or organizations, and that the school and applicable State agency are not prohibited from determining which such fundraisers may be held; and

"(iv) ensure that the nutrition standards under this paragraph allow any foods that may be served as part of a reimbursable meal served under the school meal programs to be sold in schools as described in subparagraph (B).".

SEC. 205. DEFINITION OF STATE AGENCY.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended by striking paragraph (2) and inserting the following:

"(2) STATE AGENCY.—The term 'State agency' means—

"(A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer);

"(B) a board of education controlling the State department of education;

"(C) the State Commissioner or individual who administers agricultural programs in the State; or

"(D) a State official the State legislature designates to administer the programs under this Act.".

SEC. 206. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

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

(1) in subsection (a), in the second sentence, by striking "promotion" and inserting "counseling, promotion,";

(2) in subsection (b)(14), by striking the paragraph designation and all that follows through "means those foods" and inserting the following:

"(14) SUPPLEMENTAL FOOD.—The term 'supplemental food' means any food";

(3) in subsection (d)—

(A) in paragraph (2)—

(i) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking "may choose to" and inserting "shall";

(II) in clause (i)(II), by striking "and" at the end;

(III) in clause (ii), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(iii) any basic allowance for subsistence provided under section 402 of title 37, United States Code, to a member of a uniformed service."; and

(ii) by adding at the end the following:

"(E) CHILD SUPPORT PAYMENTS.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any child support payment for an applicant who is legally obligated to pay child support for any noncustodial child."; and

(B) in paragraph (3), by adding at the end the following:

"(G) DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.—

"(i) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and taking into consideration State government perspectives, shall designate data exchange standards to govern, under this section—

"(I) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

"(II) Federal reporting and data exchange required under applicable law.

"(ii) REQUIREMENTS.—The data exchange standards required by clause (i) shall, to the maximum extent practicable—

"(I) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

"(II) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

"(III) incorporate interoperable standards developed and maintained by Federal entities with authority regarding contracting and financial assistance;

"(IV) be consistent with, and implement, applicable accounting principles;

"(V) be implemented in a manner that—

"(aa) is cost effective; and

"(bb) improves program efficiency and effectiveness;

"(VI) be capable of being upgraded as necessary; and

"(VII) protects the privacy of any personally identifiable information from being accessed by individuals who do not need access to such information.

"(iii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph requires any change to an existing data exchange standard for Federal reporting that is determined to be effective and efficient.

"(iv) IMPLEMENTATION.—

"(I) IN GENERAL.—Not later than 2 years after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall issue a proposed rule to implement this subparagraph.

"(II) REQUIREMENTS.—The proposed rule under this clause shall—

"(aa) identify all federally required data exchanges;

"(bb) include specification and timing for the exchanges to be standardized;

"(cc) address the factors used in determining whether and when to standardize data exchanges;

"(dd) specify State implementation options; and

"(ee) describe future milestones.";

(4) in subsection (e)—

(A) by striking the subsection designation and all that follows through "The State agency shall" in the first sentence of paragraph (1) and inserting the following:

"(e) NUTRITION AND DRUG ABUSE EDUCATION.—

"(1) EDUCATION.—

"(A) IN GENERAL.—A State agency shall";

(B) in paragraph (1) (as amended by subparagraph (A)), by adding at the end the following:

"(B) DISPOSAL OF CERTAIN INFANT FORMULA.—

"(i) IN GENERAL.—The State agency shall ensure that all pregnant, postpartum, and breastfeeding participants in the program, and par-

ents or caretakers of infant and child participants in the program, are provided education regarding proper disposal of unused or excess infant formula obtained with food instruments issued under the program under this section.

"(ii) INCLUSIONS.—The education under this subparagraph shall include information regarding—

"(I) the safety hazards of purchasing infant formula from an unauthorized vendor; and

"(II) the penalties associated with the gifting, trading, sale, or resale of infant formula or other supplemental foods obtained with food instruments issued under the program under this section, in accordance with subsection (o).''; and

(C) by striking paragraph (3) and inserting the following:

"(3) NUTRITION EDUCATION MATERIALS.—

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

"(B) SHARING OF MATERIALS WITH CHILD AND ADULT CARE FOOD PROGRAM.—A State agency may allow the local agencies or clinics operating under the State agency to share nutrition educational materials with institutions 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) at no cost to that program, if a written materials-sharing agreement exists between the relevant agencies.'';

(5) in subsection (f)—

(A) by striking "(f)(1)(A) Each State agency" and all that follows through "change in the plan." and inserting the following:

"(f) PLAN OF OPERATION AND ADMINISTRATION BY STATE AGENCY.—

"(1) REQUIREMENTS.—

"(A) SUBMISSION.—

"(i) IN GENERAL.—Each State agency shall submit to the Secretary a plan of operation and administration of the program authorized under this section.

"(ii) DEADLINES.—Each State agency shall submit—

"(I) an initial plan not later than such date as is specified by the Secretary; and

"(II) an update to the plan every 3 years thereafter or, if the requirements of this section continue to be met by current plan, an assurance that the current plan continues to meet such requirements.'';

(B) in paragraph (1)(B), by striking "submitted for" and inserting "submitted covering";

(C) in paragraph (1)(C)—

(i) in clause (x), by striking "and" at the end;

(ii) by redesignating clause (xi) as clause (xiii); and

(iii) by inserting after clause (x) the following:

"(xi) a plan to allow, during an emergency or disaster period, for different foods to be obtained with program benefits in lieu of, or in addition to, the supplemental foods available to be obtained with such benefits;

"(xii) a plan detailing the methods to be used by all local agencies to ensure compliance with subsection (d)(2); and'';

(D) in paragraph (5)—

(i) by striking "(5) State and local" and inserting the following:

"(5) ACCOUNTS, RECORDS, AND REVIEW.—

"(A) IN GENERAL.—State and local''; and

(ii) by adding at the end the following:

"(B) REVIEW.—The Secretary shall periodically review State and local agency compliance with the approved plan of operation and administration of the applicable State.'';

(E) in paragraph (10)—

(i) by striking "(10) The Secretary" and inserting the following:

"(10) STANDARDS FOR ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary''; and

(ii) by adding at the end the following:

"(B) NOTIFICATION TO STATE AUTHORITY.—If, on reviewing the administration by a State of the program, the Secretary determines there is a need to temporarily halt the State from approving new vendors to address deficiencies in proper administration, the Secretary may issue a moratorium on

the authority of the State to approve new vendors, subject to the condition that the Secretary shall provide the State with reasoning behind such determination and shall establish—

"(i) a timeframe under which the moratorium will be issued, including any renewal or lifting of the moratorium;

"(ii) a process to approve vendors for the State in a manner that does not impede—

"(I) the sale of a business; or

"(II) the establishment of any new business; and

"(iii) a review process to be conducted by the Secretary to ensure that participants, nonparticipants, and vendors are not adversely impacted by the implementation of the moratorium.";

(F) in paragraph (11)—

(i) in subparagraph (C)—

(I) in clause (i)—

(aa) by inserting before the semicolon at the end the following: "which, beginning not later than 60 days after the date of enactment of the Improving Child Nutrition and Education Act of 2016, shall include an examination of criteria relating to fluid milk (in consideration of 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)), and an examination of the consumption and redemption rates of milk beginning on May 5, 2014"; and

(bb) by striking "and" at the end;

(II) in clause (ii)—

(aa) by striking "and cultural eating patterns" and inserting "cultural eating patterns, commercial availability, and participant demand, except that any changes made under this clause shall not limit the overall fruit intake of children"; and

(bb) by striking the period at the end and inserting "; and"; and

(III) by adding at the end the following:

"(iii) consider accommodations for medical, including food allergies, or other special dietary needs of individuals, including religious dietary restrictions.";

(ii) by adding at the end the following:

"(D) PRODUCT PACKAGE SIZES.—In promulgating or revising regulations under this paragraph, the Secretary shall allow a range of product package sizes to be selected by participants.

"(E) CASH VALUE VOUCHERS.—In adjusting annually for food cost inflation in the food package under this paragraph, the Secretary shall round to the nearest dollar increment.

"(F) PARTICIPANT CHOICE OPTIONS.—The Secretary shall maximize opportunities for State agency flexibility to ensure adequate and appropriate participant choice to meet participant needs and cultural preferences in supplemental foods made available under this section.";

(6) in subsection (g), by striking paragraph (1)(A) and inserting the following:

"(A) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $6,350,000,000 for each of fiscal years 2017 through 2021."; and

(7) in subsection (h)—

(A) in paragraph (8)(A)—

(i) in clause (vi)—

(I) by striking "Effective beginning" and inserting the following:

"(I) IN GENERAL.—Effective beginning"; and

(II) by adding at the end the following:

"(II) INFANT FORMULA.—Effective beginning on the date of the enactment of the Improving Child Nutrition and Education Act of 2016, a State agency that has fully implemented electronic benefits transfer systems throughout the State shall have in effect a system to ensure that infant formula rebate invoices, under competitive bidding, provide an actual count of the number of units sold to participants in the program under this section."; and

(ii) by adding at the end the following:

"(xi) CONTRACT DURATION.—The contracts awarded under clause (iii) shall specify that—

"(I) if the income eligibility limit under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for pregnant women or infants

is substantially increased, the contractor may terminate the existing contract effective on the later of—

"(aa) the date that is 1 year after the date on which the State decision to increase the eligibility limit by amending the State plan is made by—

"(AA) adopting State legislation;

"(BB) issuing a State executive order or administrative rule; or

"(CC) any other applicable State process, as determined by the Secretary; and

"(bb) the first day of the month during which the increase takes effect; and

"(II) if a contractor elects to terminate a contract pursuant to subclause (I), the contractor shall notify the State agency by not later than the date that is 1 year before the proposed date of termination.";

(B) in paragraph (9)—

(i) in subparagraph (B)—

(I) in clause (i)—

(aa) in subclause (I), by striking "and" at the end; and

(bb) by adding at the end the following:

"(III) limit the term of any contract (including any extension or renewal period) to a maximum of 5 years, subject to the condition that any such extension or renewal shall be approved only on mutual consent of the contractor and the State agency;

"(IV) agree to provide, by not later than 180 days before exercising any termination for convenience clause, a written notice to each affected contractor;

"(V) agree—

"(aa) to receive an annual audit of infant formula rebate invoices by a contractor; and

"(bb) to provide to each contractor accurate monthly redemption files; and

"(VI) agree not to provide any State preference to any bidder in evaluating bids;";

(II) in clause (iii), by striking "and" at the end;

(III) in clause (iv)—

(aa) by striking "30" and inserting "45"; and

(bb) by striking the period at the end and inserting a semicolon;

(IV) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(V) by inserting after clause (ii) the following:

"(iii) for any State agency that has fully implemented electronic benefits transfer systems throughout the State, have a system to ensure that rebate invoices under competitive bidding provide an actual count of the number of units lawfully sold to participants in the program under this section;"; and

(VI) by adding at the end the following:

"(vi) provide a process to negotiate the amount of funds to be returned to the bidder by the State agency, and the method of return, on determining and verifying that rebates were paid on any food, including infant formula, sold under fraudulent means;

"(vii) open bids and enter into a contract under paragraph (8)(A)(iii) only after making a reasonable effort to confirm in writing, via email or other means, that the manufacturers on the list the State agency maintains under paragraph (8)(A)(ix) received the initial request for proposals or other bid solicitation document by not later than the date that is 45 days before the date on which the bids are due;

"(viii) agree to provide to contractors supporting documentation for monthly invoices, subject to the participant and vendor confidentiality protections under program rules; and

"(ix) not later than the date that is 90 days after the date for opening bids, submit to the Secretary a copy of the bid solicitation and any other contract documents."; and

(ii) by adding at the end the following:

"(D) CERTAIN FOOD FOR INFANTS.—Before any State agency solicits bids for a contract for infant fruits, vegetables, cereal, or meat under a competitive bidding system, the State agency shall—

"(i) consider—

"(I) the impact of the contract on—

"(aa) participation or redemption rates;

"(bb) costs to the State agency for infant fruits, vegetables, cereal, or meat, including product, administrative, and procurement costs; and

"(cc) the ability of the State agency—

"(AA) to achieve the purpose described in subsection (a);

"(BB) to provide infants with a variety of developmentally appropriate infant fruits, vegetables, cereal, or meat; and

"(CC) to serve the nutritional needs of program participants; and

"(dd) consumers who are not participants, including the availability of alternate brands and potential effects on retail pricing of infant fruits, vegetables, cereal, or meat; and

"(II) whether the contract is compatible with—

"(aa) the management information and food instrument system of the State agency;

"(bb) eligible vendors; and

"(cc) the capacity of the manufacturer to meet technical specifications; and

"(ii) provide to the Secretary—

"(I) a written explanation of how the considerations described in clause (i) affected the decision of the State agency to solicit bids for a contract; and

"(II) not later than 15 months after the start of such contract, a report that shall include—

"(aa) the net savings to date from the contract;

"(bb) an assessment of the impact on eligible stores, non-participants, and retail prices for infant fruits, vegetables, cereal, and meat; and

"(cc) an analysis of the costs and benefits of the contract, including an examination of retail prices of infant fruits, vegetables, cereal, and meat.";

(C) in paragraph (11)(E)—

(i) by striking "If a State" and inserting the following:

"(i) IN GENERAL.—If a State"; and

(ii) by adding at the end the following:

"(ii) REQUIREMENT.—Effective not later than 120 days after the date of the enactment the Improving Child Nutrition and Education Act of 2016, in calculating average payments per voucher under clause (i), a State agency shall exclude food instruments not fully redeemed, based on an actual count or a reasonable estimate.";

(D) in paragraph (12)—

(i) in subparagraph (A)(i), by striking "food delivery system that provides" and inserting "method to deliver"; and

(ii) by adding at the end the following:

"(H) REGULATIONS.—As State agencies transition to electronic benefit transfer for the program, the Secretary shall update regulations to account for the fact that State agencies—

"(i) are receiving transaction pricing more frequently than twice a year from vendors; and

"(ii) should adjust vendor reimbursement levels more frequently to reflect program food price changes in the marketplace.

"(I) AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—There is authorized to be appropriated to carry out this paragraph $25,000,000 for each of fiscal years 2017 through 2019.

"(ii) USE.—The Secretary shall allocate the funds made available under this subparagraph to States for purposes of enhancing and accelerating the implementation of electronic benefit transfer systems.

"(J) PENALTY FOR NONCOMPLIANCE.—For any State agency that fails to comply with subparagraph (B), including a State agency receiving an exemption under subparagraph (C), the Secretary shall—

"(i) withhold such amounts otherwise required to be allocated to the State agency for nutrition services and administration as the Secretary determines to be appropriate; and

"(ii) direct the amounts withheld for use by the State agency solely for achieving compliance with subparagraph (B)."; and

(E) in paragraph (13), by adding at the end the following:

"(C) ACCESS.—The Secretary shall make available upon request the national universal product code database to vendors approved for participation in the special supplemental food program established under this section.";

(8) by striking subsection (k);

(9) by redesignating subsections (l) through (q) as subsections (k) through (p), respectively;

(10) in subsection (o) (as so redesignated)—

(A) in paragraphs (1) and (2)(B), by striking "subsection (o)(1)(A)" each place it appears and inserting "subsection (n)(1)(A)";

(B) in paragraph (5)—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(E) fifth, to reimburse any WIC infant formula manufacturer for any rebate provided to the State agency on WIC infant formula unlawfully trafficked under a provision of law described in paragraph (2).."; and

(C) by adding at the end the following:

"(6) NOTICE OF INVESTIGATION.—

"(A) IN GENERAL.—For any investigation into the trafficking of WIC infant formula pursuant to this subsection, the Secretary shall provide notice of resolution of the disposition of an unlawful action resulting from the investigation to all contracted manufacturers of the trafficked infant formula.

"(B) ESTIMATES.—Not later than 60 days after the date on which notice is provided under subparagraph (A), the State shall submit to the contracted manufacturer an estimate of—

"(i) the number of units, if any, for which rebates may have been issued as a result of the violation; and

"(ii) the total dollar amount of the rebates."; and

(11) by adding at the end the following:

"(q) FRAUD AND SAFETY REVIEW.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review current guidance, regulations, and practices regarding fraud and safety for purposes of this section.

"(2) INCLUSIONS.—The review under paragraph (1) shall include a review of issues relating to—

"(A) excess and unused infant formula;

"(B) invoices pertaining to products subject to rebate;

"(C) the sale of infant formula by unauthorized entities; and

"(D) the purchase of infant formula from unauthorized entities.

"(3) UPDATES.—Based on the findings of the review under paragraph (1), the Secretary shall update current regulations and guidance and issue additional regulations and guidance, as necessary—

"(A) to minimize fraud; and

"(B) to ensure the safety of participants.

"(r) COOPERATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, State agencies and law enforcement agencies shall share WIC vendor information relating to investigations or prosecutions under the program under this section, as determined by the Secretary.

"(s) PILOT PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may conduct pilot projects to test alternative certification and food delivery procedures under this section.

"(2) PROHIBITION.—In conducting pilot projects under paragraph (1), the Secretary may not waive or modify the application of program eligibility, supplemental foods, or cost containment requirements.

"(3) EVALUATION.—The Secretary shall evaluate each pilot project carried out under this subsection after the pilot project has been in operation for 3 years.".

(b) WIC FARMER'S MARKET.—Section 17(l)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)), as redesignated by section 206(a)(9), is amended to read as follows:

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $18,548,000 for each of fiscal years 2017 through 2021.".

(c) REVIEW OF ADJUNCTIVE ELIGIBILITY FOR WIC.—

(1) DEFINITIONS.—In this subsection:

(A) ADJUNCTIVELY ELIGIBLE.—The term "adjunctively eligible" with respect to an individual, means an individual who is eligible for WIC under section 17(d)(2)(A)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(iii)).

(B) COMPTROLLER GENERAL.—The term "Comptroller General" means the Comptroller General of the United States.

(C) MEDICAID.—The term "Medicaid" means the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(D) POVERTY LINE.—The term "poverty line" means the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services.

(E) WIC.—The term "WIC" means the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) STUDY.—The Comptroller General shall conduct a study to examine the impact of adjunctive eligibility on WIC participation, including the administrative burden, number of participants in WIC, and other impacts on the participants.

(3) ADJUNCTIVE ELIGIBILITY AND INCOME OF WIC PARTICIPANTS.—

(A) IN GENERAL.—In conducting the study described in paragraph (2), the Comptroller General shall examine the extent to which individuals certified as adjunctively eligible to receive supplemental foods and services through WIC have income above 185 percent of the poverty line.

(B) DATA.—

(i) DATA COLLECTION.—The Comptroller General shall collect data to determine—

(I) the total number of pregnant women, postpartum women, breastfeeding women, infants, and children participating in WIC;

(II) an estimate of the share of individuals described in subclause (I) who are certified as adjunctively eligible under section 17(d)(2)(A)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(iii)); and

(III) an estimate of the share of individuals described in subclause (II) for whom income (for purposes of Medicaid eligibility) is above 185 percent of the poverty line, above 250 percent of the poverty line, above 300 percent of the poverty line, and above any other demarcation thresholds as determined by the Comptroller General.

(ii) SOURCES.—The Comptroller General shall collect the information described in clause (i) from—

(I) WIC program data for subclauses (I) and (II) of that clause; and

(II) a review of the income of a representative sample of WIC participants (for purposes of Medicaid eligibility) at the time of WIC certification (for subclause (III) of that clause).

(iii) OTHER.—The estimate developed under clause (i)(III) shall be based on data collected in selected States in which the income eligibility limit for infants under 1 year of age for Medicaid is at or above 185 percent of the poverty line.

(4) USE OF INCOME DATA TO INFORM MEDICAID ADJUNCTIVE ELIGIBILITY DETERMINATIONS.—

(A) IN GENERAL.—Following collection of the data described in paragraph (3), the Comptroller General shall assess the feasibility, benefits, and costs of requiring that WIC use an automated process to document that only applicants with income below a specified threshold may be certified as adjunctively eligible based solely on Medicaid receipt.

(B) SCOPE.—The assessment described in subparagraph (A) shall include an evaluation of the capacity of the management information systems for both WIC and Medicaid, including the ability of the systems to exchange data.

(C) WIC MANAGEMENT INFORMATION SYSTEMS.—The Comptroller General shall assess—

(i) which State agencies and tribal organizations operating WIC use management information systems with the capacity, via an automated process, for local WIC clinics to document—

(I) income as a share of the poverty level for purposes of Medicaid eligibility; or

(II) Medicaid enrollment and income below a specified level;

(ii) the steps necessary to prepare all local WIC clinics to obtain and to access that income information as a part of the WIC application process as well as part of the associated costs of modifying WIC automated systems and training staff; and

(iii) other information determined relevant by the Comptroller General, such as the impact of the identified steps on administrative costs, clinical services, and waiting times for appointments.

(D) MEDICAID MANAGEMENT INFORMATION SYSTEMS.—The Comptroller General shall assess—

(i) whether State's mechanized claims processing and information retrieval systems under section 1903(a)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396b(a)(3)(A)(i)) have the capacity to provide, at the time of WIC certification and via an automated process, data to an agency or tribal organization operating WIC regarding—

(I) income as a share of the poverty level for purposes of Medicaid eligibility; or

(II) whether a Medicaid recipient has income below a specified level;

(ii) the steps necessary to ensure that mechanized claims processing and information retrieval systems in States for which the income eligibility limit for infants under 1 year of age under Medicaid is above 185 percent of the poverty line have the capacity to provide the information described in clause (i) to local WIC clinics for the purpose of documenting adjunctive eligibility under an option that would limit that eligibility to individuals with income below a specific threshold; and

(iii) other information determined relevant by the Comptroller General and the Secretary of Health and Human Services, including the impact of the identified steps on administrative costs.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General 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 describing—

(A) the data collected under paragraph (3);

(B) the assessments made under paragraph (4); and

(C) the feasibility, costs, and benefits of a new requirement that would only permit adjunctive eligibility for individuals with household income below a specified level.

SEC. 207. TEAM NUTRITION NETWORK.

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

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "evidence-based" before "team nutrition messages"; and

(ii) by striking "developed by the Secretary";

(B) in paragraph (2), by inserting "under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)" before the semicolon at the end;

(C) in paragraph (4), by striking "purposes; and" and inserting the following: "purposes, including if appropriate—

"(A) State and local nutrition education programs, health and wellness policies, nutrition and health education resources, and other State resources; and

"(B) Federal nutrition education efforts, including those programs under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);"; and

(D) in paragraph (5)—

(i) by striking "helping children to maintain a healthy weight by"; and

(ii) by inserting "in and out of school" before the period at the end;

(2) in subsection (b), by striking "(b)" and all that follows through "In this section, the term" and inserting the following:

"(b) DEFINITIONS.—In this section:

"(1) NUTRITION EDUCATION.—The term 'nutrition education' means the provision of individual or group learning opportunities and materials for children and families that—

"(A) emphasize the relationship between nutrition, physical activity, and health with a goal of improving long-term dietary and physical health and increasing food security; and

"(B) include learning about food preparation.

"(2) TEAM NUTRITION NETWORK.—The term";

(3) in subsection (c)—

(A) by striking the subsection heading and inserting "STATE NETWORK GRANTS.—"; and

(B) by adding at the end the following:

"(4) ALLOCATION.—Subject to the availability of funds for use in carrying out this subsection, the total amount of funds made available for a fiscal year for grants under this subsection shall equal not more than the sum of—

"(A) the product obtained by multiplying ½ cent by the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs; and

"(B) the total value of funds received by the Secretary in support of this subsection from nongovernmental sources.

"(5) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive a grant under this subsection, a State agency shall submit to the Secretary a plan, at such time and in such manner as the Secretary may require, including—

"(A) a description of the goals and proposed State plan for addressing the nutrition of children;

"(B) a description of the means by which the State agency will use and disseminate the team nutrition messages and material to children and, if appropriate, families of such children;

"(C) an explanation of the ways in which the State agency will use the funds from the grant to work toward the goals required under clause (i), and to promote healthy eating in schools throughout the State;

"(D) a description of the ways in which the State team nutrition network messages and activities will be coordinated at the State and local level with other community health promotion and education activities;

"(E) an annual summary of the team nutrition network activities and their effectiveness;

"(F) a description of the ways in which school environments might support healthy eating and physical activity; and

"(G) a description of how all communications to parents and legal guardians of students who are members of a household receiving information under the program shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

"(6) STATE COORDINATOR.—Each State that receives a grant under this subsection may appoint a team nutrition network coordinator. Such coordinator shall implement comprehensive, coordinated nutrition education programming through the team nutrition network, including to assist schools, school food authorities, and other child nutrition program providers in the State to administer and coordinate the team nutrition network activities.

"(7) AUTHORIZED ACTIVITIES.—A State agency that receives a grant under this section may use funds from the grant to—

"(A) identify the programs and services available to meet the health and nutritional needs of children and families in the State;

"(B) disseminate team nutrition network messages and material that provide comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention education;

"(C) implement demonstration projects in schools to promote physical activity and to enhance the nutrition education provided to students;

"(D) improve access to local foods through coordinating with farm-to-school grant activities that include the provision of nutrition education;

"(E) encourage schools to develop healthy eating and lifestyle policies;

"(F) provide training and technical assistance to teachers and school food service professionals consistent with the purposes of this subsection; and

"(G) collaborate with public and private and faith-based organizations, including community-based organizations, State medical associations, and public health groups, to provide nutrition and physical education targeting lower income children, ethnic minorities, and youth at a greater risk for obesity or malnourishment.";

(4) by striking subsections (d) through (g) and (k);

(5) by redesignating subsections (h) through (j) as subsections (d) through (f), respectively;

(6) by redesignating subsection (l) as subsection (g);

(7) in subsection (d) (as so redesignated)—

(A) in the subsection heading, by inserting "EDUCATION" after "NUTRITION";

(B) in paragraph (5)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "and" at the end; and

(II) by adding at the end the following:

"(iii) incorporate nutrition education into physical and health education, and, if appropriate, afterschool programs, including athletics; and"; and

(ii) in subparagraph (B)—

(I) by striking clause (iv);

(II) in clause (vii), by striking "a variety of healthy foods" and all that follows through "fruit bars" and inserting "a variety of healthy foods, including through initiatives to creatively market such foods";

(III) in clause (viii), by striking "low-fat and nutrient dense" and inserting "healthy"; and

(IV) by redesignating clauses (v) through (ix) as clauses (iv) through (viii), respectively;

(8) in subsection (e) (as so redesignated), by striking "may provide for technical assistance and grants" and inserting "shall provide for technical assistance"; and

(9) in subsection (g) (as so redesignated) by striking "such sums" and all that follows through the period at the end and inserting "to carry out this section $17,000,000 for each fiscal year.".

TITLE III—MISCELLANEOUS

SEC. 301. REVIEWS.

(a) TRIBAL FOODS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall review—

(A) the barriers to including tribally produced, traditional, and culturally appropriate foods in child nutrition programs (as defined in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f (b)) within tribal schools; and

(B) the means of encouraging and assisting enhanced inclusion of foods described in subparagraph (A) in child nutrition programs.

(2) SCOPE.—In carrying out the review described in paragraph (1), the Secretary shall—

(A) survey and compile resources of the Department of Agriculture on the issue described in paragraph (1)(A);

(B) if necessary, clarify relevant Federal regulations governing schools and tribal producers, including regulations relating to procurement, reimbursement, and food safety;

(C) involve all relevant agencies, including the Food and Nutrition Service and Office of Tribal Relations of the Department of Agriculture; and

(D) submit to Congress a report describing the results of the review.

(b) USE OF PROGRAM DATA.—

(1) IN GENERAL.—The Secretary, jointly with the Secretary of Education, shall—

(A) review information regarding available alternative data sets for use in programs that are using free and reduced price meals data; and

(B) determine the appropriateness of using such alternative data sets in place of free and reduced price meal program data by other programs to reduce the burden on local school food authorities.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretaries 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 that describes the results of the review and any recommendations of the Secretaries.

(c) CREDITING AND LABELING PROGRAM.—

(1) IN GENERAL.—The Secretary shall review and update the system of crediting and the voluntary child nutrition labeling program used in administering—

(A) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(B) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(2) SCOPE.—The review described in paragraph (1) shall include, at a minimum—

(A) the treatment of food products within previously established food categories and new products that have entered the commercial marketplace since the system of crediting and the voluntary child nutrition labeling program were developed; and

(B) the timeliness in which applications for labels under the voluntary child nutrition labeling program are reviewed and are granted or denied.

(3) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, 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 that describes the results of the review and any recommendations of the Secretary.

(d) NUTRITIONAL ANALYSIS.—The Secretary shall—

(1) review the practicability and feasibility of—

(A) conducting a nutritional analysis, using publicly and commercially available nutritional information, of food products that are voluntarily submitted for use in child nutrition programs, outside of the reimbursable school meal; and

(B) aggregating and making the information obtained through that nutritional analysis publicly available for use by school food authorities, food manufacturers, and other interested parties; and

(2) if found practicable and feasible, proceed with the analysis, aggregation, and public availability.

(e) OTHER.—

(1) IN GENERAL.—The Secretary shall review—

(A) the cost differences between—

(i) providing meals and supplements under the Richard B. Russell National School Act (42 U.S.C. 1751 et seq.) and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) in Palau, Guam, American Samoa, the Commonwealth of Puerto Rico, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, respectively; and

(ii) the average cost of providing meals and supplements under those provisions of law in the 50 States and the District of Columbia; and

(B) the relation of the cost differences determined under subparagraph (A) to the national average payment rates for meals and supplements prescribed under sections 4, 11, 13, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753, 1759a, 1761, 1766) and section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)).

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, 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 that describes the results of the review and any recommendations of the Secretary.

(f) UNLAWFUL ACTIVITY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall review—

(A) the number of instances and types of unlawful activity that occurred in the preceding 3 years, including, at a minimum, instances of fraud, bid-rigging, and any other anticompetitive activities carried out in connection with supplying, providing, or selling goods or services for a program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(B) the practices and procedures currently used by the Department of Agriculture to prevent unlawful activity described in subparagraph (A).

(2) SECRETARIAL RESPONSE.—Following completion of the review described in paragraph (1), the Secretary shall respond, if appropriate, by taking action to reduce such unlawful activity, including, at a minimum—

(A) revising any relevant guidance and regulations;

(B) issuing fines authorized under subsection (g) of section 25 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f) (as amended by section 115); and

(C) submitting to the appropriate committees of Congress recommendations for any legislative changes needed to enhance program oversight.

(3) SCOPE.—The actions described in paragraph (2) shall be designed to reduce—

(A) anticompetitive activities, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) any other obstruction of justice.

(g) INFANT FORMULA.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(1) review the current regulations regarding caloric density standards for infant formula made available in the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(2) as appropriate, update the regulations based on the most recent scientific knowledge available.

SEC. 302. PROGRAM DELIVERY.

(a) STREAMLINING.—The Secretary shall work with States participating in programs authorized 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.) to encourage—

(1) streamlining of program administration, including data collection and reporting requirements, at the State level;

(2) communication among State agencies administering the programs;

(3) coordination of administration of Federal benefits at the State level to ensure efficiency of program delivery and improved access to participants, including efficiencies for operation between the special supplemental nutrition program for women, infants, and children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) and the program under subsection (m) of such section (42 U.S.C. 1786); and

(4) consolidation and elimination of duplicative or unnecessary Federal and State reporting requirements.

(b) STUDY.—The Secretary, through an independent researcher with expertise in economics or government efficiency, shall conduct a study on the school meal programs under the Richard B. Russell National School Lunch (42 U.S.C. 1751 et seq.) and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to examine alternative funding mechanisms and delivery to improve program effectiveness and efficiency while reducing program costs, by—

(1) analyzing how businesses currently partner with schools or institutions to operate the school meal programs, and examining better ways to work with private sector businesses in the programs;

(2) providing analysis and recommendations on improvements to the programs by lowering administrative and program costs to schools, local educational agencies, States, and the Federal government, including analysis and recommendations with respect to—

(A) financial impacts, including estimating potential cost-savings of business participation for families, schools, local educational agencies, States, and the Federal government;

(B) regulatory and other barriers preventing business participation, and how to remove such barriers to encourage such business participation; and

(C) regulatory and other barriers to better utilize donations, including donations of food products, while still complying with food safety requirements; and

(3) considering the factors the Secretary is working on with States under subsection (a), while carrying out the analysis under paragraphs (1) and (2) of this subsection.

(c) FURTHER ACTIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) make the regulatory and guidance changes recommended under subsections (a) and (b); and

(2) 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) the findings of the study conducted under subsection (b);

(B) a plan for legislative and regulatory action, including—

(i) a timetable of action for regulatory relief; and

(ii) recommendations for legislative action required to improve program efficiency and lower administrative costs for the school meal programs.

(d) SPENDING LIMITATION.—Not more than a total of $475,000 shall be used to carry out subsections (b) and (c).

SEC. 303. PRODUCT AVAILABILITY.

(a) IN GENERAL.—The Secretary shall, to the extent practicable, make available lactose-free milk with an extended shelf life for use in the commodity distribution program authorized under section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a).

(b) SIZE AND FORM.—The milk described in subsection (a) shall, to the extent practicable, be made available in a size and form acceptable for and conducive to consumption by school-aged children.

SEC. 304. PROCUREMENT.

In administering the summer food service program for children established under section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766), the Secretary shall ensure that—

(1) service institutions participating in the programs have flexibility in determining the frequency of procurement and food items included in each solicitation; and

(2) any procurement procedure implemented by a State agency is cost effective and efficient in meeting the relevant meal pattern requirements.

SEC. 305. SCHOOL NUTRITION ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall establish a School Nutrition Advisory Committee (referred to in this section as the "Committee") to provide input in the administration of the school lunch program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) (referred to in this section as "child nutrition programs").

(b) MEMBERSHIP.—

(1) COMPOSITION.—Members of the Committee shall be appointed by the Secretary from recommendations made by the chair and ranking member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Membership on the Committee shall represent the following stakeholders:

(A) An organization that conducts research and advocates on issues relating to child nutrition.

(B) An organization that advocates for cardiac health.

(C) A professional organization representing dietitians.

(D) A trade association representing fruit and vegetable growers.

(E) A coalition of large urban school food authorities.

(F) 2 representatives from State agencies that administer the child nutrition programs.

(G) A professional organization representing school food employees.

(H) A professional organization representing school board members.

(I) A council representing large school districts.

(J) A professional association representing school administrators.

(K) An entity that processes and manufactures meat products.

(L) An entity that processes and manufactures dairy products.

(M) An entity that processes and manufactures grain products.

(N) An entity that assists suppliers and school food authorities in selling and obtaining food products.

(O) A school food authority located in each of the 7 regions established for activities of the Food and Nutrition Service, including—

(i) 3 representatives from districts located in rural areas;

(ii) 2 representatives from districts located in urban areas; and

(iii) 2 representatives from districts located in urban cluster areas as defined by census tract data.

(P) A council that represents public officials who head departments of elementary and secondary education.

(Q) A professional organization representing pediatricians.

(2) TERMS.—The members will serve on the Committee for a 3-year term. The chairmen of each congressional committee, under paragraph (1) shall alternate in appointing a chair and vice chair of the committee.

(c) FUNCTION.—The Committee shall—

(1) provide a venue for communication between stakeholders and the Department of Agriculture regarding child nutrition programs;

(2) give insight into child nutrition program implementation;

(3) review and make recommendations to the Secretary on policy development involving child nutrition programs; and

(4) evaluate methods for programmatic and administrative improvement of child nutrition programs.

(d) MEETINGS.—The Committee shall meet quarterly.

(e) STAFFING.—The Secretary shall provide such staff personnel as may be required to assist the Committee in carrying out the duties of the Committee, but such staff shall not interfere in the discussions or conclusions reached by the Committee.

(f) TERMINATION.—The authority of the Committee shall terminate on September 30, 2025.

SEC. 306. PAPERWORK REDUCTION.

(a) IN GENERAL.—For any program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall—

(1) periodically review regulations, guidance, and other requirements to evaluate the volume of information required to be reported to the Department of Agriculture by program participants; and

(2) if appropriate, streamline or otherwise reduce any unnecessary or duplicative paperwork, reporting requirements, and other administrative burdens while maintaining program integrity.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act and every 3 years thereafter, and upon any publishing of guidance or updated Federal requirements 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 that describes any action the Secretary has taken under subsection (a) during the preceding 3 calendar years, or in the case of a report submitted based on publishing updated guidance or requirements, a report on such action, including a determination of appropriateness under subsection (a)(2).

SEC. 307. TECHNOLOGY.

(a) USE OF TECHNOLOGY.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) review the current use of technology in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(2) identify opportunities in which enhanced use of technology would reduce the rate of errors in administration of the programs by State agencies and local educational agencies; and

(3) encourage State agencies and local educational agencies to use technology in the areas identified under paragraph (2).

(b) IDENTIFICATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) review the feasibility and evaluate the benefits of using a unique student identifier in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(2) 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 describing the results of the review under paragraph (1); and

(3) initiate implementation of a system for using a unique student identifier, unless implementation is not in the best interest of the programs described in paragraph (1), or does not adequately protect student privacy.

SEC. 308. IMPROVING HEALTH AND SAFETY OVERSIGHT AND MONITORING FOR THE CHILD AND ADULT CARE FOOD PROGRAM.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall work with the Secretary of Health and Human Services to improve health and safety oversight and monitoring practices required under the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) by issuing guidance to States to—

(1) reduce duplicative monitoring or oversight practices among such child and adult care food program, the programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and the Head Start Act (42 U.S.C. 9831 et seq.), and other applicable programs; and

(2) provide recommendations in cases in which separate State agencies administer such programs, including practices for streamlining the monitoring of Federal requirements (including compliance, operations, and financial requirements as a result of multiple Federal programmatic regulations), in order to reduce the burden on participants and States while enhancing levels of health, safety, and program integrity.

SEC. 309. TECHNICAL CORRECTIONS.

(a) RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT.—

(1) The Richard B. Russell National School Lunch Act is amended in each of sections 4, 9, 9A, 12, 19, 23, and 25 (42 U.S.C. 1753, 1758,1758b, 1760, 1796a, 1769d, and 1769f) by striking "Committee on Education and Labor" each place it appears and inserting "Committee on Education and the Workforce".

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

(A) by striking "foster child" each place it appears and inserting "foster youth"; and

(B) in subsection (b)(5)(B), by striking "(42 U.S.C. 11434a(2))" and inserting "(42 U.S.C. 11434a(2)))".

(3) Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended in subsection (d)(3), by striking "U.S.C" and inserting "U.S.C.".

(4) Section 14(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(c)) is amended—

(A) by striking "section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4))" and inserting "section 311(c)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(4))"; and

(B) by striking "(42 U.S.C. 3030(b)(1))" and inserting "(42 U.S.C. 3030a(b)(1))".

(b) CHILD NUTRITION ACT OF 1966.—

(1) The Child Nutrition Act of 1966 is amended in each of sections 10 and 17 (42 U.S.C. 1779, 1786) by striking "Committee on Education and Labor" each place it appears and inserting "Committee on Education and the Workforce".

(2) Section 7(a)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(2)(B)(i)) is amended by striking "clause (ii)" and inserting "clause (ii))".

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

(A) in subsection (h)(4)—

(i) in subparagraph (A)(vi), by striking "and" at the end; and

(ii) in subparagraph (C)(iv), by striking "; and" at the end and inserting a period;

(B) in subsection (l)(6)(C)(iv), as redesignated by section 206(a)(9) of this Act, by striking "(G)(i)" each place it appears and inserting "(F)(i)".

SEC. 310. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the chair of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

SEC. 311. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or any of the amendments made by this Act, this Act and the amendments made by this Act take effect on October 1, 2016.

PURPOSE

H.R. 5003, the *Improving Child Nutrition and Education Act of 2016* (bill), amends the *Richard B. Russell National School Lunch Act* (NSLA) and the *Child Nutrition Act of 1966* (CNA) to support state and local efforts in providing nutritious food to students; to increase accountability and transparency; to better target assistance to those most in need; to provide flexibility to states and service providers; to strengthen the integrity and efficiency of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); to improve service delivery in the Child and Adult

Care Food Program (CACFP); and to support nutrition education and family engagement. The bill provides state and local leaders the flexibility and additional support they need to ensure all vulnerable children have access to healthy meals.

COMMITTEE ACTION

H.R. 5003 reflects work by the Committee on Education and the Workforce (Committee) to reauthorize the NSLA and CNA. The bill builds upon the Committee's ongoing efforts to improve child nutrition programs by examining federal investments, reducing burdensome requirements, and strengthening programs.

112TH CONGRESS

Full Committee Hearing on Examining the Costs of Federal Overreach into School Meals

On May 13, 2011, the Committee held a hearing in Washington, D.C., on "Examining the Costs of Federal Overreach into School Meals." The purpose of the hearing was to discuss the impact of implementing recent changes to the child nutrition laws and the challenges new regulations impose on the school meal program, including greater costs and fewer options for students. Testifying before the Committee were Ms. Sally Spero, Food Planning Supervisor, San Diego Unified School District, San Diego, California; Mr. Barry Sackin, Owner, B. Sackin and Associates, Murrieta, California; Ms. Karen Castaneda, Director for Food Services, Pennridge School District, Perkasie, Pennsylvania; and Mr. Kenneth Hecht, Executive Director, California Food Policy Advocates, Oakland, California.

113TH CONGRESS

Full Committee Hearing on School Meal Regulations: Discussing the Costs and Consequences for Schools and Students

On June 27, 2013, the Committee held a hearing in Washington, D.C., on "School Meal Regulations: Discussing the Costs and Consequences for Schools and Students." The purpose of the hearing was to evaluate the consequences of school meal regulations issued by the U.S. Department of Agriculture (USDA) under the *Healthy, Hunger-Free Kids Act of 2010* (HHFKA). Testifying before the Committee were Ms. Kay E. Brown, Director of Education, Workforce, and Income Security Issues, U.S. Government Accountability Office (GAO), Washington, D.C.; Ms. Megan Schaper, Director of Food and Nutrition Services, State College Area School District, State College, Pennsylvania; Ms. Sandra Ford, Director of Food and Nutrition Services, Manatee County School District, Bradenton, Florida; and Dr. Margo Wootan, Director of Nutrition Policy, Center for Science in the Public Interest, Washington, D.C.

114TH CONGRESS

First Session—hearings

Full Committee Hearing on Serving Students and Families through Child Nutrition Programs

On April 15, 2015, the Committee held a hearing in Washington, D.C., on "Serving Students and Families through Child Nutrition Programs." The purpose of the hearing was to examine the importance of the federal governments child nutrition programs and highlight how these programs are linked to better educational outcomes. Testifying before the Committee were Ms. Julia Bauscher, President, School Nutrition Association/ Director, School and Community Nutrition Services, Jefferson County Public Schools, Louisville, Kentucky; Mr. Duke Storen, Senior Director, Research, Advocacy, and Partner Development, Share Our Strength, Washington, D.C.; Dr. Kathy Krey, Director of Research and Assistant Research Professor, Texas Hunger Initiative, Baylor University, Waco, Texas; and Ms. Dorothy S. McAuliffe, First Lady of Virginia, Office of the Governor, Commonwealth of Virginia, Richmond, Virginia.

Subcommittee Hearing on Addressing Waste, Fraud, and Abuse in Federal Child Nutrition Programs

On May 19, 2015, the Subcommittee on Early Childhood, Elementary, and Secondary Education (Subcommittee) held a hearing in Washington, D.C., on "Addressing Waste, Fraud, and Abuse in Federal Child Nutrition Programs." The purpose of the hearing was to examine concerns with waste, fraud, and abuse in federal child nutrition programs and look at ways to prevent future fraud in the programs. Testifying before the Subcommittee were Mr. Gil Harden, Assistant Inspector General for Audit, Office of Inspector General, USDA, Washington, D.C.; Ms. Kay E. Brown, Director, Education, Workforce, and Income Security, GAO, Washington, D.C.; Ms. Jessica Lucas-Judy, Acting Director, Forensic Audits and Investigative Service, GAO, Washington, D.C.; and Ms. Zoe Neuberger, Senior Policy Analyst, Center on Budget and Policy Priorities, Washington, D.C.

Full Committee Hearing on Child Nutrition Assistance: Are Federal Rules and Regulations Serving the Best Interests of Schools and Families?

On June 16, 2015, the Committee held a hearing in Washington, D.C., on "Child Nutrition Assistance: Are Federal Rules and Regulations Serving the Best Interests of Schools and Families?" The purpose of the hearing was to examine rules and regulations governing child nutrition policies and discuss possible reforms to improve federal child nutrition programs. Testifying before the Committee was the Honorable Tom Vilsack, Secretary, USDA, Washington, D.C.

Subcommittee Hearing on Child Nutrition Assistance: Looking at the Cost of Compliance For States and Schools

On June 24, 2015, the Subcommittee held a hearing in Washington, D.C., on "Child Nutrition Assistance: Looking at the Cost of Compliance for States and Schools." The purpose of the hearing

was to examine the challenges states and schools have faced in implementing the requirements of HHFKA and its regulations. Testifying before the Subcommittee were Dr. Lynn Harvey, Chief, School Nutrition Services, Safe and Healthy Schools Support Division, North Carolina Department of Public Instruction, Raleigh, North Carolina; Mr. John Payne, President, Blackford School Board of Trustees, Hartford City, Indiana; Dr. Melody Schopp, Secretary of Education, South Dakota Department of Education, Pierre, South Dakota; and Ms. Donna Martin, Director, School Nutrition Program, Burke County Public Schools, Waynesboro, Georgia.

Second Session—Legislative action

On April 20, 2016, Rep. Todd Rokita (R–IN), Chairman of the Subcommittee, introduced H.R. 5003, the *Improving Child Nutrition and Education Act of 2016*. The bill reforms federal child nutrition programs to reduce waste, fraud, and abuse, as well as ensure states and schools have the flexibility they need to provide children access to healthy meals.

On May 18, 2016, the Committee considered the bill in legislative session and reported the bill favorably, as amended, to the House of Representatives by a vote of 20–14. There were 32 amendments offered:

- Amendment in the Nature of a Substitute: Subcommittee Chairman Rokita offered an amendment in the nature of a substitute. The amendment (1) clarified requirements in the fruit and vegetable program; (2) permitted the Secretary of Agriculture (Secretary) to provide bottled water during a state of emergency that impacts the public water system; (3) authorized a new demonstration project that would provide states greater flexibility in offering healthy meals; (4) clarified the cost for the regulations review; (5) required the Secretary to provide a minimum of a 60-day comment period for revised regulations on meal standards; (6) clarified the Secretary should look at program efficiencies within the WIC program when examining ways to remove duplication and increase program efficiency; and (7) included other technical and clarifying changes. The amendment was agreed to by voice vote.
- Amendment 2: Ranking Member Robert C. "Bobby" Scott (D–VA) offered an amendment to change the title of the bill. The amendment was defeated by voice vote.
- Amendment 3: Ranking Member Scott offered an amendment to provide a study on universal free meals. The amendment was defeated by voice vote.
- Amendment 4: Rep. Rick Allen (R–GA) offered an amendment to study how utilizing private-sector partnerships can improve child nutrition programs. The amendment was agreed to by voice vote.
- Amendment 5: Rep. Marcia L. Fudge (D–OH) offered an amendment to strike language that set the Community Eligibility Provision (CEP) threshold at 60 percent. The amendment was defeated by a vote of 13–22.
- Amendment 6: Rep. Mark DeSaulnier (D–CA) offered an amendment to require USDA to establish a process to ensure

state compliance with potable water requirements. The amendment was defeated by a vote of 13–22.

• Amendment 7: Ranking Member Scott offered an amendment to provide nationwide funding for water testing in schools and child care settings. The amendment was defeated by a vote of 13–22.

• Amendment 8: Rep. Glenn Grothman (R–WI) offered an amendment to set the CEP threshold at 80 percent. The amendment was defeated by a vote of 8–27.

• Amendment 9: Ranking Member Scott offered an amendment to strike the three-year Secretarial review and certification process. The amendment was defeated by a vote of 13–22.

• Amendment 10: Rep. Suzanne Bonamici (D–OR) offered an amendment to strike the exemption to the smart snacks rule. The amendment was defeated by a vote of 13–22.

• Amendment 11: Ranking Member Scott offered an amendment to strike the cultural foods exemption. The amendment was agreed to by voice vote.

• Amendment 12: Rep. Mark Takano (D–CA) offered an amendment to expand the salad bar promotion and technical assistance provision. The amendment was withdrawn.

• Amendment 13: Rep. Mark Pocan (D–WI) offered an amendment to require food service worker training. The amendment was defeated by a vote of 16–19.

• Amendment 14: Rep. Takano offered an amendment to strike the increased verification requirements. The amendment was defeated by a vote of 13–22.

• Amendment 15: Rep. Elise Stefanik (R–NY) offered an amendment to help states better monitor CACFP in order to improve oversight and ease administrative burdens. The amendment was agreed to by voice vote.

• Amendment 16: Rep. Susan A. Davis (D–CA) offered an amendment to strike a provision limiting the number of times families may be contacted during the school meal application process. The amendment was defeated by a vote of 16–19.

• Amendment 17: Rep. Jared Polis (D–CO) offered an amendment to require the school meal applications to be in a language recipients understand and to preserve free or reduced price eligibility if the requirement was not met. The amendment was defeated by a vote of 13–21.

• Amendment 18: Rep. Polis offered an amendment to clarify the Secretary can consult with pediatricians, dieticians, and parents during the nutrition standards review. The amendment was agreed to by voice vote.

• Amendment 19: Rep. Dave Brat (R–VA) offered an amendment to provide flexible funding for child nutrition programs. The amendment was withdrawn.

• Amendment 20: Ranking Member Scott offered an amendment to strike the demonstration project that would provide flexible spending to three states in administering child nutrition programs. The amendment was defeated by a vote of 14–20.

- Amendment 21: Rep. Joe Courtney (D–CT) offered an amendment to provide schools with flexibility in purchasing milk for students. The amendment was agreed to by voice vote.
- Amendment 22: Ranking Member Scott offered an amendment to provide free and reduced price meals to low-income students in higher education. The amendment was withdrawn.
- Amendment 23: Ranking Member Scott offered an amendment to prohibit stigma-related functions within school meal programs. The amendment was withdrawn.
- Amendment 24: Rep. Katherine M. Clark (D–MA) offered an amendment to expand eligibility under the WIC program. The amendment was defeated by a vote of 13–21.
- Amendment 25: Rep. Bonamici offered an amendment to expand the CACFP to include a third meal. The amendment was defeated by a vote of 15–19.
- Amendment 26: Ranking Member Scott offered an amendment to expand the Summer Food Service Program (SFSP) to include a third meal. The amendment was defeated by a vote of 15–19.
- Amendment 27: Rep. Grothman offered an amendment to provide states flexibility in administering the school meal and snack programs. The amendment was defeated by a vote of 9–25.
- Amendment 28: Reps. Davis and Bonamici offered an amendment to amend the SFSP electronic benefits transfer (EBT) program and increase authorization levels. The amendment was defeated by a vote of 13–21.
- Amendment 29: Rep. Davis offered an amendment to allow other forms of EBT, such as those in WIC and the Supplemental Nutrition Assistance Program (SNAP), within the SFSP EBT provision. The amendment was agreed to by voice vote.
- Amendment 30: Rep. Alma S. Adams (D–NC) offered an amendment to change the area eligibility to 40 percent for summer programs. The amendment was defeated by a vote of 13–21.
- Amendment 31: Ranking Member Scott offered an amendment to strike the prohibitions placed on the Secretary. The amendment was defeated by a vote of 13–21.
- Amendment 32: Rep. Fudge offered an amendment to prohibit the Act from taking effect until certain conditions were met. The amendment was defeated by a vote of 13–21.

Rep. Joe Wilson (R–SC) offered a motion to report the bill as amended. The motion was adopted by a vote of 20–14.

SUMMARY

NSLA and CNA authorize several nutrition programs with mandatory spending implications, notably the school lunch and breakfast programs and CACFP. Most recently reauthorized through HHFKA, the authorization of many of the programs expired on September 30, 2015.

Congress vastly expanded the federal government's role in child nutrition through HHFKA and provided USDA broad authority to create regulations regarding nutrition standards and meal patterns, including specific requirements regarding whole-grains, so-

dium, calories, and fruit and vegetable servings. Since the regulations were implemented, schools, students, and families have experienced a number of harmful consequences. For example, participation in the school lunch program has decreased by 1.2 million meals per day.[1] Additionally, a study by the National School Boards Association in 2014 found 84 percent of districts have seen an increase in plate waste; 77 percent have seen a decrease in participation; and 82 percent have experienced an increase in cost, largely due to the implementation of these new federal meal standards.[2] School districts have found the requirements to be burdensome, costly, and difficult to implement, leading to greater strain on school budgets and fewer students being served.

Without responsible reform, schools will continue to face these burdens and additional challenges as federal requirements become even more stringent. For example, the current mandated sodium levels make it difficult for schools to purchase low-sodium food kids will eat. As sodium restrictions increase, it will become more difficult to produce food that appeals to kids, which will result in more food being wasted and more kids dropping out of the school lunch program. Additionally, food safety will be affected as certain foods expire more quickly, further increasing costs for schools.

In order to address these issues and provide viable solutions, Subcommittee Chairman Rokita introduced H.R. 5003. The legislation helps address these issues by giving states, schools, and providers the flexibility they need to ensure children have access to healthy meals without additional or prohibitive costs. Specifically, the legislation offers a better way forward in the following areas:

- Reviewing Nutrition Standards. The legislation requires USDA to review and update federal meal patterns and nutrition standards every three years and then update the standards as necessary. The first review is to be completed within 90 days of enactment of the bill. In conducting these reviews, USDA is to consult with school leaders. The Department must ensure federal standards do not limit student participation, are appropriate for school-age children, and do not increase costs for schools.
- Reining in the Secretarys Authority. The legislation limits the Secretarys authority by prohibiting the Secretary from imposing additional requirements not included in the law or dictating educational content around nutrition.
- Reducing Administrative Burdens. Under current law, overly prescriptive federal rules dictate when schools may serve certain foods, and different rules apply depending on how the meal is served. These federal requirements have created confusion and administrative challenges for school lunch officials. The bill allows all foods that qualify to be served as part of a reimbursed meal to also be served in a la carte lines, enabling school officials to more easily plan school meals.
- Strengthening Verification. Current law requires schools to verify the accuracy of student participation by reviewing a

[1] USDA school lunch participation data. *http://www.fns.usda.gov/sites/default/files/pd/slsummar.pdf.*

[2] National School Boards Association. Pulse Poll on School Meal Requirements. Page 1. October 2014. *http://www.nsba.org/sites/default/files/reports/NSBA*_School_Nutrition_Poll.pdf.

small percentage of applications, focusing on those applications that are prone to error. To decrease fraud and abuse, the bill raises the standard verification sample to 10 percent *of all applications.* Schools that perform well based on school district-specific metrics will be able to reduce their verification sample by certain amounts. Schools that perform in the top 20 percent in the state will be able to drop their sample size to the bottom threshold, 2.5 percent, immediately. Schools performing in the bottom 10 percent will be required to take additional verification steps to address their error rate.

- Improving Community Eligibility. CEP allows schools to provide free breakfasts and lunches to *all* students if the school or school district is in an area of high poverty. This option is allowed when 40 percent or more of the student population are (among other factors) homeless, in foster care, or in a family eligible for other means-tested benefit programs. The legislation would raise the CEP percentage to 60 percent in order to better target resources to those students in need, while also ensuring all students who are eligible for assistance continue to receive assistance.
- Repealing the Middle-Class "Tax" Increase. The 2010 reauthorization of child nutrition assistance forces schools to increase prices for students and families who do not rely on federal assistance when purchasing school meals (also known as "full-paid" students). The bill repeals this mandated increase in the price of full-paid meals.
- Repealing the Ban on Student Bake Sales. Current law requires the Secretary to issue regulations covering all foods sold in school, including food sold in student-led activities such as bake sales and fundraisers. This has undermined the ability of students to raise funds to support academic and extracurricular activities. The bill exempts student group fundraisers from federal nutrition standards.
- Streamlining State Audits. The bill requires states to audit school programs once every five years, rather than once every three years as mandated by current law. This change will ensure states have more time to help schools in need of assistance instead of focusing solely on complying with burdensome paperwork requirements imposed by the federal government.
- Increasing Breakfast Reimbursement. The bill provides the first increase for breakfast reimbursement in over 25 years by providing schools an additional $0.02 for breakfast without adding any additional cost to taxpayers. For the school year beginning in 2020, the added reimbursement amount will increase to $0.03.
- Providing Flexibility in SFSP Distribution. SFSP helps provide low-income children with access to healthy meals when they are not in school. Food is served at designated sites (also known as "congregate sites"), which can be difficult for children who live in rural areas or lack transportation. The bill allows states to provide summer meals away from a congregate site in rural or low-income areas without access to summer service. It also streamlines the process for states to allow congregate sites to provide meals for off-site consumption in the case of extreme or emergency circumstances.

• Reducing Burdens and Improving Access to CACFP. CACFP supports meals and snacks served to children and adults in home-based and center-based daycare. To reduce administrative burdens and paperwork, the bill lengthens eligibility determinations from one to four months after approval. The bill requires USDA to improve its program integrity measures to ensure a fair, accurate, and consistent review process. It requires the Secretary to convene and implement recommendations from an advisory committee that will propose ways to reduce unnecessary or duplicative paperwork. Additionally, it allows public or licensed nonprofit private residential child care institutions, as well as any boarding school funded by the Bureau of Indian Education, to participate in the program if they are not participating in the school lunch or breakfast programs.

• Streamlining Service Provider Applications. Children currently may receive meals through both SFSP and the at-risk afterschool meals component of the CACFP. It is common for service providers to participate in both programs, but under current law, they must apply for and comply with the various requirements in each of the individual programs. The bill empowers states to streamline the programs by simplifying administration and operations and by reimbursing providers for year-round service at CACFP levels.

• Strengthening the Integrity of the WIC Program. The bill authorizes the WIC program at the current appropriation for the next five years. The bill strengthens the integrity of the program by encouraging states to move to EBT more quickly. Additionally, the bill improves the process for state moratoriums on the addition of new vendors to ensure there are clear guidelines in place to help states control costs and improve program integrity. The bill includes changes to the rebate process for infant formula to provide greater fairness and accountability. Additionally, GAO is required to review how adjunctive eligibility through Medicaid impacts WIC participation and costs.

Supporting innovation

• Current law authorizes certain demonstration projects to determine more effective ways to eliminate hunger and deliver healthy food to children in and out of school. To help spur local innovation, the bill includes a number of reforms around demonstration projects: Summer Electronic Benefit Transfer for Children. Ten states are currently able to provide benefits through the Summer Electronic Benefit Transfer for Children (SEBTC) program.[3] Those states can use either SNAP or WIC EBT technology to allow families to purchase food in the summer rather than eat at a congregate site. The bill continues the project for states that are currently operating with WIC or SNAP technology but changes requirements and adds new limitations. The bill requires a robust evaluation to determine the

[3] Connecticut, Delaware, Michigan, Missouri, Nevada, Oregon, Texas, Washington, Cherokee Nation and Chickasaw Nation.

effects of EBT as an alternate delivery method during the summer months.

- Farm to School. The bill requires a greater focus on nutrition education for children and families and increases support for the program to help address high demand.
- Local Business Participation. The bill authorizes a competitive grant program allowing local businesses in four states to act as sponsors in SFSP in low-income or rural areas where there currently are no meal services in order to evaluate the benefit of partnering with local employers to address hunger issues.

Other notable provisions

- Family Meal Days. Under the legislation, federal nutrition standards can be waived up to four days in a year so schools can provide Family Meal Days. This would be a voluntary option for schools. Fruits and Vegetables Mandates. The bill removes a federal mandate in the fruits and vegetables snack program that dictates the types of produce school nutrition officials can serve. Improvements to School Lunch Facilities. The legislation continues to provide assistance to improve school kitchens and cafeterias, which requires matching funds by recipients who receive assistance. Sharing Best Practices. The bill requires the Secretary to establish a centralized exchange network to facilitate the sharing of information and best practices between the states to enhance efficiency, improve compliance, and reduce waste, fraud, and abuse. Paperwork Reduction and Use of Technology. The bill requires the Secretary to review regulations, guidance, and other federal requirements to identify ways to streamline and reduce the paperwork burden on states and schools and to review the current use of technology in the school lunch program.

COMMITTEE VIEWS

Introduction

Helping children access healthy meals has long been a national priority. With the goal of improving access while ensuring accountability, the Committee worked with numerous organizations—including those representing school leaders and school nutrition professionals—to develop a legislative proposal that will improve child nutrition programs.[4] The bill includes commonsense reforms to give schools the flexibility and assistance they need to better serve their students healthy meals. As Ms. Megan Schaper, director of Food Service and Nutrition for the State College Area School District in State College, Pennsylvania, said in her testimony before the Subcommittee, "a program that cannot remain fiscally solvent due to decreased participation, decreased opportunities to generate revenue, and mandated increases in program costs is not positioned to provide high-quality, healthful meals to students."[5] H.R. 5003 pro-

[4] H.R. 5003, the Improving Child Nutrition and Education Act of 2016. *http://edworkforce.house.gov/uploadedfiles/improving_child_nutrition_and_education_act_of_2016.pdf.*

[5] Subcommittee hearing entitled, "School Meal Regulations: Discussing the Costs and Consequences for Schools and Students" on June 27, 2013. Testimony of Ms. Megan Schaper, Director of Food Service and Nutrition, State College Area School District, Pennsylvania. U.S. House

vides the relief schools need, maintains healthy standards for students' meals, and provides greater investments in other important programs that help fight hunger while reducing waste, fraud, and abuse.

Title I—Richard B. Russell National School Lunch Act

Title I of the bill amends NSLA. First, the definition of "state agency" is broadened to reflect how states have chosen to operate these programs. While many state departments of education run these programs, others utilize the state departments of agriculture or other agencies and offices to run child nutrition programs. The Committee believes states should decide which state agency is best able to run these programs without adding additional paperwork.

Addressing waste, fraud, and abuse

Child nutrition programs struggle with waste, fraud, and abuse. The Office of Management and Budget (OMB) has "designated the National School Lunch Program as 1 of 13 federal 'high-error' programs due to its large estimated improper payments—approximately $1.7 billion in fiscal year 2014."[6]

Ms. Jessica Lucas-Judy, Acting Director, Forensic Audits and Investigative Services at GAO, noted in her testimony before the Subcommittee:

> "USDA estimates that approximately $959 million of its fiscal year 2014 improper payments represents certification errors and approximately $789 million represents school-district counting and claiming errors. USDA estimates that the School Breakfast Program had approximately $923 million in improper payments in fiscal year 2014."[7]

Several instances of fraud were discovered by GAO through an audit. GAO discovered several of its employees received federal assistance, even though they exceeded the income limit.[8] That audit led to five individuals being indicted, one of whom was also a school board member.[9]

Verification is an area Secretary Vilsack pinpointed could be reformed to increase accountability. Testifying before the Committee, he stated it would be "more helpful if we could get up to 10 percent [of free and reduced price lunch applications in each school district] reviewed." The Secretary further stated that increasing the percentage would certainly send a message and would begin to focus

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of Representatives, Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, Washington, DC.

[6] "School-Meals Programs: Additional Verification Could Help USDA Ensure Legitimate Access." GAO-15-594T. May 7, 2015. *http://www.gao.gov/assets/680/670077.pdf.*

[7] "School Meals: USDA Could Improve Verification Process for Program Access." GAO-15-634T, Statement of Jessica Lucas-Judy, Acting Director, Forensic Audits and Investigative Service. May 19, 2015. *http://gao.gov/assets/680/670272.pdf.*

[8] "School-Meals Programs: USDA Has Enhanced Controls, but Additional Verification Could Help Ensure Legitimate Program Access." GAO-14-262. May 15, 2014. *http://www.gao.gov/assets/670/663258.pdf.*

[9] "5 GAO workers charged with fraud in obtaining school lunch subsidies." Lynh Bui. The Washington Post. August 11, 2015. *https://www.washingtonpost.com/local/crime/pr-georges-school-board-member-five-others-accused-of-fraud/2015/08/11/4b9aaffc-405a-11e5-bfe3-ff1d8549bfd2*__story.html.

on the importance of making sure we are accurate on all of this." [10] The Committee agrees with the Secretary and included language in the legislation for a new verification process. This process will require school districts to review more applications and focus on those schools with persistent problems. By requiring greater interventions for poorly performing school districts, states will be able to focus technical assistance and support on the districts in need of the most help in improving the verification process to ensure students are receiving the correct level of assistance for school meals. Higher performing school districts will be allowed to automatically drop their verification from 10 percent of all applications to the lowest required verification percentage of 2.5 percent. To further ease any administrative burdens accompanying the new verification requirements, H.R. 5003 incentivizes school districts to adopt best practices to modernize the process. These changes ensure the issues raised by GAO and the Secretary are addressed, while minimizing additional burdens on school districts.

Nutrition standards

As soon as the new regulations governing meal patterns and nutrition standards were published, those responsible for implementing the meal programs raised concerns about timetables and costs. The School Nutrition Association (SNA) commented, We are concerned that the timeframes within the rule are ambitious given the significant changes which will have to be made to school menus that will, at the same time, meet the rule's requirements, while also retaining student participation." [11] AASA, The School Superintendents Association, also expressed concerns about the cost of the new rule and the rules yet to be offered, stating, Beyond the anticipated unfunded costs of adopting the higher nutrition standards, we anticipate local education agencies (LEAs) will face similar burdens with the regulations relating to the training and certification requirements, the indirect cost component, and setting a national paid-lunch price." [12]

At a hearing held by the Subcommittee to examine the impact of the new rules, witnesses described concerns about costs and participation in the programs. Ms. Megan Schaper said:

> "My school district was well on the way to meeting the new nutrition standards when we ended the 2011/12 school year. We served an abundance of fruits and vegetables every day, our breads were whole-grain rich, and we knew that our meals were well within the fat and calorie ranges as required. That said, we still had extremely negative reactions from students and families with the meals planned to be in compliance with the meat and grain caps.

[10] Full Committee hearing entitled, "Child Nutrition Assistance: Are Federal Rules and Regulations Serving the Best Interests of Schools and Families?" on June 16, 2015. Testimony of Secretary Vilsack, U.S. Department of Agriculture, Washington, D.C. U.S. House of Representatives, Committee on Education and the Workforce, Washington, D.C.

[11] School Nutrition Association. Comment letter on the Food and Nutrition Service Proposed Rule: Nutrition Standards in the National School Lunch and School Breakfast Programs. March 29, 2011. *https://www.regulations.gov/contentStreamer?documentId=FNS-2007-0038-8987&attachmentNumber=1&disposition=attachment&contentType=pdf.*

[12] AASA: The School Superintendents Association. Comment letter on the Food and Nutrition Service Proposed Rule: Nutrition Standards in the National School Lunch and School Breakfast Programs. April 5, 2011. *https://www.regulations.gov/contentStreamer?documentId=FNS-2007-0038-9609&attachmentNumber=1&disposition=attachment&contentType=pdf.*

> Sandwiches and entree salads could not be offered five days a week at our elementary schools without respectively exceeding or not reaching the grain limits. At secondary schools, popular entrees had to be eliminated or substantially reduced in size and in our customers' opinions, the larger fruits and vegetables did not make up for this." [13]

She continued to discuss the decline in participation in her district and the state overall, saying:

> "Participation dropped in my schools by 34,000 meals or 3 percent. Anticipating negative reactions to the new standards, my district opted to utilize nonfederal funding to justify not raising our lunch prices this year as would have been required under Section 205, and therefore I believe we avoided larger decreases in participation. The lunch price equity rule required many other districts to raise meal prices. Higher meal prices combined with less satisfaction with the meals in general dealt the proverbial one-two punch to the participation levels in many districts. Statewide in Pennsylvania participation has dropped by 5.6 percent through March with the majority of that loss in the paid-meal category." [14]

At the same hearing, GAO noted new rules required some schools to replace popular items with less popular alternatives, which led to greater food waste and students remaining hungry because the food provided was not enough to sustain them throughout the day.[15]

Providing all students access to healthy meals in a cost-effective manner is a priority shared by Republicans and Democrats. Unfortunately, the status quo has made it harder for states and schools to serve the needs of their students and families. The bill provides a different approach, one that ensures federal policies (1) reflect the input of school leaders, (2) do not increase costs for schools, (3) meet the needs of all students, (4) are based on sound science, and (5) lead to better participation. Further, the legislation sets up a permanent process to ensure standards are reviewed over time to make certain the needs of students and schools are still being met and, when necessary, changes are considered in a responsible way.

Key aspects of the new process for establishing nutrition standards are increasing transparency and providing the public adequate time to consider the policy changes. H.R. 5003 requires and supports transparency throughout the process, including through consultation with local stakeholders when the new rules are being developed, mandated notice to Congress on the new requirements, and the creation of the School Nutrition Advisory Committee, a

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[13] Subcommittee hearing entitled, "School Meal Regulations: Discussing the Costs and Consequences for Schools and Students" on June 27, 2013. Testimony of Ms. Megan Schaper, Director of Food Service and Nutrition, State College Area School District, Pennsylvania. U.S. House of Representatives, Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, Washington, DC.

[14] Ibid.

[15] Subcommittee hearing entitled, "School Meal Regulations: Discussing the Costs and Consequences for Schools and Students" on June 27, 2013. Testimony of Ms. Kay E. Brown, Director for Education, Workforce, and Income Security Issues, Government Accountability Office, Washington, D.C. U.S. House of Representatives, Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, Washington, DC.

committee created to advise the Secretary on child nutrition programs.

Sodium targets

Schools are in dire need of additional flexibility so they can provide food that kids will eat. Under the current regulations, the next sodium target will take effect in the 2017–18 school year. H.R. 5003 requires the first review of the regulations to be completed by December 31, 2016. During this review, the Secretary will consult with local officials, dieticians, parents, and physicians to determine what changes should be made to the regulations, specifically addressing the whole-grain requirements and the sodium targets to ensure schools can provide food that kids will eat. Because of the impending deadline, the bill requires the sodium target to be frozen at the current level while the Secretary reviews evidenced-based studies to determine the appropriate sodium targets. The new target will go into effect three years from when it is finalized. The three-year implementation is necessary to ensure food producers have time to adapt their food to the new targets, schools have time to purchase the food, and students have time to adapt to changes in the food being served.

Highlighting the need for additional flexibility, Ms. Schaper stated, To be most effective at ending hunger and curbing childhood obesity, schools need the flexibility to provide healthful lunches that students actually want to purchase and eat." [16]

Milk varieties

Nutrients in milk are important to children's growth and development. H.R. 5003 provides schools with flexibility to offer additional varieties of milk to encourage students to drink milk. The Committee notes H.R. 5003 continues the longstanding statutory requirement to offer milk with each school lunch. The Committee expects USDA to reaffirm this requirement through the updated manuals and guidance.

Potable water

Current law includes a requirement for schools to make potable water available to students during meal service. In the case of an emergency, access to clean water might not be possible, so the bill authorizes the Secretary to provide access to bottled water to schools that have been affected by a nationally-declared emergency.

Special dietary needs

The legislation requires the Secretary to issue guidance to schools on addressing food-related medical issues, including food allergies and other special dietary needs (such as religious accommodations) when providing school meals or food in other programs. Guidance is needed to ensure kids are not excluded due to special dietary needs.

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[16] Subcommittee hearing entitled, "School Meal Regulations: Discussing the Costs and Consequences for Schools and Students" on June 27, 2013. Testimony of Ms. Megan Schaper, Director of Food Service and Nutrition, State College Area School District, Pennsylvania. U.S. House of Representatives, Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, Washington, DC.

Family Meal Days

H.R. 5003 requires the Secretary to allow schools or LEAs to waive meal standards up to four days per year to facilitate Family Meal Days." During the Family Meal Days, schools invite families to share school meals, such as a Thanksgiving meal, with their children. In implementing this provision, the Secretary is prohibited from adding any mandates or requirements to the provision. Schools are provided flexibility to determine when and how best to host these days to maximize family participation.

Community eligibility

HHFKA added the community eligibility provision" (CEP) that provides free meals to all students at a school when a certain percentage of the student population is identified as categorically or automatically eligible for free meals. This provision of current law allows taxpayer dollars to subsidize meals for students who are not otherwise eligible to receive free school meals. H.R. 5003 maintains the provision but increases the threshold to 60 percent, making this provision of the law consistent with other policies affecting the school lunch program. It is important to note this change will not affect eligibility for one single student; every child who is eligible to receive assistance today will still be eligible for assistance under the reauthorized law. The change in the provision, however, allows for more effective use of taxpayer dollars and more help for those students who need it most.

Summer food service program for children

The Committee agrees with the intent of the SFSP in addressing the needs of vulnerable children who might be at a higher risk of hunger during the summer when they are not receiving meals at school. Dr. Kathy Krey, director of research at the Texas Hunger Initiative at Baylor University, testified before the Committee on the importance of the program, stating:

> "Regular access to healthy meals in the summer months is important, not just for health but for students' academic well-being. We know that inadequate nutrition can intensify the learning loss that can occur over the summer. This particularly affects low-income students who can lose up to twice the ground of other students during the summer months." [17]

While some low-income children receive meals at home or through another care arrangement during the summer months, others do not, and meeting the needs of these children can be particularly challenging. H.R. 5003 continues SFSP with fundamental improvements to give states and providers more flexibility to provide meals, especially in rural and low-income areas where children may be more vulnerable, and strengthens existing programs by requiring states to prioritize applications with an educational or enrichment activity.

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[17] Full Committee hearing entitled, "Serving Students and Families through Child Nutrition Programs" on April 15, 2015. Testimony of Dr. Kathy Krey, Director of Research and Assistant Research Professor, Texas Hunger Initiative, Baylor University, Texas. U.S. House of Representatives, Committee on Education and the Workforce, Washington, D.C.

Streamlining and improving efficiencies

H.R. 5003 continues the Seamless Summer Option (SSO), which allows schools to provide summer meals in a capacity similar to their school-year operations, while providing educational enrichment. H.R. 5003 establishes opportunities to streamline and improve operations of out-of-school meal programs throughout the year. SFSP and CACFP programs work together to provide meals to children beyond the typical school day, whether during the summer or in afterschool programs. Some providers operate both programs to serve children throughout the year but in doing so must navigate through burdensome red tape and expensive and time-consuming hurdles.

USDA has provided guidance to help states simplify and streamline requirements between the two programs so providers can better serve at-risk children.[18] These are steps in the right direction; however, the Committee has heard from numerous providers of both SFSP and CACFP regarding the need to simplify operations and encourage states to improve operations of these programs. H.R. 5003 encourages states to remove expensive and time-consuming hurdles to help community groups serve meals in a more cost-efficient manner. The bill requires the Secretary to provide guidance to help states reduce paperwork and streamline applications, reporting requirements, inspections, and other potential duplications.

Non-congregate site flexibility

Currently, SFSP assists organizations serving meals to children in supervised congregate settings such as summer camps and recreational programs (referred to as the "congregate feeding requirement"). The program works well in many places, helping children access healthy meals in safe, interactive environments. However, this model can be a barrier for families who lack transportation, live in rural areas, or do not have a safe place for children to access help. Mr. Duke Storen, senior director of Research, Advocacy, and Partner Development at Share Our Strength, testified on this point, noting, "States and communities need more options in terms of the way that summer benefits are delivered. Now, there is a single, sort of uniform congregate feeding model, and that works great for some but it doesn't work at all for most."[19] H.R. 5003 allows states and providers flexibility from the congregate feeding requirement in rural and low-income areas, or when the existing congregate site is closed due to extreme weather conditions, violence or other safety concerns, or other emergency circumstances, as determined by the state.

This flexibility should be complementary to the existing site-based model—not a complete shift away from an approach that is working for many students. H.R. 5003 limits this allowance to the

[18] "Available Flexibilities for CACFP At-risk Sponsors and Centers Transitioning to Summer Food Service Program (SFSP)." U.S. Department of Agriculture. November 12, 2013. *http://www.fns.usda.gov/sites/default/files/SP%2006_CACFP%2003_SFSP%2006-2014os.pdf. See also* "Transitioning from the Summer Food Service Program to Child and Adult Care Food Program At-risk Afterschool Meals." U.S. Department of Agriculture. May 31, 2013. *http://www.fns.usda.gov/sites/default/files/CACFP12__SFSP14-2013.pdf.*

[19] Full Committee hearing entitled, "Serving Students and Families through Child Nutrition Programs" on April 15, 2015. Testimony of Mr. Duke Storen, Senior Director, Research, Advocacy, and Partner Development, Share Our Strength, Washington, D.C. U.S. House of Representatives, Committee on Education and the Workforce, Washington, D.C.

areas where there are barriers to successful operation of the current program. Further, the limit of two meals per service and 10 meals per week ensures food and resources are not wasted. States should periodically reevaluate the potential for children to be served at a congregate site as a way to determine whether children might have new opportunities at supervised locations. The approach in H.R. 5003 offers responsible flexibility to states and programs so they may better reach children while protecting the intent of the program.

Child and adult care food program

CACFP supports working parents by ensuring children enrolled in participating child care centers, family child care homes, Head Start facilities, or afterschool programs have access to nutritious meals and important nutrition education. The program helps improve the wellness, healthy growth, and development of young children, older adults, and chronically impaired or disabled persons.

H.R. 5003 extends the definition of "institution" to include any (1) public residential child care institution; (2) private residential child care institution that is licensed and nonprofit; and (3) boarding school funded by the Bureau of Indian Education that is not participating in the school lunch or breakfast programs. This provides flexibility for such institutions to participate in the program that best fits the needs of the children in their care.

While there are many successful aspects of CACFP, substantial hurdles prevent some providers from administering the program effectively, including administrative burdens caused by extensive paperwork requirements, duplicative monitoring, and other requirements. USDA has failed to enact or change policies to reduce the paperwork burden. A 2015 USDA report to Congress found:

Despite broad agreement by USDA and CACFP stakeholders with the 2007 report's priorities, the current feedback to the Work Group suggests that concrete action to address many of the recommendations has not been effective or fully utilized. Although implementation of provisions of the Healthy, Hunger-Free Kids Act offered further streamlining of application and oversight requirements, it became increasingly clear to members of the Work Group that additional actions would be needed.[20]

H.R. 5003 includes reforms to reduce paperwork by lengthening eligibility for private centers from one month to four months. The bill also improves financial operations by allowing sponsors to carry-over 10 percent of their administrative funds for administrative purposes, while ensuring proper oversight through accurate reporting. The legislation further reduces administrative burdens by re-convening a paperwork reduction task force.

Another area of improvement is the review and issuance of guidance or regulations regarding the serious deficiency process. This provision will help offer clarity for providers and state agencies, and ensure oversight is fair, uniform, and effective, while retaining program integrity. Improving accountability and integrity will protect federal funds and equip providers to operate more effectively.

[20] "Report to Congress. Reducing Paperwork in the Child and Adult Care Food Program." U.S. Department of Agriculture. Page 5. August 2015. *http://www.fns.usda.gov/sites/default/files/cacfp/CACFP__Paperwork__*Report.pdf.

Information should be shared with the Department of Health and Human Services (HHS), as many facilities operating CACFP are administered by HHS, to ensure proper oversight.

H.R. 5003 further improves oversight and monitoring for child care providers participating in the CACFP who are, more often than not, participating in a variety of other federal programs with their own sets of monitoring, oversight, and other programmatic requirements. Duplicative paperwork wastes the time and resources of providers and state agencies. H.R. 5003 encourages reviews to be coordinated, streamlined, and consolidated. Lastly, current law allows the Secretary to provide additional state audit funds. H.R. 5003 ensures these funds are used to improve program management and oversight, including by improving practices across state agencies.

Demonstration projects

Current law authorizes demonstration projects to identify more effective ways to eliminate hunger, deliver healthy food to children in and out of school, and help spur local innovation. H.R. 5003 builds on effective demonstrations and includes promising new methods for funding and delivering child nutrition programs. Before investing wholesale in new ideas or widely expanding current practices, alternate delivery methods must be tested and measured for effectiveness.

Access to local foods: Farm to school program

The existing Farm to School Program has led to more agricultural producers being involved in child nutrition programs, better nutrition education, and more local foods being served in schools. The grants from this program act as one-time capital infusions to schools so they can invest in the infrastructure and operations needed to promote long-lasting nutrition education and procure regional foods. Ensuring these grants are awarded to a variety of grantees across the country is important; therefore, H.R. 5003 limits entities to one grant at a time. In addition, the legislation provides a grant period of up to three years, which streamlines the process to combine the current "planning" and "implementation" periods into one award cycle.

Summer meal service through business partnership

Many children and families benefit from the healthy meals supported by SFSP during the summer when school meals are not available. The Committee includes commonsense reforms in H.R. 5003 to strengthen this program. These reforms ensure local governments, camps, and nonprofit organizations can better serve children in the summer. In addition, businesses are taking initiatives to address hunger in their communities. Mr. Storen testified:

> "For decades, public-private partnerships have been at the core of this solution, allowing community organizations, schools, faith-based groups, and private companies to come together to address the issue. Through our work to end childhood hunger in all 50 states, we see the power

that comes from all sectors working together to solve this problem."[21]

When local communities and businesses leverage resources to develop innovative approaches, they create solutions to address hunger in ways the government cannot. That is why H.R. 5003 authorizes a demonstration project that would allow four states to approve businesses as sponsors to provide summer meals in low-income or rural areas without current meal service.

The Committee views this demonstration project as a promising approach that builds upon the work businesses are already doing to help increase access to summer meals for eligible children. H.R. 5003 limits the project to four states as a way to assess the impacts these businesses can have on addressing childhood hunger with less federal involvement while also examining taxpayer funds are used more efficiently and effectively than other methods.

Summer electronic benefit transfer for children

The *Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010* (P.L. 111–80) authorized and provided funding for the USDA to implement and evaluate demonstrations to reduce summer hunger for children. USDA developed the SEBTC demonstration to study the use of SNAP and WIC electronic benefits transfer technology to provide food assistance to low-income children during the summer.

The existing project demonstrated some promise in addressing food insecurity in the summer, but questions remain whether this method produces the best results in the most cost-effective manner. Participation rates, consumption rates, and the cost of the program compared to the benefits need to be understood before the program is expanded. For this reason, H.R. 5003 allows states that are currently participating in SEBTC to continue operating and evaluating this project. It is the Committee's intent that states participating in the demonstration, as amended through H.R. 5003, will study additional parameters to improve the program and determine whether it is an effective delivery method for providing access to meals in the summer.

The Committee is concerned that "administrative costs for SEBTC in its early demonstration years were higher than for most ongoing nutrition assistance programs."[22] States should seek to minimize such administrative costs, so H.R. 5003 limits these funds for participating states.

State administration of child nutrition programs

This demonstration project would provide up to three states with the opportunity to develop programs and policies to best meet the nutritional needs of the school-aged children in their states, free from specific federal requirements and regulations. States will be

[21] Full Committee hearing entitled, "Serving Students and Families through Child Nutrition Programs" on April 15, 2015. Testimony of Mr. Duke Storen, Senior Director, Research, Advocacy, and Partner Development, Share Our Strength, Washington, D.C. U.S. House of Representatives, Committee on Education and the Workforce, Washington, D.C.

[22] "Summer Electronic Benefit Transfer for Children (SEBTC) Demonstration: Summary Report." Abt Associates Inc. May 2016. *http://www.fns.usda.gov/sites/default/files/ops/sebtcfinalreport.pdf* (noting that in 2012, when the demonstration reached the largest number of children and families compared to other years, the total cost was $13.2 million, including $4 million in administrative costs and $9.3 million in benefits).

awarded a grant to administer this provision for a three-year period, which will be equal to the funds provided to the state in FY 2016 for free and reduced price meals through the school lunch, school breakfast, special milk, state administrative expenses, and team nutrition network programs. Participating states will provide additional non-federal resources to meet the needs of children in the state. To participate, states will have to (1) provide healthy meals to children; (2) ensure each child has access to at least one affordable meal during the school day; (3) determine income thresholds for such meals; (4) provide technical assistance to ensure maximum participation; and (5) ensure all funds received by the state are used to provide meals and carry out the activities provided in this demonstration. It is important to explore new ways to fund and operate existing programs to ensure taxpayer funds are being used efficiently and effectively. This project will help states and Congress identify better ways to provide healthy meals to students.

Fruit and vegetable program

To help provide students access to fruits and vegetables, H.R. 5003 opens the Fruit and Vegetable Program to all forms of fruits and vegetables. When providing guidance on this expanded option, the Secretary shall ensure all forms of fruits and vegetables—fresh, frozen, canned, and dried—are treated equally and schools will be able select the form best for their students and schools.

Compliance and accountability

While accountability is critical for federal programs, federal nutrition policies currently include compliance requirements that have increased paperwork and costs for participants with little benefit for taxpayers. Some of these provisions have left states without time to focus on schools and school districts that need extra support to improve verification and prevent waste, fraud, and abuse. H.R. 5003 includes provisions that focuses on poorly performing districts, removes unnecessary requirements that increase costs, and reverts back to the five-year audit cycle to ensure states have time to assist school districts in need rather than simply check boxes on paperwork. The legislation also strikes the requirement for a minimum price to be charged for paid meals, because this is a decision that should be left to local leaders.

Improvements to school lunch facilities

According to the Pew Charitable Trusts, 88 percent of school districts are in need of at least one piece of kitchen equipment, and 55 percent of school districts need to make changes to their kitchen infrastructure.[23] H.R. 5003 continues funding and guaranteed loans for schools to improve kitchen facilities.

Prohibitions

Recent federal regulations governing child nutrition are often far overreaching and too burdensome for schools. H.R. 5003 includes a new section that prohibits the Secretary from placing additional

[23] "Give Schools the Tools to Prepare Healthy, Delicious Meals: The School Food Modernization Act." Pew Charitable Trusts. February 20, 2015. *http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2015/02/give-schools-the-tools-to-prepare-healthy-delicious-meals*.

burdens on schools as the reforms in the legislation are enacted. In implementing the provisions of this bill, the Committee expects the Secretary to follow the letter and spirit of the law.

Title II—Child Nutrition Act

Title II of the bill amends the CNA and addresses several major issues.

School Breakfast Program

According to the SNA, one in five children live in food insecure households. The School Breakfast Program is critical to helping these students receive the nutrition they need to succeed at school.[24] Unfortunately, the federal meal pattern requirements updated after HHFKA added an estimated $0.27 per breakfast served but provided no additional funding to help schools cover those costs.[25] As previously noted, the changes to the meal standards will significantly curtail the additional costs for providing school meals, yet providing a healthy breakfast is still a cost every participating school faces. H.R. 5003 provides the first increase in the breakfast reimbursement rate for schools in more than 25 years. This will mean an additional $0.03 by the end of the authorization for schools for each breakfast served. This critical assistance to schools is made possible through other reforms in the legislation and at no additional cost to taxpayers.

State administrative expenses

Some local school systems have explored alternative food delivery models through the use of private contracts. The bill encourages this practice by providing greater flexibility with respect to the use of federal funds, which will help ensure states coordinate with and reimburse entities for utilizing cost saving strategies. The Committee recognizes the training requirements for school food service personnel and supports efforts to offer this training at times that are most convenient for the staff, therefore minimally disrupting other duties or jobs and requirements.

Smart snack rule

HHFKA required the Secretary to issue new rules covering the sale of foods not reimbursed by the federal government, referred to as "competitive foods." The rule introduced new requirements covering when certain foods could be served outside of the paid meal lines. USDA did not establish the cost of these new regulatory requirements, stating, "The magnitude of these effects is subject to considerable uncertainty; the ultimate impact of the rule will be determined by the manner in which schools implement the new standards and how students respond." [26] School officials raised seri-

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[24] "2016 Position Paper: 10 cents per breakfast in USDA Foods." School Nutrition Association. *https://schoolnutrition.org/uploadedFiles/Legislation_and_Policy/SNA_Policy_Resources/2016PP10CentsOnePage.pdf*.

[25] Federal Register. Vol. 78, No. 125. Department o fAgriculture: Food and Nutrition Service, "National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010." June 28, 2015. *https://www.gpo.gov/fdsys/pkg/FR-2013-06-28/pdf/2013-15249.pdf*.

[26] Federal Register. Vol. 78, No. 125. Department of Agriculture: Food and Nutrition Service, "National School Lunch Program and School Breakfast Program: Nutrition Standards for All

Continued

ous concerns about the impact of these rules. For example, testifying before the Subcommittee, Ms. Sandra Ford, director of Food and Nutrition Services with Manatee County School District in Bradenton, Florida, stated the new rule was estimated to cost the district roughly $1 million in annual revenue.[27] This rule was issued as schools struggled to implement new nutrition standards, which resulted in disrupting many school fundraisers. To protect the ability of students to fund class trips, run career and technical education programs involving food programs and workforce education, and other school-based activities, the bill requires the Secretary to improve current rules. The Committee expects that new regulatory policies will make it easier for schools to plan their menus and provide food kids will eat, limit the financial impact of the rule for schools, and ensure student-led fundraisers are allowed to operate.

Special Supplemental Nutrition Program for Women, Infants, and Children

WIC provides supplemental nutritious foods, nutrition education, and counseling at WIC clinics—as well as screening and referrals to other health, welfare, and social services—for income-eligible women who are pregnant or post-partum, infants, and children up to five years of age. The bill strengthens the program for taxpayers and vulnerable mothers and children by improving the contracting, sole source bidding, and anti-waste, fraud, and abuse provisions. The changes to the moratorium process will properly balance the need to prevent fraudulent and wasteful activity with the need to ensure local businesses, WIC participants, and non-participants are not unduly harmed.

As the Secretary reviews allowable foods under WIC, it is important they do not limit access to fruits and vegetables. H.R. 5003 includes language to ensure the Secretary does not arbitrarily limit children's access to fruit.

H.R. 5003 includes a provision regarding certain food for infants. This provision is intended to ensure states consider the full range of costs and benefits associated with single-supplier rebate contracts for infant foods. Administrative costs and potentially higher retail prices for products offered through single-supplier agreements reduce the "savings" achieved through these agreements. Higher retail prices also negatively affect non-WIC consumers. Single-supplier contracts reduce variety and choice for WIC participants and may contribute to lower redemptions in this product category. Lower redemption rates diminish the goals of increasing consumption of fruits and vegetables. In November 2015, the Institute of Medicine released its "Review of WIC Food Packages: Proposed Framework for Revisions: Interim Report," and stated:

> "On the one hand, containing costs is essential for maximizing program funds to serve as many WIC-eligible individuals as possible. Yet strategies that limit cost are often

Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010." June 28, 2015. Page 39070. *https://www.gpo.gov/fdsys/pkg/FR-2013-06-28/pdf/2013-15249.pdf.*

[27] Subcommittee hearing entitled, "School meal Regulations: Discussing the Costs and Consequences for Schools and Students" on June 27, 2013. Testimony of Ms. Sandra Ford, Director of Food and Nutrition Services, Manatee County School District, Florida. U.S. House of Representatives, Subcommittee on Early Childhood, Elementary, and Secondary Education, Committee on Education and the Workforce, Washington, DC.

> synonymous with strategies that limit choice. Cost-containment practices that restrict participant choice in such a way that some foods become undesirable for purchase undermine WIC's goal to provide healthy and nutritious foods to low-income individuals. As a result, states attempt to balance containing cost with promoting enough variety and choice among healthy WIC foods that families will want to purchase those foods."[28]

Improving the contracting provisions is a critical reform to the WIC program in H.R. 5003. Providers of infant formula fund just over 20 percent of the WIC program through the infant formula rebate program. Infant formula rebates totaled approximately $1.8 billion in FY 2015. The proposed reforms seek to achieve a better balance in the rights and obligations of the contracting parties when entering into WIC rebate contracts. These reforms are necessary to ensure a fair process during the bid solicitation and contract review process.

In addition, the bill requires GAO to study the impact of adjunctive eligibility on the WIC program and participants. Data used to evaluate this provision must be fair, accurate, and examine how many states have eligibility requirements above the WIC statutory eligibility requirement of 185 percent of poverty. The Committee included a timeframe of 18 months for completion of the report.

Team nutrition network

Team Nutrition is an initiative run by USDA's Food and Nutrition Service to provide training and technical assistance to food service workers, nutrition education to children and their caregivers, and school and community support for healthy eating and physical activity.[29] The bill makes improvements to better support nutrition education and improve coordination of activities in this area. This will include guidance from the Secretary for schools to coordinate work with their "farm to school" grants and plans for the newly allowed Family Meal Days. The prohibitions included in Title I of the bill are critical to ensuring the Secretary does not overreach and does not dictate curriculum, standards, or other activities that are best left to state and local officials to determine and develop.

Title III—Miscellaneous

Title III of the bill addresses miscellaneous provisions.

Reviews

H.R. 5003 includes many areas the Secretary shall review to improve child nutrition programs. Of particular note is a requirement to determine if there are more appropriate data sources to use other than the school meal eligibility data for other federal programs that are means tested.

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[28] "Review of WIC Food Packages: Proposed Framework for Revisions: Interim Report." Committee to Review WIC Food Packages: Food and Nutrition Board: Institute of Medicine. The National Academies of Sciences, Engineering, Medicine. *http://www.nap.edu/read/21832/chapter/1.*

[29] "Team Nutrition." U.S. Department of Agriculture. *http://www.fns.usda.gov/tn/team-nutrition.*

Additionally, the requirement to look at crediting in school meals is important to ensure the process is neutral in its application and does not arbitrarily leave foods ineligible for the program or a part of the program. The Food and Nutrition Service should properly apply the exemptions in its 2013 regulations to nut, seed, or nut/seed butter (separate or combined with other ingredients) on competitive foods sold in U.S. schools. Additionally, USDA should review the allowance of jerky products that provide significant protein in a form kids will consume. It is important that USDA not exclude foods that provide a good source of nutrition in a cost effective manner that are enjoyed by students, therefore limiting food waste.

Another important review the Secretary shall conduct is an evaluation of the number of incidences and types of unlawful activity that have occurred over the last three years, including a review of the agencies responses, and to take action preventing further fraud. Finally, it is important the Secretary review the regulations regarding infant formula and update them appropriately to reflect the current scientific knowledge.

Program delivery

It is important for the Secretary to continually review federal policies and the impact they have on states, school districts, and schools. The Secretary should also recognize that federal rules are often in addition to rules state leaders place on school districts and schools. The Secretary must work with states to coordinate and streamline requirements and reduce duplication.

School nutrition advisory committee

The Secretary must engage all stakeholders in the implementation of child nutrition programs. As part of this engagement, the Secretary should pay particular attention to those who pay for and run these programs. The advisory committee will make recommendations to the Secretary on important issues and provide local stakeholders a role in the decision-making process. By requiring the appropriate congressional committees to provide recommendations for membership, the bill will ensure that a diverse range of thought and opinion is adequately reflected. The Secretary and USDA staff must not inappropriately interfere in the work of the committee. The committee's role is to provide thoughtful and deliberative feedback and recommendations on policies, free from influence of the Secretary and administration.

Conclusion

Helping children succeed in the classroom is a priority of both Republicans and Democrats, and children cannot learn in the classroom if they are hungry. That is why federal policies have long supported states, schools, and other institutions as they work to meet the nutritional needs of low-income children and families in their communities. Unfortunately, federal rules and mandates issued in recent years make serving vulnerable children harder for state and local leaders. The current one-size-fits-all approach has resulted in higher costs for schools and fewer students being served. This bill provides a better way for children and families who rely on nutrition assistance. Through a number of positive re-

forms, this bill will deliver the flexibility, accountability, and additional support students, families, schools, and taxpayers need. The bill reflects the Committee's ongoing effort to ensure the federal government spends taxpayer resources responsibly and all children have equal opportunities to achieve a lifetime success.

SECTION-BY-SECTION

Section 1—Short title; Table of contents

States the short title as "*Improving Child Nutrition and Education Act of 2016*" and contains the table of contents for the Act.

Section 2—Definition of Secretary

Defines the term "Secretary" to mean the Secretary of Agriculture.

Title I—Richard B. Russell National School Lunch Act

Section 100—Authorized State agency

Changes "State educational agency" to "State agency."

Section 101—Apportionment to states

Returns to the Treasury any administrative funds provided to states to implement the new school meal rules unspent by September 30, 2016, and requires the Secretary to announce the reimbursement rate for the upcoming school year and any necessary guidance by February 15, 2017.

Section 102—Repeal of nutrition promotion

Repeals the nutrition promotion program.

Section 103—Direct federal expenditures

Changes the formula for commodity assistance and moves the date forward to inform states of their share.

Section 104—Nutritional and other requirements

Requires the Secretary to provide technical assistance and training to participating schools and to revise the milk requirements.

Authorizes the Secretary to award funds to state agencies to assist in providing bottled water to schools in a state of emergency.

Strikes a provision to inform families of what the income threshold is to qualify for reduced priced meals and requires the inclusion of a provision on the notice to families to clarify individuals may report alleged fraud to the USDA Inspector General (IG) and requires the USDA to have a prominent link to the USDA IG website and a phone number which can be used to report alleged fraud. Also requires the Secretary to review school meal applications and provide states best practices and guidance to improve the application process and clarifies school food authorities' interactions with families regarding applications.

Makes changes to the meal application verification process to help reduce the error rate for approved applications. Phases in these changes after one year.

Amends the nutrition standards requirements to require a triennial review of the standards, with the first review occurring by December 31, 2016.

Includes an allowance for Family Meal Days. Also includes a requirement for guidance to schools allowing school food authorities to substitute food items, including in-season, locally-produced fruits and vegetables when there is difficulty in procuring food to comply with the regulations, provided the school food authority continues to meet the nutrition standards.

Section 105—Miscellaneous provisions

Amends the CEP, updates the procurement training requirements from 2015 to 2021, and repeals paid meal equity requirements.

Section 106—Summer food service program for children

Prioritizes applications with an educational or enrichment activity and requires states to include in their administration and management plan how they will strengthen the congregate feeding model.

Encourages all states to streamline and simplify operations for institutions eligible to participate in the At-Risk Afterschool component of CACFP and allows states that have demonstrated such streamlining to be reimbursed for meals both in summer and throughout the school year as a way to further streamline meal delivery and reduce burden on providers and states. The funding in this provision is phased in by allowing five states in May 2017, an additional five states in October 2018, and to any state in May 2020. These meals will be reimbursed consistent with rates in CACFP.

Requires the Secretary to grant state requests to allow children already participating in the program to consume meals off-site when the existing congregate site is closed due to extreme weather conditions, violence or other safety concerns, or other emergency circumstances as determined by the state.

Permits a state to elect for service organizations to provide summer meals to children that may be consumed away from the congregate site. The child being served such meals must live in a rural area or an area where more than 80 percent of students are certified as eligible to receive free- or reduced-price lunch.

Section 107—Commodity Distribution process

Makes technical corrections to the Commodity Distribution program and strikes a mandate for a notice of irradiated food products.

Section 108—Child and adult care food program

Extends the definition of "institution" to include any (1) public residential child care institution; (2) private residential child care institution that is licensed and nonprofit; and (3) boarding school funded by the Bureau of Indian Education, so long as the institution does not participate in the school lunch or breakfast programs. Lengthens eligibility for private centers from one month to four months. Allows sponsoring organizations to carry over 10 percent of their administrative funds for any succeeding fiscal year for ad-

ministrative purposes and requires reporting on the amount retained for administrative costs.

Requires the Secretary to review, and issue guidance or regulations regarding, the serious deficiency process. Requires relevant information to be shared with the HHS during the review of the serious deficiency process as well as when reviewing program participants. Requires the Secretary to convene an advisory committee to examine the feasibility of reducing unnecessary or duplicative paperwork and implement changes resulting from recommendations. Ensures states use any additional audit funds provided by the Secretary to improve program management and oversight, including across state agencies.

Section 109—Demonstration projects

Strikes outdated projects and authorizes the following four projects:

- Access to Local Foods: Farm to School Program;
- Summer Meal Service through Business Partnership;
- Summer Electronic Benefit Transfer for Children; and
- State Administration of Child Nutrition Programs.

Section 110—Fruit and vegetable program

Removes the limitation to provide fresh fruit and vegetables thereby opening the program to all forms, but includes clarification that states have the option to elect offering all forms. Encourages schools to introduce fruits and vegetables to children in new contexts, including allowing schools to offer combinations of fruits and vegetables with tree nuts.

Section 111—Compliance and accountability

Reverts the required audit cycle back to five years (rather than three years) and requires states to work with LEAs on "Error Reduction Plans."

Section 112—Repeal of State Childhood Hunger Challenge Grants

Repeals the State Childhood Hunger Challenge Grants.

Section 113—Duties of the Secretary relating to non-procurement debarment

Increases fines for contractors found guilty in any criminal proceeding or found liable in any civil or administrative proceeding of specific activities.

Section 114—Improvements to school lunch facilities

Authorizes kitchen equipment grants and loans.

Section 115—Prohibitions

Prohibits the Secretary from overreaching or adding new requirements not authorized under the law.

Title II—Child Nutrition Act

Section 201—Special Milk Program Authorization

Requires the date for notification of the reimbursement rate for milk to be February 15 of the preceding school year instead of simply on an annual basis.

Section 202—School Breakfast Program

Increases the reimbursement rate for breakfast.

Section 203—State Administrative Expenses

Clarifies the use of state administrative expenses.

Section 204—Regulations

Ensures any foods sold in the reimbursed meal program may also be served in an a la carte line and ensures fundraisers held by student organizations may occur at any time other than during meal times.

Section 205—Definition of State agency

Defines a "state agency" as the chief state school officer, a board of education controlling the state department of education, the state commissioner or individual who administers agricultural programs in the state, or a state official the state legislature designates to administer programs authorized in this provision.

Section 206—Special Supplemental Nutrition Program for Women, Infants, and Children

Makes changes to the WIC program, including the bidding process; sole source contracting; and prevention of waste, fraud, and abuse.

Section 207—Team nutrition network

Improves Team Nutrition by requiring the program to improve nutrition education, which includes physical activity, long-term dietary health, food security, and food preparation.

Title III—Miscellaneous

Section 301—Reviews

Requires the Secretary to review the following:

- Barriers to including tribally-produced and cultural foods in the school meal programs;
- Along with the Secretary of Education, how free and reduced price lunch data is used and whether there is a viable alternative to such data;
- An update of the system of crediting and the voluntary child nutrition labeling program used in administering the programs under these laws;
- The practicability and feasibility of conducting nutritional analysis of food products voluntarily submitted for use in the child nutrition programs;
- The cost difference between providing meals in the outlying areas and the 50 states and Washington, D.C.;

- Unlawful activity under the program over the past three years and to address such issues to help prevent any unlawful activity in the future; and
- The infant formula available under WIC.

Section 302—Program delivery

Requires the Secretary to work with states to improve program administration through the use of technology, better coordination, better communication among states, and consolidation and elimination of duplicative or unnecessary federal and state reporting requirements.

Section 303—Product availability

Requires the Secretary to make available, in a size and form for school-age children, lactose-free milk with an extended shelf life for use in the commodity distribution program.

Section 304—Procurement

Requires the Secretary to ensure service institutions participating in the programs have flexibility in determining when and what food to purchase and that procurement processes implemented in states are cost effective and efficient.

Section 305—School nutrition advisory committee

Establishes an advisory committee to provide input from stakeholders to the Secretary on the administration of the programs under these laws.

Section 306—Paperwork reduction

Requires the Secretary to review regulations, guidance and other requirements in order to identify ways to streamline and reduce paperwork requirements, and if appropriate, act on such review to streamline or otherwise reduce the paperwork burden on states and schools. Requires a report on the paperwork burden to Congress after two years, and every three years thereafter (or upon any guidance or updated federal requirements).

Section 307—Technology

Requires the Secretary to review the current use of technology in the school lunch program and identify opportunities to make improvements and encourage greater use.

Section 308—Improving health and safety oversight and monitoring for the Child and Adult Care Food Program

Requires the Secretary and the Secretary of HHS to work together to improve health and safety oversight and monitoring practices required under CACFP by issuing guidance to states to reduce duplicative monitoring or oversight activities that are a result of multiple federal regulations, including through CACFP, the *Head Start Act*, and the Child Care and Development Fund.

Section 309—Technical corrections

Makes technical and conforming corrections.

Section 310—Budgetary effects

Establishes PAYGO compliance.

Section 311—Effective date

Establishes the effective date as October 1, 2016, unless otherwise specifically stated.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are 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. 5003 builds upon the Committee's ongoing efforts to improve child nutrition programs by examining federal investments, reducing burdensome requirements, and strengthening programs.

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. This issue is addressed in the CBO letter.

EARMARK STATEMENT

H.R. 5003 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 1 Bill: H.R. 5003 Amendment Number: 5

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Ms. Fudge - strikes language that changes the CEP threshold to 60%

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 2 Bill: H.R. 5003 Amendment Number: 6

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Mr. DeSaulnier - requires USDA to set up a process to ensure state compliance with potable water requirements

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 3 Bill: H.R. 5003 Amendment Number: 7

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Mr. Scott - provides funding for nationwide water testing in schools and child care settings

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 4 Bill: H.R. 5003 Amendment Number: 8

Disposition: Defeated by a vote of 8 yeas and 27 nays.

Sponsor/Amendment: Mr. Grothman - raises threshold for CEP from 60% to 80%

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)	X			Mrs. DAVIS (CA)		X	
Mr. HUNTER (CA)	X			Mr. GRIJALVA (AZ)		X	
Mr. ROE (TN)	X			Mr. COURTNEY (CT)		X	
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)		X	
Mr. WALBERG (MI)		X		Mr. POLIS (CO)		X	
Mr. SALMON (AZ)	X			Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)		X	
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)		X	
Mr. HECK (NV)		X		Mr. TAKANO (CA)		X	
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)		X	
Mr. BYRNE (AL)		X		Ms. CLARK (MA)		X	
Mr. BRAT (VA)	X			Ms. ADAMS (NC)		X	
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)		X	
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)	X						
Mr. RUSSELL (OK)	X						
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)	X						

TOTALS: Aye: 8 No: 27 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 5 Bill: H.R. 5003 Amendment Number: 9

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Mr. Scott - strikes 3 year review of nutrition standards

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 6 Bill: H.R. 5003 Amendment Number: 10

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Ms. Bonamici - strikes a la carte exemption

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 7 Bill: H.R. 5003 Amendment Number: 13

Disposition: Defeated by a vote of 16 yeas and 19 nays.

Sponsor/Amendment: Mr. Pocan - requires food service worker training

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)	X			Mr. POCAN (WI)	X		
Mr. HECK (NV)	X			Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)	X						
Mr. ALLEN (GA)		X					

TOTALS: Aye: 16 No: 19 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 8 Bill: H.R. 5003 Amendment Number: 14

Disposition: Defeated by a vote of 13 yeas and 22 nays.

Sponsor/Amendment: Mr. Takano - strikes increased verification requirement

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)		X		Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 22 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 9 Bill: H.R. 5003 Amendment Number: 16

Disposition: Defeated by a vote of 16 yeas and 19 nays.

Sponsor/Amendment: Mrs. Davis - removes the twice annually family contact restriction placed on LEAs

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)	X			Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)	X						
Ms. STEFANIK (NY)	X						
Mr. ALLEN (GA)		X					

TOTALS: Aye: 16 No: 19 Not Voting: 3

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 10 Bill: H.R. 5003 Amendment Number: 17

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Mr. Polis - preserves free or reduced price eligibility if language accessibility requirement is not met

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 11 Bill: H.R. 5003 Amendment Number: 20

Disposition: Defeated by a vote of 14 yeas and 20 nays.

Sponsor/Amendment: Mr. Scott - strikes the 3 state pilot for a state block grant

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)	X						
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 14 No: 20 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 12 Bill: H.R. 5003 Amendment Number: 24

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Ms. Clarke - expands WIC investment

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 13 Bill: H.R. 5003 Amendment Number: 25

Disposition: Defeated by a vote of 15 yeas and 19 nays.

Sponsor/Amendment: Ms. Bonamici - expands CACFP to third meals

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)	X						
Ms. STEFANIK (NY)	X						
Mr. ALLEN (GA)		X					

TOTALS: Aye: 15 No: 19 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 14 Bill: H.R. 5003 Amendment Number: 26

Disposition: Defeated by a vote of 15 yeas and 19 nays.

Sponsor/Amendment: Mr. Scott - expands the summer programs to a third meal

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)	X						
Ms. STEFANIK (NY)	X						
Mr. ALLEN (GA)		X					

TOTALS: Aye: 15 No: 19 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 15 Bill: H.R. 5003 Amendment Number: 27

Disposition: Defeated by a vote of 9 yeas and 25 nays.

Sponsor/Amendment: Mr. Grothman - block grants the school meal and snack programs

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)	X			Mrs. DAVIS (CA)		X	
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)		X	
Mr. ROE (TN)		X		Mr. COURTNEY (CT)		X	
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)		X	
Mr. WALBERG (MI)	X			Mr. POLIS (CO)		X	
Mr. SALMON (AZ)	X			Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)		X	
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)		X	
Mr. HECK (NV)			X	Mr. TAKANO (CA)		X	
Mr. MESSER (IN)	X			Mr. JEFFRIES (NY)		X	
Mr. BYRNE (AL)		X		Ms. CLARK (MA)		X	
Mr. BRAT (VA)	X			Ms. ADAMS (NC)		X	
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)		X	
Mr. BISHOP (MI)	X						
Mr. GROTHMAN (WI)	X						
Mr. RUSSELL (OK)	X						
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)	X						

TOTALS: Aye: 9 No: 25 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 16 Bill: H.R. 5003 Amendment Number: 28

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Mrs. Davis - amends summer EBT program requirement

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 17 Bill: H.R. 5003 Amendment Number: 30

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Ms. Adams - changes the area eligibility to 40% for summer programs

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 18 Bill: H.R. 5003 Amendment Number: 31

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Mr. Scott - strikes limitation on secretarial authority

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 19 Bill: H.R. 5003 Amendment Number: 32

Disposition: Defeated by a vote of 13 yeas and 21 nays.

Sponsor/Amendment: Ms. Fudge - prohibits bill from taking effect if certain conditions are not met

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)		X		Mrs. DAVIS (CA)	X		
Mr. HUNTER (CA)		X		Mr. GRIJALVA (AZ)	X		
Mr. ROE (TN)		X		Mr. COURTNEY (CT)	X		
Mr. THOMPSON (PA)		X		Ms. FUDGE (OH)	X		
Mr. WALBERG (MI)		X		Mr. POLIS (CO)	X		
Mr. SALMON (AZ)		X		Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)		X		Ms. WILSON (FL)			X
Mr. ROKITA (IN)		X		Ms. BONAMICI (OR)	X		
Mr. BARLETTA (PA)		X		Mr. POCAN (WI)	X		
Mr. HECK (NV)			X	Mr. TAKANO (CA)	X		
Mr. MESSER (IN)		X		Mr. JEFFRIES (NY)	X		
Mr. BYRNE (AL)		X		Ms. CLARK (MA)	X		
Mr. BRAT (VA)		X		Ms. ADAMS (NC)	X		
Mr. CARTER (GA)		X		Mr. DeSAULNIER (CA)	X		
Mr. BISHOP (MI)		X					
Mr. GROTHMAN (WI)		X					
Mr. RUSSELL (OK)		X					
Mr. CURBELO (FL)		X					
Ms. STEFANIK (NY)		X					
Mr. ALLEN (GA)		X					

TOTALS: Aye: 13 No: 21 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

Date: May 18, 2016

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD OF COMMITTEE VOTE

Roll Call: 20 Bill: H.R. 5003 Amendment Number: _____

Disposition: Ordered favorably reported to the House, as amended, by a vote of 20 yeas and 14 nays.

Sponsor/Amendment: Mr. Wilson - motion to report the bill to the House with an amendment and with the recommendation that the amendment be agreed to, and the bill as amended do pass.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. KLINE (MN) (Chairman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)	X			Mr. HINOJOSA (TX)			X
Mrs. FOXX (NC)	X			Mrs. DAVIS (CA)		X	
Mr. HUNTER (CA)	X			Mr. GRIJALVA (AZ)		X	
Mr. ROE (TN)	X			Mr. COURTNEY (CT)		X	
Mr. THOMPSON (PA)	X			Ms. FUDGE (OH)		X	
Mr. WALBERG (MI)	X			Mr. POLIS (CO)		X	
Mr. SALMON (AZ)	X			Mr. SABLAN (MP)			X
Mr. GUTHRIE (KY)	X			Ms. WILSON (FL)			X
Mr. ROKITA (IN)	X			Ms. BONAMICI (OR)		X	
Mr. BARLETTA (PA)	X			Mr. POCAN (WI)		X	
Mr. HECK (NV)			X	Mr. TAKANO (CA)		X	
Mr. MESSER (IN)	X			Mr. JEFFRIES (NY)		X	
Mr. BYRNE (AL)	X			Ms. CLARK (MA)		X	
Mr. BRAT (VA)		X		Ms. ADAMS (NC)		X	
Mr. CARTER (GA)	X			Mr. DeSAULNIER (CA)		X	
Mr. BISHOP (MI)	X						
Mr. GROTHMAN (WI)	X						
Mr. RUSSELL (OK)	X						
Mr. CURBELO (FL)	X						
Ms. STEFANIK (NY)	X						
Mr. ALLEN (GA)	X						

TOTALS: Aye: 20 No: 14 Not Voting: 4

Total: 38 / Quorum: 13 / Report: 20

(22 R - 16 D)

CORRESPONDENCE

THOMAS PRICE, M.D., GEORGIA
CHAIRMAN

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(202) 226–7270

CHRIS VAN HOLLEN, RANKING MEMBER

THOMAS S. KAHN, MINORITY STAFF DIRECTOR
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U.S. House of Representatives
COMMITTEE ON THE BUDGET
Washington, DC 20515

December 7, 2016

The Honorable John Kline
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
2176 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Kline,

I am writing regarding H.R. 5003, the *Improving Child Nutrition and Education Act of 2016,* which the Committee on Education and the Workforce ordered reported in the nature of a substitute on May 18, 2016.

The bill contains provisions that fall within the exclusive jurisdiction of the Committee on the Budget. In order to expedite House consideration of H.R. 5003, the Committee will forgo action on the bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect its jurisdictional prerogatives on this or similar legislation. I also ask that the Committee on the Budget be appropriately consulted and involved as this bill or similar legislation moves forward so that the Committee may address any remaining issues that fall within its jurisdiction.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 5003 and would ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during floor consideration.

Sincerely,

Tom Price, M.D.
Chairman
Committee on the Budget

cc: The Honorable Paul Ryan, Speaker of the House
The Honorable Chris Van Hollen
The Honorable Robert C. "Bobby" Scott
Mr. Thomas J. Wickham, Jr., Parliamentarian

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December 8, 2016

The Honorable Tom Price
Chairman, Committee on the Budget
207 Cannon House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the jurisdictional interest of the Committee on the Budget in H.R. 5003, *Improving Child Nutrition and Education Act of 2016*, as amended. I appreciate your willingness to forgo further consideration of H.R. 5003 by your committee.

I agree the Committee on the Budget has a valid jurisdictional interest in certain provisions of H.R. 5003 and the committee's jurisdiction will not be adversely affected by your decision to forgo further consideration of the bill. Your committee will be appropriately consulted and involved as this or similar legislation moves forward. As you have requested, I will include a copy of your letter and this response in the committee report for H.R. 5003 and in the *Congressional Record* during the Floor consideration of this bill. As always, thank you for your cooperation.

Sincerely,

John Kline

JOHN KLINE
Chairman

CC: The Honorable Paul Ryan, Speaker of the House
The Honorable Bobby Scott
The Honorable Chris Van Hollen
Mr. Thomas J. Wickham, Jr., Parliamentarian

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of H.R. 5003 is to improve child nutrition programs by examining federal investments, reducing burdensome requirements, and strengthening programs.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 5003 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The committee estimates that enacting H.R. 5003 does not specifically direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

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 CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the committee has received the following estimate for H.R. 5003 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 30, 2016.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5003, the Improving Child Nutrition and Education Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 5003—Improving Child Nutrition and Education Act of 2016

Summary: H.R. 5003 would amend and reauthorize child nutrition programs and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Those authorizations would extend through 2021.

CBO estimates that enacting this legislation would decrease direct spending by $128 million over the 2017–2021 period and by $59 million over the 2017–2026 period for the child nutrition programs. Enacting the bill would increase revenues by $8 million over the same period.

Additionally, CBO estimates that implementing H.R. 5003 would increase discretionary costs by $29.8 billion over the 2017–2021 period, assuming appropriation of the necessary amounts. Most of those costs would be for the reauthorization of WIC.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2027.

The bill would impose new requirements on states and on school districts that implement child nutrition programs. Those requirements would be intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). In aggregate, CBO estimates that the costs of intergovernmental mandates in the bill would fall below the threshold established in UMRA ($77 million in 2016, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 5003 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

TABLE 1.—BUDGETARY EFFECTS OF H.R. 5003, IMPROVING CHILD NUTRITION AND EDUCATION ACT OF 2016

	By fiscal year, in millions of dollars—											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017–2021	2017–2026
INCREASES OR DECREASES (−) IN DIRECT SPENDING												
Estimated Budget Authority	20	22	−74	−58	−42	−19	1	17	32	42	−130	−54
Estimated Outlays	17	15	−62	−62	−38	−16	−2	15	28	41	−128	−59
INCREASES IN REVENUES												
Estimated Revenues	*	*	1	1	1	1	1	1	1	1	3	8
INCREASE OR DECREASE (−) IN DEFICITS FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Effect on Deficit	17	15	−63	−63	−39	−17	−3	14	27	40	−131	−67
INCREASES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	6,448	6,422	6,422	6,397	6,397	5	5	5	5	5	32,084	32,109
Estimated Outlays	5,126	6,062	6,167	6,212	6,208	1,108	197	69	5	5	29,775	31,159

Notes: Components may not sum to totals because of rounding; * = between zero and $500,000.

Basis of estimate: For purposes of this estimate, CBO assumes H.R. 5003 will be enacted late in 2016.

Background

The child nutrition programs include several programs that benefit mainly school-age children. Schools can provide meals to stu-

dents through the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). The federal government reimburses participating schools for at least part of the cost of each meal served through those programs. Schools receive a relatively small subsidy for meals served to students from households with incomes above 185 percent of the federal poverty level (referred to as paid meals) and larger subsidies for meals served to students from lower income households.

Students from households with incomes below 185 percent of the federal poverty level can apply to receive free or reduced-price meals, depending on their level of household income. Those students also can qualify for free meals based on household participation in other assistance programs (the Supplemental Nutrition Assistance Program, Temporary Assistance to Needy Families, Food Distribution Program on Indian Reservations, or in some cases, Medicaid) or their status as a homeless, runaway, migrant, or foster child. State or local agencies can directly certify that students meet those criteria based on documentation from the appropriate agencies or authorized individuals.

The Child and Adult Care Food Program (CACFP) provides reimbursement for meals and snacks served to children and adults in participating child and adult care centers, day care homes, Head Start programs, afterschool programs in low-income areas, and emergency shelters. Organizations participating in the At-Risk Afterschool Meals component of CACFP can receive reimbursement for meals and snacks served to children 18 years of age or younger after school, on weekends and holidays, and during school vacations during the regular school year. The Summer Food Service Program (SFSP) provides reimbursement for meals and snacks served to children at qualifying sites during the summer when school is not in session.

Direct Spending

CBO estimates that enacting H.R. 5003 would, on net, reduce direct spending by $59 million over the 2017–2026 period (see Table 2).

Community Eligibility Provision (CEP). Under the Community Eligibility Provision, participating schools must serve all breakfasts and lunches free of charge. They do not collect applications from students and reimbursements for meals are based on a formula specified in law. Under CEP, school districts, groups of schools within a district, or individual schools can opt to participate in the program if the percentage of enrolled students that are directly certified for free meals without an application—known as the identified student percentage (ISP)—is at least 40 percent.

The bill would increase the minimum ISP for schools or groups of schools participating in CEP to 60 percent beginning July 1, 2017. Schools already participating in CEP when the provision becomes effective would have until the beginning of school year 2018–2019 to comply with the new ISP threshold.

TABLE 2.—ESTIMATED DIRECT SPENDING UNDER H.R. 5003, THE IMPROVING CHILD NUTRITION AND EDUCATION ACT OF 2016

	By fiscal year, in millions of dollars—											
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017–2021	2017–2026
INCREASES OR DECREASES (−) IN DIRECT SPENDING												
Community Eligibility Provision:												
Estimated Budget Authority	−1	−33	−171	−179	−185	−192	−198	−205	−212	−219	−569	−1,595
Estimated Outlays	−1	−28	−148	−178	−184	−190	−197	−204	−211	−218	−539	−1,559
Summer and CACFP At-Risk Streamlining:												
Estimated Budget Authority	2	14	24	34	65	92	113	131	148	162	139	785
Estimated Outlays	2	12	23	32	60	87	109	128	145	160	129	758
Off-Site Consumption Option:												
Estimated Budget Authority	6	8	10	14	14	15	15	16	16	17	52	131
Estimated Outlays	6	8	10	14	14	15	15	16	16	17	52	131
Health Inspections:												
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	*	*
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	*	*
Breakfast Reimbursement Rates:												
Estimated Budget Authority	0	10	60	69	100	105	111	118	124	130	239	827
Estimated Outlays	0	8	51	67	94	104	110	116	122	129	220	801
Income Verification Procedures:												
Estimated Budget Authority	0	0	−18	−17	−35	−37	−38	−40	−41	−43	−70	−269
Estimated Outlays	0	0	−15	−17	−32	−36	−38	−39	−41	−43	−64	−261
Farm to School Program:												
Estimated Budget Authority	5	5	5	5	5	5	5	5	5	5	25	50
Estimated Outlays	4	5	5	5	5	5	5	5	5	5	24	49
Equipment Grants:												
Estimated Budget Authority	*	3	4	5	5	5	5	5	5	5	17	42
Estimated Outlays	*	3	4	5	5	5	5	5	5	5	17	42
Summer EBT Demonstration Project:												
Estimated Budget Authority	0	10	10	10	0	0	0	0	0	0	30	30
Estimated Outlays	0	1	5	9	9	5	1	0	0	0	24	30
Business Partnership Demonstration Project:												
Estimated Budget Authority	0	2	4	4	0	0	0	0	0	0	10	10
Estimated Outlays	0	2	4	4	0	0	0	0	0	0	10	10
New Institutions In CACFP:												
Estimated Budget Authority	*	−3	−5	−5	−5	−5	−5	−5	−5	−5	−18	−43
Estimated Outlays	*	−2	−5	−5	−5	−5	−5	−5	−5	−5	−17	−42

Eligibility For For-Profit Institutions:												
Estimated Budget Authority	1	1	1	1	1	1	1	1	1	1	5	10
Estimated Outlays	*	1	1	1	1	1	1	1	1	1	4	9
Team Nutrition:												
Estimated Budget Authority	*	−1	−1	−2	−2	−3	−3	−4	−4	−5	−6	−25
Estimated Outlays	*	−1	−1	−2	−2	−2	−3	−3	−4	−4	−6	−22
Commodity Reimbursement Calculation:												
Estimated Budget Authority	6	6	6	6	0	0	0	0	0	0	24	24
Estimated Outlays	5	6	6	6	1	0	0	0	0	0	24	24
Other Provisions:												
Estimated Budget Authority	1	*	*	*	*	*	*	*	*	*	3	6
Estimated Outlays	1	*	*	*	*	*	*	*	*	*	3	6
Interaction Effects:												
Estimated Budget Authority	*	*	−3	−3	−5	−5	−5	−5	−5	−6	−11	−37
Estimated Outlays	*	*	−2	−3	−4	−5	−5	−5	−5	−6	−9	−35
Total Changes In Direct Spending:												
Estimated Budget Authority	20	22	−74	−58	−42	−19	1	17	32	42	−130	−54
Estimated Outlays	17	15	−62	−62	−38	−16	−2	15	28	41	−128	−59

Notes: Components may not sum to totals because of rounding; * = between −$500,000 and $500,000. CACFP = Child and Adult Care Food Program; EBT = Electronic Benefit Transfer.

Based on the characteristics of schools currently participating in CEP, CBO estimates that this provision would affect more than 8,500 schools. CBO estimates that about 2,000 of those schools would continue participating in CEP by forming new groups with an ISP that would meet the 60-percent threshold. The other 6,500 schools would no longer participate in CEP. Those schools would revert to the system of collecting applications for free and reduced-price meals and receiving reimbursements based on the number of free, reduced-price, and paid meals that the schools served. Additionally, CBO expects that participation in the school meals programs would decline in those schools as students eligible for reduced-price and paid meals would no longer receive meals free of charge. CBO estimates that enacting this provision would reduce direct spending by about $1.6 billion over the 2017–2026 period.

Summer Food Service Program. H.R. 5003 contains several provisions related to SFSP. In total, CBO estimates that enacting those provisions would increase direct spending by $889 million over the 2017–2026 period.

Summer and CACFP At-Risk Streamlining. Section 106 would allow sites that are not schools to provide meals and snacks to at-risk students year-round under a single program. Eligible sites could serve lunch and either breakfast or a snack during the summer months and up to one meal and one snack during the school year after school, on weekends, and on school holidays. All meals served during the year would be reimbursed at the rates provided through the CACFP At-Risk Afterschool Program. The year-round option would be available for up to five states beginning in May 2017, up to five additional states beginning in October 2018, and all states beginning in May 2020.

California currently operates a similar program that allows non-school SFSP sites to serve snacks after school, on weekends, and on school holidays. Based on data from the California program and consultation with states and policy experts, CBO expects that ultimately one-quarter of eligible SFSP sites would participate in the year-round program. Some of those sites currently operate programs through both SFSP and the CACFP at-risk afterschool program. Additionally, CBO expects that some sites that only operate through the CACFP at-risk afterschool program would add a SFSP site. By 2026, CBO estimates that nearly 9,000 sites would operate a year-round program through this option. In total, CBO estimates that by 2026, about 29 million snacks and 57 million suppers would be served during the school year and 31 million meals and snacks would be served during the summer months through this program. CBO estimates that enacting this provision would increase direct spending by $758 million over the 2017–2026 period.

Off-Site Consumption Option. Under current law, all SFSP meals must be served in a congregate setting, where all meals are consumed where they are served. Section 106 would allow SFSP sites to provide off-site meals to children in rural or high-poverty areas if the area is not served by a congregate site. For example, a demonstration project allowed participating sponsors to provide off-site meals through a delivery service in selected rural areas. The bill would limit the number of meals served to each child to two meals per service and 10 meals per week.

Based on consultation with states and policy experts, CBO estimates that SFSP sponsors would serve a little less than 10 percent of eligible children living in eligible areas under this option. CBO estimates that enacting this provision would increase direct spending by $131 million over the 2017–2026 period.

Health Inspections. Section 106 also would allow states to use SFSP state administrative funds for health inspections. Because states have historically obligated most of their administrative funds, CBO expects that increased expenditures from administrative funds would total less than $500,000 in each year and over the 2017–2026 period.

Breakfast Reimbursement Rates. Section 202 would increase federal reimbursements for all breakfasts served through the SBP by 2 cents in the 2018–2019 school year and by an additional 1 cent in the 2020–2021 school year. Those increases would incorporate inflation each year. Breakfasts served in child and adult care centers through the CACFP are reimbursed at the SBP rates, so those breakfasts also would receive higher reimbursements. CBO estimates enacting that this provision would increase direct spending by $801 million over the 2017–2026 period.

Income Verification Procedures. Under current law, local educational agencies (LEAs) are required every school year to verify the eligibility of individuals from a sample of household applications for free and reduced-price meals that have been approved. For most LEAs, the sample they must verify is the lesser of 3,000 applications or 3 percent of all approved applications. The applications are selected from among error-prone applications, which are applications with a monthly income that is within $100 of the income threshold to be eligible for free or reduced-price meals. If there are not enough error-prone applications to complete the sample, LEAs can select applications at random.

The bill would increase the sample size to the lesser of 10,000 applications or 10 percent of approved household applications. The bill also would expand the types of applications and students that LEAs select for verification, including, for example, applications with information that is inconsistent with other information provided by the household and directly certified students. The bill also would provide several mechanisms to reduce the sample size to less than 10 percent. Finally, the bill would make other changes to the verification process, such as extending the deadline for completing verification activities from November 15 to December 15 of each year.

CBO expects that more applications would be selected for verification under the bill than under current law. Because the verification process uncovers more instances of households reporting too little income than too much income, verifying more applications would, on average, reduce the number of students who are eligible for free and reduced-price meals. In addition, some eligible students would lose meal benefits because they failed to provide the necessary documents for verification. Under the bill, CBO estimates that 12 million fewer free lunches and breakfasts and 5 million more paid lunches and breakfasts would be served in 2026; there would be little change in the number of reduced-price meals served. Those estimates are based on data from FNS on the results and response rates from the verification process and on the number

of students in LEAs that meet the criteria for reducing the sample size. CBO estimates that implementing the new verification procedures would reduce direct spending by $261 million over the 2017–2026 period.

Farm to School Program. Section 109 would increase from $5 million to $10 million the annual funding for the program, which aims to improve access to local foods in certain schools. Thus, CBO estimates that enacting this provision would increase direct spending by $49 million over the 2017–2026 period.

Equipment Grants. Section 114 would authorize appropriations totaling $25 million over the 2017–2019 period for grants to schools to build infrastructure and purchase equipment to serve healthier meals and improve food safety. CBO expects that some grant recipients would use those funds to purchase equipment that would allow them to begin or expand breakfast operations through initiatives such as grab-and-go breakfast or breakfast in the classroom. Based on information on the operation of similar programs, CBO estimates that a little more than 700 schools would use grant funding for SBP and would thus serve more breakfasts. CBO estimates that appropriating the authorized amounts would increase direct spending for school breakfasts by $42 million over the 2017–2026 period.

Demonstration Projects. Section 109 would create several new demonstration projects. In total, CBO estimates that enacting those provisions would cost $40 million over the 2017–2026 period.

Summer Electronic Benefit Transfer (EBT) Demonstration Project. Under the bill, states that have operated a summer EBT demonstration project under a previous authority could continue operating that project. Such states would be able to provide a summer EBT card to children in certain areas who are in households where at least one school-aged child is eligible for free or reduced-price meals. The bill also would require the Secretary of Agriculture to complete an evaluation of the demonstration project. Finally, the bill would provide $10 million per year for each of fiscal years 2018 through 2020 for that project. CBO estimates that enacting this provision would increase direct spending by $30 million over the 2017–2026 period.

Business Partnership Demonstration Project. Under the bill, a maximum of four states could receive grants to reimburse for-profit food vendors for meals they serve through the SFSP in areas with unmet needs. The grants would be available to the participating states for three years. Based on information from policy experts and food vendors that currently sell meals to SFSP sponsors, CBO estimates that this provision would increase direct spending by $10 million.

State Administration of Child Nutrition Programs Demonstration Project. Under the bill, up to three states could receive a block grant with a fixed level of funding for several child nutrition programs. The grant period would be three years, with the possibility of an additional three-year extension. The annual funding level for each participating state would equal the amount the state received in fiscal year 2016 for free and reduced-price meals served through NSLP and SBP (excluding the amounts received through the six-cent reimbursement for schools in compliance with nutrition standards) and the amounts the state received through the Special Milk

Program, state administrative expenses, and Team Nutrition. The participating states would not be able to receive additional federal funds for those programs. Under the block grant program states would have broad flexibility in administering those programs.

Based on consultation with state officials and policy experts, CBO does not expect that any state would take up this option. As a result, enacting this program would not affect direct spending.

Child and Adult Care Food Program. H.R. 5003 contains provisions that change the types of institutions that may participate and the terms of participation for CACFP. In total, CBO estimates that enacting those provisions would save $33 million over the 2017–2026 period.

New Institutions in CACFP. Section 108 would allow residential child care institutions (RCCIs) and boarding schools funded by the Bureau of Indian Education (BIE) to serve meals through CACFP. Those institutions can currently serve meals through NSLP and SBP. The bill would prohibit RCCIs and such boarding schools from receiving reimbursements through those programs while concurrently receiving reimbursements through CACFP. The bill would allow RCCIs to serve meals to children 18 years of age and younger through CACFP. Boarding schools funded by BIE would be permitted to serve meals to children 12 years of age and younger, except meals served through the At-Risk Afterschool program, which has a higher age limitation.

Institutions serving meals through CACFP comply with different administrative and nutrition requirements than those under NSLP and SBP. Based on information from policy experts, CBO estimates that ultimately half of the meals and snacks RCCIs serve through the school lunch and breakfast programs would switch to CACFP. CBO does not expect that boarding schools would switch to CACFP because they would not receive reimbursement for meals served to children 13 years of age or older.

Institutions meeting the nutrition standards in NSLP receive an additional per-meal reimbursement for lunches served, and institutions in high-poverty areas receive additional per-meal reimbursements for meals served through NSLP and SBP. Meals served through CACFP are not eligible for these additional reimbursements. As a result, RCCIs switching from the school lunch and breakfast programs to CACFP would receive lower reimbursements for each meal they serve. However, the increase in CACFP meals served would result in increased funding for states to audit CACFP institutions. On net, CBO estimates that this provision would decrease direct spending by $42 million over the 2017–2026 period.

Eligibility for For-Profit Institutions. Under current law, child care centers that operate on a for-profit basis are eligible to receive reimbursements for meals served through CACFP if they meet certain requirements related to the income or program participation of children they serve. For-profit centers must certify that they meet those eligibility requirements each month in order to receive meal reimbursements. Section 108 would increase the period of eligibility to four months for those institutions. During that four-month period, for-profit centers would be eligible to receive reimbursements for meals served to children even if they did not meet certain program requirements during the certification period.

Based on data on participation patterns in the program and information from policy experts, CBO estimates that, by 2026, about 225 child care centers would maintain eligibility for at least one additional month. CBO estimates that this provision would increase direct spending by $9 million over the 2017–2026 period.

Team Nutrition. Section 207 would provide $17 million for Team Nutrition each year. Current law authorizes such sums as maybe necessary for the program. CBO projects the funding for Team Nutrition by adjusting the most recent funding level for inflation. In 2016, $17 million was provided for Team Nutrition and CBO projects that funding will increase to $22 million by 2026. CBO estimates that the bill would lower the projected funding level each year relative to CBO's baseline and would reduce direct spending by $22 million over the 2017–2026 period.

Commodity Reimbursement Calculation. Under current law, the Food and Nutrition Service (FNS) is required to spend at least 12 percent of the total cash assistance in NSLP on commodities. Through fiscal year 2020, the value of bonus commodities can count toward the requirement. (Bonus commodities are purchases made by the Department of Agriculture and donated to NSLP.) Including the value of those commodities reduces the amount of additional commodity purchases that FNS must make to reach the required level. Based on recent levels of donations, CBO estimates that under current law, the program will receive $6 million per year in bonus commodities through 2020.

H.R. 5003 would change the current formula for commodity reimbursement, but CBO estimates that the amount of commodity spending would remain essentially the same under the new formula. However, the value of bonus commodities would no longer count toward total commodity spending (although schools would still be able to receive bonus commodities). Therefore, CBO estimates that enacting this provision would increase direct spending for commodity purchases by $24 million over the 2017–2026 period.

Other Provisions. The bill includes several other provisions that would increase direct spending by less than $500,000 in any year.

- Section 104 would provide $475,000 per year to purchase bottled water during emergencies and when public water poses a risk to the health of school children. CBO estimates that enacting this provision would increase direct spending by about $5 million over the 2017–2026 period.
- Section 105 would remove requirements related to the price that schools charge for full-price lunches. Under current law, schools charging less than the difference between the federal reimbursement for a free lunch and the federal reimbursement for a paid lunch are required to increase the price they charge for a lunch, unless the state ensures that there are sufficient nonfederal funds to cover the gap. The bill would remove those requirements. CBO expects that some schools would reduce the amount they charge for a full-price lunch, leading to an increase in participation in NSLP. CBO estimates that this provision would increase costs by less than $500,000 in each year and over the 2017–2026 period.
- Section 203 would require the Secretary to establish a centralized exchange network that would allow states to exchange

information about the child nutrition programs. The bill would limit spending on the network to $450,000.

- Section 302 would require the Secretary to conduct a study on business involvement by the private sector in the school meal programs. The bill also would require the Secretary to submit a report to the Congress on the findings from that study and recommendations for legislative action that would improve efficiency and lower administrative costs for the school meal programs. The bill would limit spending on the study and report to $475,000.

Interaction Effects. The bill includes several provisions that would interact with each other. For example, the provision in section 105 that would increase the threshold for participation in CEP would interact with the provision in section 202 that would increase breakfast reimbursement rates. CBO expects that the CEP change would decrease the number of breakfasts served; that decrease in reimbursable breakfasts would thus reduce the costs of increasing breakfast reimbursement rates. In total, CBO estimates that interactions would reduce costs by $35 million over the 2017–2026 period.

Revenues

Section 113 would require the Secretary to levy civil monetary penalties against contractors of a child nutrition program who are found guilty of certain criminal activities that have harmed the program. Those activities include undertaking anticompetitive behavior, such as price-fixing; making false statements; committing fraud, bribery, or embezzlement; and knowingly receiving stolen property. CBO estimates that enacting H.R. 5003 would increase revenues by $8 million over the 2017–2026 period.

Spending subject to appropriation

The bill would make changes to discretionary programs previously authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966, as amended, and would authorize new and existing discretionary programs through 2021. CBO estimates that implementing H.R. 5003 would cost $29.8—billion—primarily for the WIC program over the 2017–2021 period, assuming the appropriation of the necessary amounts.

WIC. The WIC program is administered by the states and provides supplemental foods, health care referrals, and nutrition education to pregnant and post-partum women with low income, and infants and children up to age five. The bill would make several changes to the program, such as excluding certain household payments when calculating income, rounding the value of the WIC benefit to the nearest whole dollar, changing state contracts with infant formula providers, and authorizing a pilot project to test alternative methods for certifying the eligibility of participants and delivering food.

The bill would:

- Authorize the appropriation of $6.35 billion per year for WIC for fiscal years 2017 through 2021.The program was authorized through 2015 at such sums as may be necessary; the Congress provided $6.35 billion for WIC in 2016.

• Authorize the appropriation of $18.5 million per year for the WIC Farmers' Market Nutrition Program for fiscal years 2017 through 2021. The program was authorized through 2015 at such sums as may be necessary; the Congress provided $18.5 million for that program in 2016.

• Authorize $25 million per year in grants for three years to assist states with the transition from paper coupons for WIC benefits to electronic benefit transfer systems.

• Require the Government Accountability Office (GAO) to study the effects of allowing Medicaid participants to be automatically eligible for WIC. Based on the cost of similar studies conducted by the GAO, CBO estimates that study would cost $1 million over the 2017–2021 period.

In total, CBO estimates that enacting those WIC provisions would increase discretionary outlays by $29.6 billion over the 2017–2021 period.

TABLE 3.—SPENDING SUBJECT TO APPROPRIATION

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Reauthorize WIC:						
Authorization Level	6,395	6,394	6,394	6,369	6,369	31,919
Estimated Outlays	5,116	6,012	6,139	6,184	6,180	29,630
Grants and Other Activities:						
Estimated Authorization Level	53	28	28	28	28	165
Estimated Outlays	11	51	28	28	28	145
Total Changes:						
Estimated Authorization Level	6,448	6,422	6,422	6,397	6,397	32,084
Estimated Outlays	5,126	6,062	6,167	6,212	6,208	29,775

Notes: Components may not sum to totals because of rounding; WIC = Special Supplemental Nutrition Program for Women, Infants, and Children.

Grants and Other Activities. The bill would reauthorize two existing grant programs; authorize a new grant program, a new loan guarantee program, and two new advisory committees; and eliminate a number of grant programs that have not received funding in recent years. Specifically, the bill would:

• Reauthorize grants to states to make technological improvements in the administration of most child nutrition programs, and allow states to use those funds to improve direct certification rates. The grants were authorized through 2015 at such sums as may be necessary; the Congress did not provide any funds for those grants in 2016. Based on the cost of a similar grant program, CBO estimates that such grants would require appropriations of $22 million annually.

• Authorize a new grant program for schools to purchase equipment to serve healthier meals and improve food safety. The bill would authorize appropriations of $25 million in total over three fiscal years, 2017 through 2019, for those grants. As discussed above under the heading Direct Spending, CBO expects some of the grants would be used for purchases that would increase participation in SBP and thus increase direct spending.

- Permanently authorize $5 million per year for loan guarantees for local school food authorities to make infrastructure improvements and durable equipment purchases.
- Repeal the authorization of appropriations for a number of grant programs, none of which received appropriations in fiscal year 2016. Because the authorization for most of those grant programs has already expired, CBO estimates that repealing their authorizations would not affect the federal budget. (Two of the programs whose discretionary authorizations would be repealed under the bill, the Farm to School grant program and the Fresh Fruit and Vegetable Program, also receive mandatory funding. Those programs would continue to receive mandatory funding under the bill.)
- Reauthorize the appropriation of $1 million per year through 2021 for training and technical assistance on procurement procedures.
- Authorize two new advisory committees. CBO estimates that implementing those committees would not have a significant effect on the federal budget.

CBO estimates that enacting those provisions would result in discretionary outlays of $145 million over the 2017–2021 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

TABLE 4.—CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5003, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON EDUCATION AND THE WORKFORCE ON MAY 18, 2016

	By fiscal year, in millions of dollars—												
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2016–2021	2016–2026
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	17	15	63	−63	−39	−17	−3	14	27	40	−131	−67
Memorandum:													
Changes in Outlays	0	17	15	−62	−62	−38	−16	−2	15	28	41	−128	−59
Changes in Revenues	0	0	0	1	1	1	1	1	1	1	1	3	8

Note: Components may not sum to totals because of rounding.

Increase in long-term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2027.

Estimated impact on state, local, and tribal governments: For large entitlement programs that provide $500 million or more annually to state, local, and tribal governments, UMRA defines an increase in the stringency of conditions as an intergovernmental mandate if the affected entity lacks the flexibility to offset the costs of the new conditions. The bill would impose new requirements on states and on schools that implement the child nutrition program. Because states and schools have limited flexibility to amend their programmatic or financial responsibilities in the program, the new requirements, which are mostly administrative, would be intergovernmental mandates. In aggregate, CBO estimates that the costs to governmental entities would fall below the annual threshold established in UMRA.

Unique Student Identification System. Section 307 would require the Secretary of Agriculture to review the feasibility of implementing a unique student identification system in the school lunch and breakfast programs and would require the Secretary to submit the results of the review to the Congress. The Secretary could implement such a system unless it is determined not to be in the best interest of the programs or does not adequately protect student privacy.

Many states use unique student identifiers in their student information systems to track attendance and other educational information. Local educational agencies (LEAs) also may use identifiers to indicate a student's qualification status for meals in school lunch programs and for other purposes, but those identifiers may not necessarily be linked. Simply requiring states and LEAs to establish that they have unique identifiers in place would yield much smaller costs than a requirement to adopt a unified system of unique identifiers where local identifiers are completely replaced. The broader option would result in millions of dollars of upfront costs to upgrade technology, change point of sale systems, and provide additional administrative support.

The costs of the mandate would largely depend on how broadly FNS chooses to implement a new identification system under the new requirements, but assuming the agency does not require major systemic changes, CBO estimates that the costs would fall below $50 million. Most of those costs would occur in the first or second year after implementation.

New Verification Requirements. The bill would impose additional duties on states and LEAs when they review applications and verify eligibility in school meal programs. While some state agencies and LEAs may be able to offset the costs of the additional requirements using administrative funds or funds from school food service accounts, some smaller districts may not be able to absorb such costs. Those districts would likely face pressure to hire additional staff. Using information from FNS on past LEA verification activities and the National Center for Education Statistics on the number of children eligible for free and reduced lunch, CBO estimates that the incremental increase in costs for this mandate could total less than $10 million annually.

Raising the Threshold under the Community Eligibility Provision (CEP). Under current law school districts, groups of schools within a district, or individual schools may serve free meals to all students if at least 40 percent of students are directly certified in school meals programs, and participating schools are reimbursed for those meals based on a formula specified in law. Schools and school districts that qualify for such assistance also realize administrative savings because they do not have to verify the eligibility of as many students. The bill would increase the threshold for participation to 60 percent beginning on July 1, 2017. Schools, school districts, and groups of schools with fewer than 60 percent of their students directly certified would no longer be eligible for federal reimbursements under this program, and they would face higher administrative costs to verify more students. Using information from FNS and industry sources, CBO estimates that the costs for conducting verification and other activities for the population of students that are not directly certified but still qualify under the school meals programs would result in costs of roughly $10 million annually; those costs would begin after 2017.

Other Requirements. The bill would extend a number of other requirements through 2021, including reports about food safety inspections by state agencies and other administrative requirements. CBO estimates that the costs of extending these requirements would be covered with authorized funding.

Other Impacts. States and schools would benefit from other provisions in the bill that authorize grant funds for the WIC program. New requirements on state WIC programs would not constitute intergovernmental mandates because they would result from participation in a voluntary federal program.

Estimated impact on the private sector. This bill contains no private-sector mandates as defined in UMRA.

Previous CBO estimate. On March 11, 2016, CBO transmitted a cost estimate for the Improving Child Nutrition Integrity and Access Act of 2016, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on January 20, 2016 and posted on the committee's website. That bill contains provisions similar to those in H.R. 5003. The Senate bill was estimated relative to CBO's March 2015 baseline; H.R. 5003 was estimated relative to CBO's March 2016 baseline. Any differences in the estimates reflect differences in both the language of the legislation and in the baselines used for the estimates.

Estimate prepared by: Federal Costs: Jennifer Gray, Kathleen FitzGerald, Elizabeth Cove Delisle; Federal Revenues: Peter Huether; Impact on State, Local, and Tribal Governments: J'nell Blanco Suchy; Impact on the Private Sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss; Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 5003. However, clause 3(d)(2)(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 Con-

gressional 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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

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, and existing law in which no change is proposed is shown in roman):

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

* * * * * * *

APPORTIONMENTS TO STATES

SEC. 4. (a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act.

(b)(1) The Secretary shall make food assistance payments to each [State educational agency] *State agency* each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year in schools in such State which participate in the school lunch program under this Act under agreements with such [State educational agency] *State agency*; by

(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 11(a) of this Act) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.

(3) ADDITIONAL REIMBURSEMENT.—

(A) REGULATIONS.—

(i) PROPOSED REGULATIONS.—Notwithstanding section 9(f), not later than 18 months after the date of enactment of this paragraph, the Secretary shall promulgate proposed regulations to update the meal patterns

and nutrition standards for the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) based on recommendations made by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

(ii) INTERIM OR FINAL REGULATIONS.—

(I) IN GENERAL.—Not later than 18 months after promulgation of the proposed regulations under clause (i), the Secretary shall promulgate interim or final regulations.

(II) DATE OF REQUIRED COMPLIANCE.—The Secretary shall establish in the interim or final regulations a date by which all school food authorities participating in the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) are required to comply with the meal pattern and nutrition standards established in the interim or final regulations.

(iii) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this paragraph, and each 90 days thereafter until the Secretary has promulgated interim or final regulations under clause (ii), the Secretary shall submit to the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a quarterly report on progress made toward promulgation of the regulations described in this subparagraph.

(B) PERFORMANCE-BASED REIMBURSEMENT RATE INCREASE.—[Beginning on the later of the date of promulgation of the implementing regulations described in subparagraph (A)(ii), the date of enactment of this paragraph, or October 1, 2012, the Secretary] *The Secretary* shall provide additional reimbursement for each lunch served in school food authorities determined to be eligible under subparagraph (D).

(C) ADDITIONAL REIMBURSEMENT.—

(i) IN GENERAL.—Each lunch served in school food authorities determined to be eligible under subparagraph (D) shall receive an additional 6 cents, adjusted in accordance with section 11(a)(3), to the national lunch average payment for each lunch served.

(ii) DISBURSEMENT.—The State agency shall disburse funds made available under this paragraph to school food authorities eligible to receive additional reimbursement.

(D) ELIGIBLE SCHOOL FOOD AUTHORITY.—To be eligible to receive an additional reimbursement described in this paragraph, a school food authority shall be certified by the

State to be in compliance with the interim or final regulations described in subparagraph (A)(ii).

(E) FAILURE TO COMPLY.—[Beginning on the later of the date described in subparagraph (A)(ii)(II), the date of enactment of this paragraph, or October 1, 2012, school food authorities] *School food authorities* found to be out of compliance with the meal patterns or nutrition standards established by the implementing regulations shall not receive the additional reimbursement for each lunch served described in this paragraph.

(F) ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall make funds available to States for State activities related to training, technical assistance, certification, and oversight activities of this paragraph.

(ii) PROVISION OF FUNDS.—The Secretary shall provide funds described in clause (i) to States administering a school lunch program in a manner proportional to the administrative expense allocation of each State during the preceding fiscal year.

(iii) FUNDING.—

(I) IN GENERAL.—In the later of the fiscal year in which the implementing regulations described in subparagraph (A)(ii) *(as in effect on the day before the date of the enactment of the "Improving Child Nutrition and Education Act of 2016")* are promulgated or the fiscal year in which this paragraph is enacted, and in the subsequent fiscal year, the Secretary shall use not more than $50,000,000 of funds made available under section 3 to make payments to States described in clause (i).

(II) RESERVATION.—In providing funds to States under clause (i), the Secretary may reserve not more than $3,000,000 per fiscal year to support Federal administrative activities to carry out this paragraph.

(III) SUNSET.—The Secretary shall return to the general fund of the Treasury any funds that were made available under this subparagraph but not obligated by a State agency as of September 30, 2016.

(4) ANNOUNCEMENTS.—With respect to reimbursement rates described in this subsection, the Secretary shall announce the rates and, to the maximum extent practicable, any associated guidance by February 15 of the school year prior to the school year for which the rates and guidance will become effective.

[SEC. 5. NUTRITION PROMOTION.

[(a) IN GENERAL.—Subject to the availability of funds made available under subsection (g), the Secretary shall make payments to State agencies for each fiscal year, in accordance with this section, to promote nutrition in food service programs under this Act and the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

[(b) TOTAL AMOUNT FOR EACH FISCAL YEAR.—The total amount of funds available for a fiscal year for payments under this section shall equal not more than the product obtained by multiplying—

[(1) ½ cent; by

[(2) the number of lunches reimbursed through food service programs under this Act during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs.

[(c) PAYMENTS TO STATES.—

[(1) ALLOCATION.—Subject to paragraph (2), from the amount of funds available under subsection (g) for a fiscal year, the Secretary shall allocate to each State agency an amount equal to the greater of—

[(A) a uniform base amount established by the Secretary; or

[(B) an amount determined by the Secretary, based on the ratio that—

[(i) the number of lunches reimbursed through food service programs under this Act in schools, institutions, and service institutions in the State that participate in the food service programs; bears to

[(ii) the number of lunches reimbursed through the food service programs in schools, institutions, and service institutions in all States that participate in the food service programs.

[(2) REDUCTIONS.—The Secretary shall reduce allocations to State agencies qualifying for an allocation under paragraph (1)(B), in a manner determined by the Secretary, to the extent necessary to ensure that the total amount of funds allocated under paragraph (1) is not greater than the amount appropriated under subsection (g).

[(d) USE OF PAYMENTS.—

[(1) USE BY STATE AGENCIES.—A State agency may reserve, to support dissemination and use of nutrition messages and material developed by the Secretary, up to—

[(A) 5 percent of the payment received by the State for a fiscal year under subsection (c); or

[(B) in the case of a small State (as determined by the Secretary), a higher percentage (as determined by the Secretary) of the payment.

[(2) DISBURSEMENT TO SCHOOLS AND INSTITUTIONS.—Subject to paragraph (3), the State agency shall disburse any remaining amount of the payment to school food authorities and institutions participating in food service programs described in subsection (a) to disseminate and use nutrition messages and material developed by the Secretary.

[(3) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—In addition to any amounts reserved under paragraph (1), in the case of the summer food service program for children established under section 13, the State agency may—

[(A) retain a portion of the funds made available under subsection (c) (as determined by the Secretary); and

[(B) use the funds, in connection with the program, to disseminate and use nutrition messages and material developed by the Secretary.

[(e) DOCUMENTATION.—A State agency, school food authority, and institution receiving funds under this section shall maintain documentation of nutrition promotion activities conducted under this section.

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

[(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.]

DIRECT FEDERAL EXPENDITURES

SEC. 6. (a) The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for the Secretary's administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by the Secretary pursuant to section 4 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4 and 7 of the Child Nutrition Act of 1966; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 18 of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,

shall be available to the Secretary during such year for direct expenditure by the Secretary for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. Except as provided in the next 2 sentences, any school participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year. Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the

school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence. The provisions of law contained in the proviso of the Act of June 28, 1937, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.

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

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

[(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

[(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

[(D) Among those commodities**]**

(c) CALCULATION OF TOTAL ASSISTANCE.—

(1) NATIONAL AVERAGE VALUE.—

(A) IN GENERAL Subject to subparagraphs (B) and (C), the national average value of donated foods, or cash payments in lieu thereof, shall be equal to the quotient obtained by dividing, not later than February 15 of each year for the upcoming school year—

(i) the total funds available in the preceding school year under section 4, this section, and section 11; by

(ii) the number of lunches served in the preceding school year in all schools participating in the school lunch program under this Act.

(B) ADJUSTMENT.—

(i) IN GENERAL.—The value determined under subparagraph (A) shall be adjusted by the annual percentage change in a 3-month average value of the Producer Price Index for Foods Used in Schools and Institutions of the Bureau of Labor Statistics (in this subparagraph referred to as the "Index") for the preceding September, October, and November.

(ii) REQUIREMENT.—An adjustment under clause (i) shall be computed to the nearest 1/4 cent.

(iii) INDEX.—

(I) IN GENERAL.—The Index shall be computed using 5 major food components in the Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils).

(II) COMPONENTS.—Each component described in subclause (I) shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics.

(iv) MINIMUM AMOUNT OF COMMODITY ASSISTANCE.—Not less than 12 percent of the value adjusted in accordance with this subparagraph shall be provided in the form of commodity assistance.

(C) INSUFFICIENT AMOUNTS.—If amounts available to carry out section 4, this section, and section 11 are insufficient to meet the requirements of such sections for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirements for the school year.

(D) AMOUNT FOR EACH STATE.—For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be equal to the product obtained by multiplying—

(i) the number of lunches served in such State in the most recent school year for which data are available; by

(ii) the rate determined under subparagraphs (A) and (B).

(E) SPECIAL EMPHASIS.—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).

[(E) Notwithstanding]

(F) MINIMUM QUANTITY OF DONATED FOODS.—Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2) To the maximum extent feasible, each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

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

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

[(A) commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section; or

[(B) during the period beginning October 1, 2003, and ending September 30, 2020, commodities provided by the Secretary under any provision of law.

[(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirement for the school year.]

[(f)] *(e)* PILOT PROJECT FOR PROCUREMENT OF UNPROCESSED FRUITS AND VEGETABLES.—

(1) IN GENERAL.—The Secretary shall conduct a pilot project under which the Secretary shall facilitate the procurement of unprocessed fruits and vegetables in not more than 8 States receiving funds under this Act.

(2) PURPOSE.—The purpose of the pilot project required by this subsection is to provide selected States flexibility for the procurement of unprocessed fruits and vegetables by permitting each State—

(A) to utilize multiple suppliers and products established and qualified by the Secretary; and

(B) to allow geographic preference, if desired, in the procurement of the products under the pilot project.

(3) SELECTION AND PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall select States for participation in the pilot project in accordance with criteria established by the Secretary and terms and conditions established for participation.

(B) REQUIREMENT.—The Secretary shall ensure that at least 1 project is located in a State in each of—

(i) the Pacific Northwest Region;

(ii) the Northeast Region;

(iii) the Western Region;

(iv) the Midwest Region; and

(v) the Southern Region.

(4) PRIORITY.—In selecting States for participation in the pilot project, the Secretary shall prioritize applications based on—

(A) the quantity and variety of growers of local fruits and vegetables in the States on a per capita basis;

(B) the demonstrated commitment of the States to farm-to-school efforts, as evidenced by prior efforts to increase and promote farm-to-school programs in the States; and

(C) whether the States contain a sufficient quantity of local educational agencies, various population sizes, and geographical locations.

(5) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(A) RECORDKEEPING REQUIREMENT.—States selected to participate in the pilot project, and participating school food authorities within those States, shall keep records of the fruits and vegetables received under the pilot project in such manner and form as requested by the Secretary.

(B) REPORTING REQUIREMENT.—Each participating State shall submit to the Secretary a report on the success of the pilot project in the State, including information on—

(i) the quantity and cost of each type of fruit and vegetable received by the State under the pilot project; and

(ii) the benefit provided by those procurements in conducting school food service in the State, including meeting school meal requirements.

PAYMENTS TO STATES

SEC. 7. (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by [State educational agencies] *State agencies* in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such [State educational agencies] *State agencies* for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980.

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems

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

(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.

(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this Act.

STATE DISBURSEMENT TO SCHOOLS

SEC. 8. (a) Funds paid to any State during any fiscal year pursuant to section 4 shall be disbursed by the [State educational agency] *State agency*, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the [State educational agency] *State agency*, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b) The agreements described in subsection (a) shall be permanent agreements that may be amended as necessary.

(c) The [State educational agency] *State agency* may suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(d) Use of funds paid to States may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof.

(e) In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this Act during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.

(f) In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate for the type of lunch served, shall be increased by a like amount.

(g) Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

[NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

[SEC. 9. (a)(1)(A) Lunches served by schools participating in the school lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements—

[(i) shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students; and

[(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.

[(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.]

SEC. 9. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TECHNICAL ASSISTANCE AND TRAINING.—The Secretary shall provide—

(A) technical assistance and training to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subsection (f) and in providing appropriate meals to children with medically certified special dietary needs, including food allergies or other special dietary needs of individual children, including religious dietary restrictions; and

(B) additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

(2) FLUID MILK.—

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

(i) shall offer students a variety of fluid milk. Such milk shall be consistent with 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);

(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, on 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.—A school may substitute for the fluid milk provided under subpara-

graph (A), a nondairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards 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.—The substitutions may be made if the school notifies the State agency that the school is implementing a variation allowed under this subparagraph, and if the 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, except that the school shall not be required to provide beverages other than beverages the school has identified as acceptable substitutes.

(iii) EXCESS EXPENSES BORNE BY SCHOOL FOOD AUTHORITY.—Expenses incurred in providing substitutions under this subparagraph that are in excess of expenses covered by reimbursements under this Act shall be paid by the school food authority.

(C) RESTRICTIONS ON SALE OF MILK PROHIBITED.—A school 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.

(D) FLUID MILK CONSIDERATIONS.—In determining varieties of fluid milk that shall be available with school meals programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and outside of the school meal programs, the Secretary, not later than 90 days after the date of enactment of the Improving Child Nutrition and Education Act of 2016, shall carry out the following:

(i) Consider the critical nutrient needs of children who may be at risk for inadequate intake of the recommended daily servings of milk and dairy products under the most recent Dietary Guidelines described in subparagraph (A)(i) and conform the applicable regulations to such guidelines.

(ii) Analyze milk consumption data and trends for school-aged children, and to the extent practicable, increase actual milk consumption in schools in a manner consistent with the number of servings recommended under such Dietary Guidelines, and ensure that schools may offer any type of milk with fat levels that are in compliance with such Dietary Guidelines.

(E) MILK VARIETY CONSIDERATIONS.—In determining milk varieties eligible for schools to offer with school meal programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and outside of the school

meal programs, the Secretary shall consider the most commonly available types, sizes, containers, and varieties of milk in local, regional, and national commercial markets from which local educational agencies procure milk, to promote competition and reduce milk waste.

(3) Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

[(4) PROVISION OF INFORMATION.—

[(A) GUIDANCE.—Prior to the beginning of the school year beginning July 2004, the Secretary shall issue guidance to States and school food authorities to increase the consumption of foods and food ingredients that are recommended for increased serving consumption 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).

[(B) RULES.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall promulgate rules, based on the most recent Dietary Guidelines for Americans, that reflect specific recommendations, expressed in serving recommendations, for increased consumption of foods and food ingredients offered in school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

[(C) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary]

(4) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary shall—

[(i)] *(A)* identify, develop, and disseminate to State departments of agriculture and education, school food authorities, local educational agencies, and local processing entities, model product specifications and practices for foods offered in school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to ensure that the foods reflect 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);

[(ii)] *(B)* not later than 1 year after the date of enactment of this subparagraph—

[(I)] *(i)* carry out a study to analyze the quantity and quality of nutritional information available to school food authorities about food service products and commodities; and

[(II)] *(ii)* submit to Congress a report on the results of the study that contains such legislative recommendations as the Secretary considers necessary to ensure that school food authorities have access to the

nutritional information needed for menu planning and compliance assessments; and

[(iii)] *(C)* to the maximum extent practicable, in purchasing and processing commodities for use in school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), purchase the widest variety of healthful foods that reflect the most recent Dietary Guidelines for Americans.

(5) WATER.—Schools participating in the school lunch program under this Act shall make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.

(6) EMERGENCY ACCESS TO POTABLE WATER.—

(A) IN GENERAL.—To ensure that children have access to potable water during meal service, the Secretary may award funds to State agencies to assist such agencies in providing bottled water for a period of not more than 90 days (except as otherwise provided under subparagraph (C)) when—

(i) a major disaster or emergency has been declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(ii) the Secretary determines that there is a significant risk to the health of school children posed by the public water system (as defined under section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f)).

(B) MATCHING REQUIREMENT.—To receive funds under this paragraph, a State agency shall assure the Secretary that the State will utilize donated water supplies and State funding to supplement the funds that the State receives under this paragraph to provide bottled water as necessary for students.

(C) EXTENSION OF AUTHORITY.—If the risk described in subparagraph (A)(ii) persists in a State after the first 90-day period for which funds under this paragraph are provided to such State, funds may be provided under this paragraph to such State for an additional 90-day period.

(D) FUNDING.—Not more than $475,000 may be provided under this paragraph for a fiscal year.

(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**]** *State 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 AND DESCRIPTIVE MATERIAL.—

(i) IN GENERAL.—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**]**.

(ii) INCOME ELIGIBILITY GUIDELINES.—Forms and descriptive material distributed in accordance with clause (i) may not contain the income eligibility guidelines for free *or reduced price* lunches.

(iii) CONTENTS OF DESCRIPTIVE MATERIAL.—

(I) IN GENERAL.—Descriptive material distributed in accordance with clause (i) shall contain a notification that—

(aa) participants in the programs listed in subclause (II) may be eligible for free or reduced price meals; **[**and**]**

(bb) documentation may be requested for verification of eligibility for free or reduced price meals**[**.**]***; and*

(cc) individuals may report alleged fraud to the Office of the Inspector General of the Department of Agriculture.

(II) PROGRAMS.—The programs referred to in subclause (I)(aa) are—

(aa) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(bb) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(cc) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

(dd) a State program funded under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(iv) REPORTING OF FRAUD.—The Secretary shall ensure that the Internet website of the Department of Agriculture prominently displays a link to the Internet website of the Office of the Inspector General of the Department and the phone number of the Office of the Inspector General through which an individual may report any alleged fraud.

(v) APPLICATION FORMS.—Not later than 120 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall—

(I) review a sample of application forms, including paper and digital forms, used to apply for participation in the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(II) provide to States guidance relating to best practices, including a standard application form local educational agencies or schools may use;

(III) provide to States guidance relating to how to improve the application to ensure families understand and can enroll in the school lunch program and the school breakfast program; and

(IV) provide to States such information as is necessary to ensure that States understand school food authorities may not—

(aa) require or mandate families apply for either program;

(bb) request that a family apply for the program after the parent or guardian has informed the school that the family does not want to participate in the program or receive additional information about the program in that school year; or

(cc) in the case of a family that has not informed the school about their choice, request more than twice in that school year that such family apply for the program if such family has not submitted an application, except that providing information about the application (including how and when the application will be sent to parents and how to fill out the application) shall not count as a request to apply.

(3) HOUSEHOLD APPLICATIONS.—

(A) DEFINITION OF HOUSEHOLD APPLICATION.—In this paragraph, the term "household application" means an application for a child of a household to receive free or reduced price school lunches under this Act, or free or reduced price school breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), for which an eligibility determination is made other than under paragraph (4) or (5).

(B) ELIGIBILITY DETERMINATION.—

(i) IN GENERAL.—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 guidance issued by the Secretary.

(ii) ELECTRONIC SIGNATURES AND APPLICATIONS.—A household application may be executed using an electronic signature if—

(I) the application is submitted electronically; and

(II) the electronic application filing system meets confidentiality standards established by the Secretary.

(C) CHILDREN IN HOUSEHOLD.—

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

(ii) SEPARATE APPLICATIONS.—A [State educational agency] *State agency* or local educational agency may not request a separate application for each child in the household that attends schools under the same local educational agency.

[(D) VERIFICATION OF SAMPLE.—

[(i) DEFINITIONS.—In this subparagraph:

[(I) ERROR PRONE APPLICATION.—The term "error prone application" means an approved household application that—

[(aa) indicates monthly income that is within $100, or an annual income that is within $1,200, of the income eligibility limitation for free or reduced price meals; or

[(bb) in lieu of the criteria established under item (aa), meets criteria established by the Secretary.

[(II) NON-RESPONSE RATE.—The term "non-response rate" means (in accordance with guidelines established by the Secretary) the percentage of approved household applications for which verification information has not been obtained by a local educational agency after attempted verification under subparagraphs (F) and (G).

[(ii) VERIFICATION OF SAMPLE.—Each school year, a local educational agency shall verify eligibility of the children in a sample of household applications approved for the school year by the local educational agency, as determined by the Secretary in accordance with this subsection.

[(iii) SAMPLE SIZE.—Except as otherwise provided in this paragraph, the sample for a local educational agency for a school year shall equal the lesser of—

[(I) 3 percent of all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; or

[(II) 3,000 error prone applications approved by the local educational agency for the school year, as of October 1 of the school year.

[(iv) ALTERNATIVE SAMPLE SIZE.—

[(I) IN GENERAL.—If the conditions described in subclause (IV) are met, the verification sample size for a local educational agency shall be the sample size described in subclause (II) or (III), as determined by the local educational agency.

[(II) 3,000/3 PERCENT OPTION.—The sample size described in this subclause shall be the lesser of 3,000, or 3 percent of, applications selected at random from applications approved by the local educational agency for the school year, as of October 1 of the school year.

[(III) 1,000/1 PERCENT PLUS OPTION.—

[(aa) IN GENERAL.—The sample size described in this subclause shall be the sum of—

[(AA) the lesser of 1,000, or 1 percent of, all applications approved by the local educational agency for the school year, as of October 1 of the school year, selected from error prone applications; and

[(BB) the lesser of 500, or ½ of 1 percent of, applications approved by the local educational agency for the school year, as of October 1 of the school year, that provide a case number (in lieu of income information) showing participation in a program described in item (bb) selected from those approved applications that provide a case number (in lieu of income information) verifying the participation.

[(bb) PROGRAMS.—The programs described in this item are—

[(AA) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

[(BB) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)); and

[(CC) a State program funded under the program of block grants to States for temporary assistance for needy families established 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.

[(IV) CONDITIONS.—The conditions referred to in subclause (I) shall be met for a local educational agency for a school year if—

[(aa) the nonresponse rate for the local educational agency for the preceding school year is less than 20 percent; or

[(bb) the local educational agency has more than 20,000 children approved by application by the local educational agency as eligible for free or reduced price meals for the school year, as of October 1 of the school year, and—

[(AA) the nonresponse rate for the preceding school year is at least 10 percent below the nonresponse rate for the second preceding school year; or

[(BB) in the case of the school year beginning July 2005, the local educational agency attempts to verify all approved household applications selected for verification through use of public agency records from at least 2 of the programs or sources of information described in subparagraph (F)(i).

[(v) ADDITIONAL SELECTED APPLICATIONS.—A sample for a local educational agency for a school year under clauses (iii) and (iv)(III)(AA) shall include the number of additional randomly selected approved household applications that are required to comply with the sample size requirements in those clauses.]

(D) VERIFICATION.—

(i) STANDARD VERIFICATION OF APPLICATIONS.—

(I) IN GENERAL.—Beginning with the second school year that begins after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, each school year, each local educational agency shall verify the eligibility of the children in a portion of the household applications approved for the school year by the local educational agency, as of November 1 of the school year, as determined by the Secretary in accordance with this subsection.

(II) SAMPLE SIZE.—

(aa) IN GENERAL.—The portion for a local educational agency for a school year shall equal the lesser of—

(AA) 10,000; or

(BB) 10 percent of approved household applications.

(bb) CALCULATION.—Not later than July 1 of each year, the Secretary shall calculate the sample size under this subparagraph for each local educational agency based on data from the 2 most recent school years available.

(III) SAMPLE SELECTION.—Applications shall be selected for verification by the local educational agency based on indications that information relevant to eligibility is inconsistent with the information provided on the application, including at a minimum the following:

(aa) The household has submitted information in writing to the local educational agency that is inconsistent with the information on the application.

(bb) The information provided on the application is consistent with a pattern of error or fraud detected by the local educational agency, the State agency, or the Secretary.

(cc) For not more than ¼ of the sample, students who are directly certified or the application provides a case number (in lieu of income information) showing participation in—

(AA) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(BB) a State program funded under the program of block grants to States for temporary assistance for needy families established 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 eligibility requirements under the State program are comparable to the requirements for participation in accordance with this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(dd) For not more than ¼ of the sample, the income information provided on the application is close to the income limit for free or reduced price meals, as determined by the local educational agency each year.

(ee) Such other criteria as is determined by the State.

(IV) ADDITIONAL VERIFICATION OF APPLICATIONS.—If the number of applications that match the criteria described in subclause (III) is insufficient to meet the number of applications determined under subclause (II), the local educational agency shall select additional applications at random.

(ii) VERIFICATION FOR CAUSE.—In addition to conducting verification of a sample of applications as described in clause (i), a local educational agency may verify any household application at any point in the school year if the household application meets the criteria described in item (aa), (bb), or (cc) of clause (i)(III) or such other criteria as is determined by the Secretary.

(iii) COMPLIANCE.—In conducting verification under this subparagraph, a State agency or local educational agency shall not select applications in a manner that violates section 12(l)(4)(M).

(E) PRELIMINARY REVIEW.—

(i) REVIEW FOR ACCURACY.—

(I) IN GENERAL.—Prior to conducting any other verification activity for approved household applications selected for verification, the local educational agency shall ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial eligibility determination, unless otherwise determined by the Secretary.

(II) WAIVER.—The requirements of subclause (I) shall be waived for a local educational agency if the local educational agency is using a technology-based solution that demonstrates a high level of accuracy, to the satisfaction of the Secretary, in processing an initial eligibility determination in accordance with the income eligibility guidelines of the school lunch program.

(ii) CORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is correct, the local educational agency shall verify the approved household application.

(iii) INCORRECT ELIGIBILITY DETERMINATION.—If the review indicates that the initial eligibility determination is incorrect, the local educational agency shall (as determined by the Secretary)—

(I) correct the eligibility status of the household;

(II) notify the household of the change;

(III) in any case in which the review indicates that the household is not eligible for free or reduced-price meals, notify the household of the reason for the ineligibility and that the household may reapply with income documentation for free or reduced-price meals; and

(IV) in any case in which the review indicates that the household is eligible for free or reduced-price meals, verify the approved household application.

(F) DIRECT VERIFICATION.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to verify eligibility for free or reduced price meals for approved household applications selected for verification,

the local educational agency [may] *shall* (in accordance with criteria established by the Secretary) first obtain and use income and program participation information from a public agency administering—

(I) the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(II) the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b));

(III) the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(IV) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

(V) a similar income-tested program or other source of information, as determined by the Secretary.

(ii) FREE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for free meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for free meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 133 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

(iii) REDUCED PRICE MEALS.—Public agency records that may be obtained and used under clause (i) to verify eligibility for reduced price meals for approved household applications selected for verification shall include the most recent available information (other than information reflecting program participation or income before the 180-day period ending on the date of application for reduced price meals) that is relied on to administer—

(I) a program or source of information described in clause (i) (other than clause (i)(IV)); or

(II) the State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) in—

(aa) a State in which the income eligibility limit applied under section 1902(l)(2)(C) of that Act (42 U.S.C. 1396a(l)(2)(C)) is not more than 185 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)); or

(bb) a State that otherwise identifies households that have income that is not more than 185 percent of the official poverty line described in section 1902(l)(2)(A) of that Act (42 U.S.C. 1396a(l)(2)(A)).

[(iv) EVALUATION.—Not later than 3 years after the date of enactment of this subparagraph, the Secretary shall complete an evaluation of—

[(I) the effectiveness of direct verification carried out under this subparagraph in decreasing the portion of the verification sample that must be verified under subparagraph (G) while ensuring that adequate verification information is obtained; and

[(II) the feasibility of direct verification by State agencies and local educational agencies.

[(v) EXPANDED USE OF DIRECT VERIFICATION.—If the Secretary determines that direct verification significantly decreases the portion of the verification sample that must be verified under subparagraph (G), while ensuring that adequate verification information is obtained, and can be conducted by most State agencies and local educational agencies, the Secretary may require a State agency or local educational agency to implement direct verification through 1 or more of the programs described in clause (i), as determined by the Secretary, unless the State agency or local educational agency demonstrates (under criteria established by the Secretary) that the State agency or local educational agency lacks the capacity to conduct, or is unable to implement, direct verification.]

(iv) DIRECT CERTIFICATION.—If eligibility for a household application is confirmed using direct verification, each child in the household shall be considered directly certified.

(G) HOUSEHOLD VERIFICATION.—

(i) IN GENERAL.—If an approved household application is not verified through the use of public agency records, a local educational agency shall provide to the household written notice that—

(I) the approved household application has been selected for verification; and

(II) the household is required to submit verification information to confirm eligibility for free or reduced price meals.

(ii) PHONE NUMBER.—The written notice in clause (i) shall include a toll-free phone number that parents and legal guardians in households selected for verification can call for assistance with the verification process.

(iii) FOLLOWUP ACTIVITIES.—If a household does not respond to a verification request, a local educational agency shall make at least [1 attempt] *2 attempts* to obtain the necessary verification from the household in accordance with guidelines and regulations promulgated by the Secretary.

(iv) CONTRACT AUTHORITY FOR SCHOOL FOOD AUTHORITIES.—A local educational agency may contract (under standards established by the Secretary) with a third party to assist the local educational agency in carrying out clause (iii).

(v) VALIDITY OF VERIFICATION RESULTS.—

(I) DEFINITIONS.—In this clause:

(aa) APPROVED APPLICATION.—The term "approved application" includes each student on a paper or electronic application approved by the local educational agency for free or reduced price lunches for the school year.

(bb) RESPONSE RATE.—The term "response rate" means the percentage of the approved household applications of the local educational agency for which verification information was obtained after attempted verification under this section.

(cc) NONRESPONSE RATE.—The term "nonresponse rate" means the percentage of the approved household applications of the local educational agency for which verification information was not obtained after attempted verification under this section.

(dd) CONFIRMATION RATE.— The term "confirmation rate" means the percentage of approved household applications and directly certified students selected by the local educational agency for verification under this subparagraph that had the level of benefits confirmed as a result of information obtained during the verification process.

(II) REDUCTIONS.—

(aa) IN GENERAL.—The sample under subparagraph (D)(i)(II) may be reduced by not more than the lesser of 2,500 applications or 2.5 percentage points for each of the criteria described in subclause (III) that are met by the local educational agency.

(bb) LIMITATION.—Reductions under item (aa) may result in a sample of not less than 2.5 percent of approved applications.

(III) CRITERIA.—The criteria referred to in subclause (II)(aa) are as follows:

(aa) RESPONSE RATE.—For the preceding school year the response rate was more than 85 percent.

(bb) NONRESPONSE RATE REDUCTION.—The nonresponse rate was at least 15 percent below the nonresponse rate for the second preceding school year.

(cc) CONFIRMATION RATE.—The confirmation rate is 100 percent or has increased by at least 5 percent over the two most recent school years for which data is available.

(dd) ADMINISTRATIVE BURDEN REDUCTION.—

(AA) IN GENERAL.—The local educational agency receives a determination from the Secretary that compliance with subparagraph (D)(i)(II) would render the local educational agency unable to administer the program.

(BB) REQUIREMENT.—The Secretary shall develop a system by which to measure cost and administrative burden associated with compliance with subparagraph (D)(i)(II) and shall consider requests from local educational agencies based on that system.

(H) VERIFICATION DEADLINE.—

(i) GENERAL DEADLINE.—

(I) IN GENERAL.—Subject to subclause (II), not later than **[**November**]** *December* 15 of each school year, a local educational agency shall complete the verification activities required for the school year (including followup activities).

(II) EXTENSION.—Under criteria established by the Secretary, a State may extend the deadline established under subclause (I) for a school year for a local educational agency to **[**December**]** *January* 15 of the school year.

(ii) ELIGIBILITY CHANGES.—Based on the verification activities, the local educational agency shall make appropriate modifications to the eligibility determinations made for household applications in accordance with criteria established by the Secretary.

(I) LOCAL CONDITIONS.—In the case of a natural disaster, civil disorder, strike, or other local condition (as determined by the Secretary), the Secretary may substitute alternatives for—

(i) the sample size and sample selection criteria established under subparagraph (D); and

(ii) the verification deadline established under subparagraph (H).

(J) INDIVIDUAL REVIEW.—In accordance with criteria established by the Secretary, the local educational agency may, on individual review—

(i) decline to verify no more than 5 percent of approved household applications selected under subparagraph (D); and

(ii) replace the approved household applications with other approved household applications to be verified.

(K) FEASIBILITY STUDY.—

(i) IN GENERAL.—The Secretary shall conduct a study of the feasibility of using computer technology (including [data mining] *analyses of data*) to reduce—

(I) overcertification errors in the school lunch program under this Act;

(II) waste, fraud, and abuse in connection with this paragraph; and

(III) errors, waste, fraud, and abuse in other nutrition programs, as determined to be appropriate by the Secretary.

[(ii) REPORT.—Not later than 180 days 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 describing—

[(I) the results of the feasibility study conducted under this subsection;

[(II) how a computer system using technology described in clause (i) could be implemented;

[(III) a plan for implementation; and

[(IV) proposed legislation, if necessary, to implement the system.]

(ii) REPORT.—Not later than two years after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the results of the feasibility study conducted under this subsection;

(II) how a computer system—

(aa) used to reduce verification and certification errors can be adapted to further reduce errors; and

(bb) using technology described in clause (i) could be implemented; and

(III) a plan to adapt or implement such system.

(L) ENHANCED VERIFICATION METHODS.—

(i) REQUIREMENTS.—

(I) IN GENERAL.—The Secretary shall help local educational agencies engage in alternative and enhanced methods of certification and verification to increase the effectiveness of the process, reduce certification errors, and produce more meaningful management information to facilitate local educational agency, State, and Federal oversight with

respect to program integrity in the school meal programs.

(II) BEST PRACTICES.—The Secretary shall encourage local educational agencies to adopt proven best practices with regard to verification.

(III) SELECTION FOR IMPLEMENTATION.—To the extent necessary to refine alternative verification methods or assess the feasibility, impact, or efficacy of the methods prior to recommending the methods, the Secretary shall select States and local educational agencies that have requested to participate in the development of best practices to implement methods subject to clause (iii).

(ii) REQUIREMENTS.—The certification and verification methods shall—

(I) meet such terms and conditions as the Secretary considers appropriate; and

(II) except as otherwise provided in this subparagraph, be conducted in accordance with this subsection.

(iii) SELECTION CRITERIA.—In selecting methods, including methods for implementation under clause (i)(III), the Secretary shall—

(I) consider the degree to which the method would improve certification accuracy and program integrity within the school meal programs;

(II) consider whether there is evidence that the method could be replicated easily by other local educational agencies or political subdivisions;

(III) consider whether the method would increase the efficiency and effectiveness of the verification process;

(IV) consider whether the local educational agency or State agency has a demonstrated capacity to undertake the method and to produce the data necessary to support the evaluation; and

(V) ensure the methods implemented under clause (i)(III) are implemented across a range of geographic areas and States, including rural and urban areas, and, when considered as a group, allow for an assessment of a range of strategies regarding verification sample selection, obtaining eligibility documentation, and the entity conducting verification, including strategies that—

(aa) use analyses of data, particularly in large local educational agencies to develop algorithms to select error-prone applications for verification;

(bb) use third-party data sources to confirm eligibility prior to conducting household verification under subparagraph (G);

(cc) rely on alternative methods, including message testing, of communicating with households to assess which methods most effectively result in household responses;

(dd) rely on agencies or organizations other than the local educational agency to conduct verification, including at a minimum the State agency; and

(ee) could reduce the administrative burden of conducting verification for a consortia of local educational agencies, including shared online applications and shared verification procedures.

(iv) REDUCTION.—Notwithstanding the limitation in subparagraph (D)(v)(II)(bb), a local educational agency that uses the strategies described in clause (iii)(V) may qualify for a reduction of additional 0.25 percentage points under such subparagraph, creating a floor of 2.25 percent for the verification sample size.

(4) DIRECT CERTIFICATION FOR CHILDREN IN SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM HOUSEHOLDS.—

(A) IN GENERAL.—Subject to subparagraph (D), each State agency shall enter into an agreement with the State agency conducting eligibility determinations for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(B) PROCEDURES.—Subject to paragraph (6), the agreement shall establish procedures under which a child*, including a child enrolled in a nonpublic school,* who is a member of a household receiving assistance under the supplemental nutrition assistance program shall be certified as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(C) CERTIFICATION.—Subject to paragraph (6), under the agreement, the local educational agency conducting eligibility determinations for a school lunch program under this Act and a school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall certify a child who is a member of a household receiving assistance under the supplemental nutrition assistance program as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application.

(D) APPLICABILITY.—This paragraph applies to—

(i) in the case of the school year beginning July 2006, a school district that had an enrollment of 25,000 students or more in the preceding school year;

(ii) in the case of the school year beginning July 2007, a school district that had an enrollment of 10,000 students or more in the preceding school year; and

(iii) in the case of the school year beginning July 2008 and each subsequent school year, each local educational agency.

[(E) PERFORMANCE AWARDS.—

[(i) IN GENERAL.—Effective for each of the school years beginning July 1, 2011, July 1, 2012, and July 1, 2013, the Secretary shall offer performance awards

to States to encourage the States to ensure that all children eligible for direct certification under this paragraph are certified in accordance with this paragraph.

[(ii) REQUIREMENTS.—For each school year described in clause (i), the Secretary shall—

[(I) consider State data from the prior school year, including estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a); and

[(II) make performance awards to not more than 15 States that demonstrate, as determined by the Secretary—

[(aa) outstanding performance; and

[(bb) substantial improvement.

[(iii) USE OF FUNDS.—A State agency that receives a performance award under clause (i)—

[(I) shall treat the funds as program income; and

[(II) may transfer the funds to school food authorities for use in carrying out the program.

[(iv) FUNDING.—

[(I) IN GENERAL.—On October 1, 2011, and each subsequent October 1 through October 1, 2013, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary—

[(aa) $2,000,000 to carry out clause (ii)(II)(aa); and

[(bb) $2,000,000 to carry out clause (ii)(II)(bb).

[(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this clause the funds transferred under subclause (I), without further appropriation.

[(v) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to make a performance award under this subparagraph shall not be subject to administrative or judicial review.]

[(F)] *(E)* CONTINUOUS IMPROVEMENT PLANS.—

(i) DEFINITION OF REQUIRED PERCENTAGE.—In this subparagraph, the term "required percentage" [means—]

[(I) for the school year beginning July 1, 2011, 80 percent;

[(II) for the school year beginning July 1, 2012, 90 percent; and

[(III) for the school year beginning July 1, 2013, and each school year thereafter] *means, for the school year*, 95 percent.

(ii) REQUIREMENTS.—Each school year, the Secretary shall—

(I) identify, using data from the prior year, including estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a), States that directly certify less than the required percentage of the total number of children in the State who are eligible for direct certification under this paragraph;

(II) require the States identified under subclause (I) to implement a continuous improvement plan to fully meet the requirements of this paragraph, which shall include a plan to improve direct certification for the following school year; [and]

(III) assist the States identified under subclause (I) to develop and implement a continuous improvement plan in accordance with subclause (II)[.]*;*

(IV) include in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a), a description of technical assistance provided to and progress of States identified under subclause (I) toward implementing the measures and meeting the goals established by the State as required under clause (iii)(II); and

(V) provide guidance to schools on providing meals and collecting payment for any student who is no longer able to receive meals because the student did not provide a response to the verification request for the student's school meal application.

(iii) FAILURE TO MEET PERFORMANCE STANDARD.—

(I) IN GENERAL.—A State that is required to develop and implement a continuous improvement plan under clause (ii)(II) shall be required to submit the continuous improvement plan to the Secretary, for the approval of the Secretary.

(II) REQUIREMENTS.—At a minimum, a continuous improvement plan under subclause (I) shall include—

(aa) specific measures that the State will use to identify more children who are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

(bb) a timeline for the State to implement those measures *within 3 school years*; and

(cc) goals for the State to improve direct certification results.

[(G)] *(F)* WITHOUT FURTHER APPLICATION.—

(i) IN GENERAL.—In this paragraph, the term "without further application" means that no action is required by the household of the child.

(ii) CLARIFICATION.—A requirement that a household return a letter notifying the household of eligibility for

direct certification or eligibility for free school meals does not meet the requirements of clause (i).

(5) DISCRETIONARY CERTIFICATION.—Subject to paragraph (6), 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 the status of the child as—

(A) a member of a family that is receiving assistance under the temporary assistance for needy families 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;

(B) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act [(42 U.S.C. 11434a(2))] *(42 U.S.C. 11434a(2)))*;

(C) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

(D) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)); or

(E)(i) a [foster child] *foster youth* whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

(ii) a [foster child] *foster youth* who a court has placed with a caretaker household.

(6) USE OR DISCLOSURE OF INFORMATION.—

(A) IN GENERAL.—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 paragraph (3)(F), (4), or (5), 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.) (including a regulation promulgated under either Act);

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

(I) a Federal education program;

(II) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 42 U.S.C. 1397aa et seq.)); or

(III) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the school lunch program under this Act;

(iii)(I) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(II) 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 this paragraph or paragraph (3)(F), (4), or (5);

(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 purposes of—

(I) identifying children eligible for benefits under, and enrolling children in, those programs, except that this subclause shall apply only to the extent that the State and the local educational agency or school food authority so elect; and

(II) verifying the eligibility of children for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(v) a third party contractor described in paragraph (3)(G)(iv).

(B) LIMITATION ON INFORMATION PROVIDED.—Information provided under clause (ii) or (v) of subparagraph (A) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits is made or for whom eligibility information is provided under paragraph (3)(F), (4), or (5), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(C) CRIMINAL PENALTY.—A person described in subparagraph (A) 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.

(D) REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in subparagraph (A)(iv)(I) shall ensure that any local educational agency or school food authority acting in accordance with that option—

(i) has a written agreement with 1 or more State or local agencies administering health 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 subparagraph (A) to seek to enroll children in those health programs; and

(ii)(I) notifies each household, the information of which shall be disclosed under subparagraph (A), that the information disclosed will be used only to enroll children in health programs referred to in subparagraph (A)(iv); and

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

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

(7) FREE AND REDUCED PRICE POLICY STATEMENT.—

(A) IN GENERAL.—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] *State agency* under this Act unless there is a substantive change in the free and reduced price policy of the local educational agency.

(B) ROUTINE CHANGE.—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.

(8) COMMUNICATIONS.—

(A) IN GENERAL.—Any communication with a household under this subsection or subsection (d) shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

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

(9) 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 paragraph (3)(E), (3)(H)(ii), and section 11(a), 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 a date during the subsequent school year determined by the Secretary.

(10) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published list of names, or by other means.

(11) 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 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.

(12)(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) a member of a household receiving assistance under the supplemental nutrition assistance program authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);

(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;

(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 meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B));

(iv) a homeless child or youth (defined as 1 of the individuals described in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

(v) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.);

(vi) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)); or

(vii)(I) a [foster child] *foster youth* whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

(II) a [foster child] *foster youth* who a court has placed with a caretaker household.

(B) Proof of receipt of supplemental nutrition assistance program benefits 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), shall be sufficient to satisfy any verification requirement imposed under this subsection.

(13) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—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.

(14) COMBAT PAY.—

(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term "combat pay" means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

(i) is the result of deployment to or service in a combat zone; and

(ii) was not received immediately prior to serving in a combat zone.

(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.

(15) DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS.—

(A) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE CHILD.—The term "eligible child" means a child—

(I)(aa) who is eligible for and receiving medical assistance under the Medicaid program; and

(bb) who is a member of a family with an income as measured by the Medicaid program before the application of any expense, block, or other income disregard, that does not exceed 133 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section)) applicable to a family of the size

used for purposes of determining eligibility for the Medicaid program; or

(II) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations) with a child described in subclause (I).

(ii) MEDICAID PROGRAM.—The term "Medicaid program" means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(B) DEMONSTRATION PROJECT.—

(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service and in cooperation with selected State agencies, shall conduct a demonstration project in selected local educational agencies to determine whether direct certification of eligible children is an effective method of certifying children for free lunches and breakfasts under ⟦section 9(b)(1)(A) of this Act⟧ *paragraph (1)(A)* and section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)).

(ii) SCOPE OF PROJECT.—The Secretary shall carry out the demonstration project under this subparagraph—

(I) for the school year beginning July 1, 2012, in selected local educational agencies that collectively serve 2.5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data;

(II) for the school year beginning July 1, 2013, in selected local educational agencies that collectively serve 5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data; and

(III) for the school year beginning July 1, 2014, and each subsequent school year, in selected local educational agencies that collectively serve 10 percent of students certified for free and reduced price meals nationwide, based on the most recent available data.

(iii) PURPOSES OF THE PROJECT.—At a minimum, the purposes of the demonstration project shall be—

(I) to determine the potential of direct certification with the Medicaid program to reach children who are eligible for free meals but not certified to receive the meals;

(II) to determine the potential of direct certification with the Medicaid program to directly certify children who are enrolled for free meals based on a household application; and

(III) to provide an estimate of the effect on Federal costs and on participation in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nu-

trition Act of 1966 (42 U.S.C. 1773) of direct certification with the Medicaid program.

(iv) COST ESTIMATE.—For each of 2 school years of the demonstration project, the Secretary shall estimate the cost of the direct certification of eligible children for free school meals through data derived from—

(I) the school meal programs authorized under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(II) the Medicaid program; and

(III) interviews with a statistically representative sample of households.

(C) AGREEMENT.—

(i) IN GENERAL.—Not later than July 1 of the first school year during which a State agency will participate in the demonstration project, the State agency shall enter into an agreement with the 1 or more State agencies conducting eligibility determinations for the Medicaid program.

(ii) WITHOUT FURTHER APPLICATION.—Subject to paragraph (6), the agreement described in subparagraph (D) shall establish procedures under which an eligible child shall be certified for free lunches under this Act and free breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in ⟦paragraph (4)(G)⟧ *paragraph (4)(F)*).

(D) CERTIFICATION.—For the school year beginning on July 1, 2012, and each subsequent school year, subject to paragraph (6), the local educational agencies participating in the demonstration project shall certify an eligible child as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application (as defined in ⟦paragraph (4)(G)⟧ *paragraph (4)(F)*).

(E) SITE SELECTION.—

(i) IN GENERAL.—To be eligible to participate in the demonstration project under this subsection, a State agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) CONSIDERATIONS.—In selecting States and local educational agencies for participation in the demonstration project, the Secretary may take into consideration such factors as the Secretary considers to be appropriate, which may include—

(I) the rate of direct certification;

(II) the share of individuals who are eligible for benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) who participate in the program, as determined by the Secretary;

(III) the income eligibility limit for the Medicaid program;

(IV) the feasibility of matching data between local educational agencies and the Medicaid program;

(V) the socioeconomic profile of the State or local educational agencies; and

(VI) the willingness of the State and local educational agencies to comply with the requirements of the demonstration project.

(F) ACCESS TO DATA.—For purposes of conducting the demonstration project under this paragraph, the Secretary shall have access to—

(i) educational and other records of State and local educational and other agencies and institutions receiving funding or providing benefits for 1 or more programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(ii) income and program participation information from public agencies administering the Medicaid program.

(G) REPORT TO CONGRESS.—

(i) IN GENERAL.—Not later than October 1, 2014, the Secretary shall submit to the ⟦Committee on Education and Labor⟧ *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an interim report that describes the results of the demonstration project required under this paragraph.

(ii) FINAL REPORT.—Not later than October 1, 2015, the Secretary shall submit a final report to the committees described in clause (i).

(H) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subparagraph (G) $5,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subparagraph (G) the funds transferred under clause (i), without further appropriation.

(c) School lunch programs under this Act shall be operated on a nonprofit basis. Commodities purchased under the authority of section 32 of the Act of August 24, 1935, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any provision of law.

(d)(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the last 4 digits of

the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary.

(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 educational agency so that the local educational agency may calculate the total income of such household;

(B) documentation showing that the household is participating in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 has been provided to the appropriate local educational agency;

(C) documentation has been provided to the appropriate 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)(12)(A);

(E) documentation has been provided to the appropriate local educational agency showing the status of the child as a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399));

(F)(i) documentation has been provided to the appropriate local educational agency showing the status of the child as a [foster child] *foster youth* whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

(ii) documentation has been provided to the appropriate local educational agency showing the status of the child as a [foster child] *foster youth* who a court has placed with a caretaker household; or

(G) documentation has been provided to the appropriate local educational agency showing the status of the child as an eligible child (as defined in subsection (b)(15)(A)).

(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

(f) NUTRITIONAL REQUIREMENTS.—

(1) IN GENERAL.—Schools that are participating in the school lunch program or school breakfast program shall serve lunches and breakfasts that—

(A) are consistent with the goals of 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); [and]

(B) consider the nutrient needs of children who may be at risk for inadequate food intake and food insecurity[.]*; and*

(C) meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research specifically conducted to understand the impact for children, except that the minimum nutritional requirements—

(i) may not prohibit the substitution of foods to accommodate the medical, including allergies, or other special dietary needs of individual students, including religious dietary restrictions; and

(ii) shall, as possible in accommodating the medical or other special dietary needs of such students, be based on the weekly average of the nutrient content of school lunches.

(2) To assist schools in meeting the requirements of this subsection, the Secretary—

(A) shall—

(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

(B) may provide to schools information regarding other approaches, as determined by the Secretary.

(3) USE OF ANY REASONABLE APPROACH.—

(A) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this subsection, including—

(i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

(ii) using any of the approaches described in [paragraph (3)] *paragraph (2)*.

(B) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this subsection.

[(4) WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—During the period ending on September 30, 2010, 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).]

(4) REGULATIONS, REVIEW, AND RELIEF.—

(A) REVIEW REGULATIONS.—The Secretary shall, at least every 3 years—

(i) review the regulations promulgated in accordance with this Act for the school meal programs described in paragraph (1) (in this paragraph referred to as the "school meal programs");

(ii) with consultation from a parent, a pediatrician, a dietician who conducts child nutrition research, and

stakeholders in schools (including school leaders, school boards, local educational agency administrators, and school food nutrition directors), certify that the regulations are—

(I) appropriate for the age of children participating in the school meal programs, including for the health of children;

(II) in compliance with the preponderance of the latest high-quality research based on school-aged children conducted to examine the health and safety of children participating in the school meal programs;

(III) not increasing the cost to implement the requirements of the school meal programs (which costs shall be considered the total costs to implement the regulations and not limited to the cost of any changes to the regulations); and

(IV) not discouraging students from participating in the school meal programs;

(iii) if necessary to meet the requirements of clause (ii), revise the regulations to meet such requirements;

(iv) not later than 30 days prior to publication under clause (v)(II) of the revised regulations—

(I) submit the revised regulations for comment to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(II) review any comments provided under subclause (I), and further revise the regulations, if necessary to ensure the revised regulations are in compliance with clause (i); and

(III) provide a public notice and comment period of not less than 60 days, review the public comments, and further revise the regulations, if necessary to ensure the revised regulations are in compliance with clause (i); and

(v) publish in the Federal Register, and 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—

(I) a notice that no changes to the regulations are required and the certification described in clause (ii); or

(II) the regulations, as revised under clause (iv), and the certification described in clause (ii).

(B) FIRST REVIEW.—The first review required under subparagraph (A) after the date of enactment of the Improving Child Nutrition and Education Act of 2016 shall—

(i) be concluded not later than December 31, 2016;

(ii) include a review of the sodium and whole grain requirements under the regulations for the school meal programs; and

(iii) ensure that such requirements—

(I) maintain the sodium target requirements established for the school lunch program and school

breakfast program under sections 210.10(f) and 220.8(f) of title 7, Code of Federal Regulations, respectively (as such regulations are in effect on the day before the date of the enactment of the Improving Child Nutrition and Education Act of 2016) until such requirements are revised in accordance with subclause (II); and

(II) in a case in which the sodium target requirements are revised as a result of the review described in this subparagraph, ensure that such a revision—

(aa) is based on health requirements for children;

(bb) is supported by a majority of research focused on school-aged children that directly establishes, through well-controlled randomized trials or well-designed, long-term observational studies, that sodium reductions are both safe and produce beneficial health outcomes for such children;

(cc) is able to support food safety and be produced in a manner that does not significantly increase the cost of food; and

(dd) does not take effect until 3 years after the revision has been published in the Federal Register.

(C) SPECIAL RULE FOR REGULATION RELIEF FOR FAMILY MEAL DAYS.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall issue guidance, or promulgate new rules as necessary, to ensure each State agency provides guidance to school food authorities with respect to the allowance of up to 4 family meal days, as designated by a school, which shall be exempt from the meal pattern rules specified under the regulations for the school meal programs, during which the school may—

(I) invite parents to participate in special meals, such as a Thanksgiving meal or a parents' day meal; and

(II) provide additional nutrition education, such as recipe building or healthy cooking classes to parents and families on making healthy meal options at home, which may be provided by an entity or individual other than a school food service director or food service personnel.

(ii) CLARIFICATION.—In issuing guidance or promulgating rules under clause (i), the Secretary shall not establish any requirements or limitations for family meal days, except to ensure that schools have the authority to hold up to 4 family meal days per school year.

(D) REGULATION FLEXIBILITY.—The Secretary shall provide guidance, when there is difficulty in procuring food to comply with the regulations, to allow a school food authority to substitute food items across food groups and subgroups, including in-season, locally-produced fruits and

vegetables, notwithstanding the food-based meal patterns and menu planning requirements of this subsection, provided that the school food authority continues to meet applicable daily and weekly nutrient and dietary requirements under this subsection.

(5) ACCOMMODATIONS.—The accommodation requirements described in paragraph (1)(C)(i) shall apply to all programs under this Act and all programs under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except for section 17 of such Act (42 U.S.C. 1786).

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

[(h)**]** *(g)* FOOD SAFETY.—

(1) IN GENERAL.—A school participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall—

(A) at least twice during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections;

(B) post in a publicly visible location a report on the most recent inspection conducted under subparagraph (A); and

(C) on request, provide a copy of the report to a member of the public.

(2) STATE AND LOCAL GOVERNMENT INSPECTIONS.—Nothing in paragraph (1) prevents any State or local government from adopting or enforcing any requirement for more frequent food safety inspections of schools.

(3) AUDITS AND REPORTS BY STATES.—For each of fiscal years **[**2011 through 2015**]** *2017 through 2021*, each State shall annually—

(A) audit food safety inspections of schools conducted under paragraphs (1) and (2); and

(B) submit to the Secretary a report of the results of the audit.

(4) AUDIT BY THE SECRETARY.—For each of fiscal years **[**2011 through 2015**]** *2017 through 2021*, the Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3).

(5) SCHOOL FOOD SAFETY PROGRAM.—

(A) IN GENERAL.—Each school food authority shall implement a school food safety program, in the preparation and service of each meal served to children, that complies with any hazard analysis and critical control point system established by the Secretary.

(B) APPLICABILITY.—Subparagraph (A) shall apply to any facility or part of a facility in which food is stored, prepared, or served for the purposes of the school nutrition programs under this Act or section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

[(i)] *(h)* SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.—

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

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

(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

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

[(j)] *(i)* PURCHASES OF LOCALLY PRODUCED FOODS.—The Secretary shall—

(1) encourage institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and

(3) allow institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.

[(k) INFORMATION ON THE SCHOOL NUTRITION ENVIRONMENT.—

[(1) IN GENERAL.—The Secretary shall—

[(A) establish requirements for local educational agencies participating in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to report information about the school nutrition environment, for all schools under the jurisdiction of the local educational agencies, to the Secretary and to the public in the State on a periodic basis; and

[(B) provide training and technical assistance to States and local educational agencies on the assessment and reporting of the school nutrition environment, including the use of any assessment materials developed by the Secretary.

[(2) REQUIREMENTS.—In establishing the requirements for reporting on the school nutrition environment under paragraph (1), the Secretary shall—

[(A) include information pertaining to food safety inspections, local wellness policies, meal program participation, the nutritional quality of program meals, and other information as determined by the Secretary; and

[(B) ensure that information is made available to the public by local educational agencies in an accessible, easily understood manner in accordance with guidelines established by the Secretary.

[(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.]

[(l)] *(j)* FOOD DONATION PROGRAM.—

(1) IN GENERAL.—Each school and local educational agency participating in the school lunch program under this Act may donate any food not consumed under such program to eligible local food banks or charitable organizations.

(2) GUIDANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall develop and publish guidance to schools and local educational agencies participating in the school lunch program under this Act to assist such schools and local educational agencies in donating food under this subsection.

(B) UPDATES.—The Secretary shall update such guidance as necessary.

(3) LIABILITY.—Any school or local educational agency making donations pursuant to this subsection shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791).

(4) DEFINITION.—In this subsection, the term "eligible local food banks or charitable organizations" means any food bank or charitable organization which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

SEC. 9A. LOCAL SCHOOL WELLNESS POLICY.

(a) IN GENERAL.—Each local educational agency participating in a program authorized by this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for all schools under the jurisdiction of the local educational agency.

(b) GUIDELINES.—The Secretary shall promulgate regulations that provide the framework and guidelines for local educational agencies to establish local school wellness policies, including, at a minimum,—

(1) goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness;

(2) for all foods available on each school campus under the jurisdiction of the local educational agency during the school day, nutrition guidelines that—

(A) are consistent with sections 9 and 17 of this Act, and sections 4 and 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1773, 1779); and

(B) promote student health and reduce childhood obesity;

(3) a requirement that the local educational agency permit parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the general public to participate in the development, implementation, and periodic review and update of the local school wellness policy;

(4) a requirement that the local educational agency inform and update the public (including parents, students, and others in the community) about the content and implementation of the local school wellness policy; and

(5) a requirement that the local educational agency—

(A) periodically measure and make available to the public an assessment on the implementation of the local school wellness policy, including—

(i) the extent to which schools under the jurisdiction of the local educational agency are in compliance with the local school wellness policy;

(ii) the extent to which the local school wellness policy of the local educational agency compares to model local school wellness policies; and

(iii) a description of the progress made in attaining the goals of the local school wellness policy; and

(B) designate 1 or more local educational agency officials or school officials, as appropriate, to ensure that each school complies with the local school wellness policy.

(c) LOCAL DISCRETION.—The local educational agency shall use the guidelines promulgated by the Secretary under subsection (b) to determine specific policies appropriate for the schools under the jurisdiction of the local educational agency.

(d) TECHNICAL ASSISTANCE AND BEST PRACTICES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall provide information and technical assistance to local educational agencies, school food authorities, and [State educational agencies] *State agencies* for use in establishing healthy school environments that are intended to promote student health and wellness.

(2) CONTENT.—The Secretary shall provide technical assistance that—

(A) includes resources and training on designing, implementing, promoting, disseminating, and evaluating local school wellness policies and overcoming barriers to the adoption of local school wellness policies;

(B) includes model local school wellness policies and best practices recommended by Federal agencies, State agencies, and nongovernmental organizations;

(C) includes such other technical assistance as is required to promote sound nutrition and establish healthy school nutrition environments; and

(D) is consistent with the specific needs and requirements of local educational agencies.

(3) STUDY AND REPORT.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary, in conjunction with the Director

of the Centers for Disease Control and Prevention, shall prepare a report on the implementation, strength, and effectiveness of the local school wellness policies carried out in accordance with this section.

(B) STUDY OF LOCAL SCHOOL WELLNESS POLICIES.—The study described in subparagraph (A) shall include——

(i) an analysis of the strength and weaknesses of local school wellness policies and how the policies compare with model local wellness policies recommended under paragraph (2)(B); and

(ii) an assessment of the impact of the local school wellness policies in addressing the requirements of subsection (b).

(C) REPORT.—Not later than January 1, 2014, the Secretary shall submit to the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings of the study.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $3,000,000 for fiscal year 2011, to remain available until expended.

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

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

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

SPECIAL ASSISTANCE

SEC. 11. (a)(1)(A) Except as provided in section 10 of this Act, in each fiscal year each [State educational agency] *State agency* shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the

special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(B) Except as provided in subparagraph (C), (D), (E), or (F), in the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special assistance payments shall be paid to the [State educational agency] *State agency* with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced priced lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(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] *State 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⟧ *State 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 or school district has remained consistent with the income level of the population of the school or school district in the last school year for which the school or school district accepted the applications described in clause (i).

(F) UNIVERSAL MEAL SERVICE IN HIGH POVERTY AREAS.—

(i) DEFINITION OF IDENTIFIED STUDENTS.—The term "identified students" means students certified based on documentation of benefit receipt or categorical eligibility as described in section 245.6a(c)(2) of title 7, Code of Federal Regulations (or successor regulations).

(ii) ELECTION OF SPECIAL ASSISTANCE PAYMENTS.—

(I) IN GENERAL.—A local educational agency may, for all schools in the district or on behalf of certain schools *(including a subset of schools within the local educational agency if the result obtained by dividing the total number of the identified students enrolled in such schools by the total number of all students enrolled in such schools, is above the threshold in clause (viii))* in the district, elect to receive special assistance payments under this subparagraph in lieu of special assistance payments otherwise made available under this paragraph based on applications for free and reduced price lunches if—

(aa) during a period of 4 successive school years, the local educational agency elects to serve all children in the applicable schools free lunches and breakfasts under the school lunch program under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(bb) the local educational agency pays, from sources other than Federal funds, 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.);

(cc) the local educational agency is not a residential child care institution (as that term is used in section 210.2 of title 7, Code of Federal Regulations (or successor regulations)); and

(dd) during the school year prior to the first year of the period for which the local educational agency elects to receive special assistance payments under this subparagraph, the local educational agency or school had a percentage of enrolled students who were identi-

fied students that meets or exceeds the threshold described in clause (viii).

(II) ELECTION TO STOP RECEIVING PAYMENTS.—A local educational agency may, for all schools in the district or on behalf of certain schools in the district, elect to stop receiving special assistance payments under this subparagraph for the following school year by notifying the State agency not later than June 30 of the current school year of the intention to stop receiving special assistance payments under this subparagraph.

(iii) FIRST YEAR OF OPTION.—

(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the first school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 4.

(iv) SECOND, THIRD, OR FOURTH YEAR OF OPTION.—

(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the second, third, or fourth school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the higher of the percentage of identified students at the school or local educational agency as of April 1 of the prior school year or the percentage of identified students at the school or local educational agency as of April 1 of the school year prior to the first year that the school or local educational agency elected to receive special assistance payments under this subparagraph, up to a maximum of 100 percent.

(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in sub-

clause (I) shall be reimbursed at the rate provided under section 4.

(v) GRACE YEAR.—

(I) IN GENERAL.—If, not later than April 1 of the fourth year of a 4-year period described in clause (ii)(I), a school or local educational agency has a percentage of enrolled students who are identified students that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii), the school or local educational agency may elect to receive special assistance payments under subclause (II) for an additional grace year.

(II) SPECIAL ASSISTANCE PAYMENT.—For each month of a grace year, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

(aa) the multiplier described in clause (vii); by

(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

(III) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (II) shall be reimbursed at the rate provided under section 4.

(vi) APPLICATIONS.—A school or local educational agency that receives special assistance payments under this subparagraph may not be required to collect applications for free and reduced price lunches.

(vii) MULTIPLIER.—

(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the multiplier shall be 1.6.

(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use, as determined by the Secretary—

(aa) a multiplier between 1.3 and 1.6; and

(bb) subject to item (aa), a different multiplier for different schools or local educational agencies.

[(viii) THRESHOLD.—

[(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the threshold shall be 40 percent.

[(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use a threshold that is less than 40 percent.]

(viii) THRESHOLD.—

(I) IN GENERAL.—For each school year beginning on or after July 1, 2017, the Secretary shall use a threshold that is not less than 60 percent.

(II) COMMUNITY ELIGIBILITY SELECTION TRANSITION.—In the case of a school that received special assistance payments under this subparagraph during the school year immediately prior to the school year in which the Improving Child Nutrition and Education Act of 2016 was enacted, such school shall, not later than June 30, 2018—

(aa) meet the threshold described in subclause (I); or

(bb) transition from receiving payments under this subparagraph in accordance with subclause (III).

(III) TECHNICAL ASSISTANCE.—In the case of schools described in subclause (II)(bb), the Secretary shall provide technical assistance to ensure that such schools are able to effectively and efficiently transition from receiving payments under this subparagraph to receiving special assistance payments otherwise made available under this paragraph, including communicating the application process to families in a timely manner to ensure continuity of services for eligible families.

(ix) PHASE-IN.—

(I) IN GENERAL.—In selecting States for participation during the phase-in period, the Secretary shall select States with an adequate number and variety of schools and local educational agencies that could benefit from the option under this subparagraph, as determined by the Secretary.

(II) LIMITATION.—The Secretary may not approve additional schools and local educational agencies to receive special assistance payments under this subparagraph after the Secretary has approved schools and local educational agencies in—

(aa) for the school year beginning on July 1, 2011, 3 States; and

(bb) for each of the school years beginning July 1, 2012 and July 1, 2013, an additional 4 States per school year.

(x) ELECTION OF OPTION.—

(I) IN GENERAL.—For each school year beginning on or after July 1, 2014, any local educational agency eligible to make the election described in clause (ii) for all schools in the district or on behalf of certain schools in the district may elect to receive special assistance payments under clause (iii) for the next school year if, not later than June 30 of the current school year, the local educational agency submits to the State agency the percentage of identified students at the school or local educational agency.

(II) STATE AGENCY NOTIFICATION.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with schools or local educational agencies that may be eligible to elect to receive special assistance payments under this subparagraph shall notify—

(aa) each local educational agency that meets or exceeds the threshold described in clause (viii) that the local educational agency is eligible to elect to receive special assistance payments under clause (iii) for the next 4 school years, of the blended reimbursement rate the local educational agency would receive under clause (iii), and of the procedures for the local educational agency to make the election;

(bb) each local educational agency that receives special assistance payments under clause (iii) of the blended reimbursement rate the local educational agency would receive under clause (iv);

(cc) each local educational agency in the fourth year of electing to receive special assistance payments under this subparagraph that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that receives special assistance payments under clause (iv), that the local educational agency may continue to receive such payments for the next school year, of the blended reimbursement rate the local educational agency would receive under clause (v), and of the procedures for the local educational agency to make the election; and

(dd) each local educational agency that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) that the local educational agency may be eligible to elect to receive special assistance payments under clause (iii) if the threshold described in clause (viii) is met by April 1 of the school year or if the threshold is met for a subsequent school year.

(III) PUBLIC NOTIFICATION OF LOCAL EDUCATIONAL AGENCIES.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with 1 or more schools or local educational agencies eligible to elect to receive special assistance payments under clause (iii) shall submit to the Secretary, and the Secretary shall publish, lists of the local educational agencies receiving notices under subclause (II).

(IV) PUBLIC NOTIFICATION OF SCHOOLS.—Not later than May 1 of each school year beginning on or after July 1, 2011, each local educational agency in a State with 1 or more schools eligible to elect to receive special assistance payments under clause (iii) shall submit to the State agency, and the State agency shall publish—

(aa) a list of the schools that meet or exceed the threshold described in clause (viii);

(bb) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that are in the fourth year of receiving special assistance payments under clause (iv); and

(cc) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii).

(xi) IMPLEMENTATION.—

(I) GUIDANCE.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall issue guidance to implement this subparagraph.

(II) REGULATIONS.—[Not later than December 31, 2013] *Not later than one year after the date of enactment of the Improving Child Nutrition and Education Act of 2016*, the Secretary shall promulgate regulations that establish procedures for State agencies, local educational agencies, and schools to meet the requirements of this subparagraph, including exercising the option described in this subparagraph.

(III) PUBLICATION.—[If the Secretary uses the authority provided in clause (vii)(II)(bb) to use a different multiplier for different schools or local educational agencies, for each school year beginning on or after July 1, 2014, not later than April 1, 2014] *If the Secretary uses the authority provided in clause (vii), for each school year beginning on or after July 1, 2017, not less than one year prior to the Secretary electing to use such authority,*, the Secretary shall publish on the website of the Secretary a table that indicates—

(aa) each local educational agency that may elect to receive special assistance payments under clause (ii);

(bb) the blended reimbursement rate that each local educational agency would receive; and

(cc) an explanation of the methodology used to calculate the multiplier or threshold for each school or local educational agency.

(xii) REPORT.—Not later than December 31, 2013, the Secretary shall publish a report that describes—

(I) an estimate of the number of schools and local educational agencies eligible to elect to receive special assistance payments under this subparagraph that do not elect to receive the payments;

(II) for schools and local educational agencies described in subclause (I)—

(aa) barriers to participation in the special assistance option under this subparagraph, as described by the nonparticipating schools and local educational agencies; and

(bb) changes to the special assistance option under this subparagraph that would make eligible schools and local educational agencies more likely to elect to receive special assistance payments;

(III) for schools and local educational agencies that elect to receive special assistance payments under this subparagraph—

(aa) the number of schools and local educational agencies;

(bb) an estimate of the percentage of identified students and the percentage of enrolled students who were certified to receive free or reduced price meals in the school year prior to the election to receive special assistance payments under this subparagraph, and a description of how the ratio between those percentages compares to 1.6;

(cc) an estimate of the number and share of schools and local educational agencies in which more than 80 percent of students are certified for free or reduced price meals that elect to receive special assistance payments under that clause; and

(dd) whether any of the schools or local educational agencies stopped electing to receive special assistance payments under this subparagraph;

(IV) the impact of electing to receive special assistance payments under this subparagraph on—

(aa) program integrity;

(bb) whether a breakfast program is offered;

(cc) the type of breakfast program offered;

(dd) the nutritional quality of school meals; and

(ee) program participation; and

(V) the multiplier and threshold, as described in clauses (vii) and (viii) respectively, that the Secretary will use for each school year beginning on or after July 1, 2014 and the rationale for any change in the multiplier or threshold.

(xiii) FUNDING.—

(I) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated,

the Secretary of the Treasury shall transfer to the Secretary to carry out clause (xii) $5,000,000, to remain available until September 30, 2014.

(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out clause (xii) the funds transferred under subclause (I), without further appropriation.

(2) The special assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special assistance factor for reduced price lunches shall be 40 cents less than the special assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on [July 1] *February 15*, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 4 of this Act).

(ii) the special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966).

(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

(B) COMPUTATION OF ADJUSTMENT.—

(i) IN GENERAL.—The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(ii) BASIS.—Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available.

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

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in providing free and reduced price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d)(1) The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the [State educational agency] *State agency* the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) On request of the Secretary, the [State educational agency] *State agency* of each State shall report to the Secretary the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(e) Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced price, not exceeding the price specified in section 9(b)(9) of this Act, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced priced lunch shall be made by the school, nor shall there by any overt identification of any such child by any means.

(g) UNIVERSAL MEAL SERVICE THROUGH CENSUS DATA.—

(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall identify alternatives to—

(A) the daily counting by category of meals provided by school lunch programs under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(B) the use of annual applications as the basis for eligibility to receive free meals or reduced price meals under this Act.

(2) RECOMMENDATIONS.—

(A) CONSIDERATIONS.—

(i) IN GENERAL.—In identifying alternatives under paragraph (1), the Secretary shall consider the recommendations of the Committee on National Statistics of the National Academy of Sciences relating to use of the American Community Survey of the Bureau of the Census and other data sources.

(ii) SOCIOECONOMIC SURVEY.—The Secretary shall consider use of a periodic socioeconomic survey of households of children attending school in the school food authority in not more than 3 school food authorities participating in the school lunch program under this Act.

(iii) SURVEY PARAMETERS.—The Secretary shall establish requirements for the use of a socioeconomic survey under clause (ii), which shall—

(I) include criteria for survey design, sample frame validity, minimum level of statistical precision, minimum survey response rates, frequency of data collection, and other criteria as determined by the Secretary;

(II) be consistent with the Standards and Guidelines for Statistical Surveys, as published by the Office of Management and Budget;

(III) be consistent with standards and requirements that ensure proper use of Federal funds; and

(IV) specify that the socioeconomic survey be conducted at least once every 4 years.

(B) USE OF ALTERNATIVES.—Alternatives described in subparagraph (A) that provide accurate and effective means of providing meal reimbursement consistent with the eligibility status of students may be—

(i) implemented for use in schools or by school food authorities that agree—

(I) to serve all breakfasts and lunches to students at no cost in accordance with regulations issued by the Secretary; and

(II) to pay, from sources other than Federal funds, the costs of serving any lunches and breakfasts that are in excess of the value of assistance received under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches and breakfasts served during the applicable period; or

(ii) further tested through demonstration projects carried out by the Secretary in accordance with subparagraph (C).

(C) DEMONSTRATION PROJECTS.—

(i) IN GENERAL.—For the purpose of carrying out demonstration projects described in subparagraph (B), the Secretary may waive any requirement of this Act relating to—

(I) counting of meals provided by school lunch or breakfast programs;

(II) applications for eligibility for free or reduced priced meals; or

(III) required direct certification under section 9(b)(4).

(ii) NUMBER OF PROJECTS.—The Secretary shall carry out demonstration projects under this paragraph in not more than 5 local educational agencies for each alternative model that is being tested.

(iii) LIMITATION.—A demonstration project carried out under this paragraph shall have a duration of not more than 3 years.

(iv) EVALUATION.—The Secretary shall evaluate each demonstration project carried out under this paragraph in accordance with procedures established by the Secretary.

(v) REQUIREMENT.—In carrying out evaluations under clause (iv), the Secretary shall evaluate, using comparisons with local educational agencies with similar demographic characteristics—

(I) the accuracy of the 1 or more methodologies adopted as compared to the daily counting by cat-

egory of meals provided by school meal programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and the use of annual applications as the basis for eligibility to receive free or reduced price meals under those Acts;

(II) the effect of the 1 or more methodologies adopted on participation in programs under those Acts;

(III) the effect of the 1 or more methodologies adopted on administration of programs under those Acts; and

(IV) such other matters as the Secretary determines to be appropriate.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) States, [State educational agencies] *State agencies*, and schools participating in the school lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. 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 is necessary.

(b) AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall incorporate, in the agreement of the Secretary with the State agencies administering programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the express requirements with respect to the operation of the programs to the extent applicable and such other provisions as in the opinion of the Secretary are reasonably necessary or appropriate to effectuate the purposes of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) EXPECTATIONS FOR USE OF FUNDS.—Agreements described in paragraph (1) shall include a provision that—

(A) supports full use of Federal funds provided to State agencies for the administration of programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(B) excludes the Federal funds from State budget restrictions or limitations including, at a minimum—

(i) hiring freezes;

(ii) work furloughs; and

(iii) travel restrictions.

(c) In carrying out the provisions of this Act, the Secretary shall not impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this Act—

(1) CHILD.—

(A) IN GENERAL.—The term "child" includes an individual, regardless of age, who—

(i) is determined by a [State educational agency] *State agency*, in accordance with regulations pre-

scribed by the Secretary, to have one or more disabilities; and

(ii) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with disabilities.

(B) RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.—No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.

(2) "Commodity only schools" means schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

(3) 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⟧ *U.S.C.* 760 et seq.).

(4) LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—The term "local educational agency" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

(B) INCLUSION.—The term "local educational agency" includes, in the case of a private nonprofit school, an appropriate entity determined by the Secretary.

(5) "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.

(6) "School year" means the annual period from July 1 through June 30.

(7) "Secretary" means the Secretary of Agriculture.

(8) "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.

⟦(9) " 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.⟧

(9) STATE AGENCY.—The term "State agency" means—

(A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer);

(B) a board of education controlling the State department of education;

(C) the State Commissioner or individual who administers agricultural programs in the State; or

(D) a State official the State legislature designates to administer the programs under this Act.

(e) The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

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

(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $25,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs.

(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965.

(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.

(l)(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under ei-

ther such Act, for a State or eligible service provider that requests a waiver if—

(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

(i) identifies the statutory or regulatory requirements that are requested to be waived;

(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted; and

(iv) includes a description of the impediments to the efficient operation and administration of the program.

(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

(3) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

(4) The Secretary may not grant a waiver under this subsection that increases Federal costs or that relates to—

(A) the nutritional content of meals served;

(B) Federal reimbursement rates;

(C) the provision of free and reduced price meals;

(D) limits on the price charged for a reduced price meal;

(E) maintenance of effort;

(F) equitable participation of children in private schools;

(G) distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(H) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

(I) prohibiting the operation of a profit producing program;

(J) the sale of competitive foods;

(K) the commodity distribution program under section 14;

(L) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or

(M) enforcement of any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

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

(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

(6) The Secretary shall annually submit to the ▌Committee on Education and Labor▌ *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

(A) summarizing the use of waivers by the State and eligible service providers;

(B) describing whether the waivers resulted in improved services to children;

(C) describing the impact of the waivers on providing nutritional meals to participants; and

(D) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

(7) As used in this subsection, the term "eligible service provider" means—

(A) a local school food service authority;

(B) a service institution or private nonprofit organization described in section 13; or

(C) a family or group day care home sponsoring organization described in section 17.

(m) PROCUREMENT TRAINING.—

(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (4), the Secretary shall provide technical assistance and training to States, State agencies, schools, and school food authorities in the procurement of goods and services for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)).

(2) BUY AMERICAN TRAINING.—Activities carried out under paragraph (1) shall include technical assistance and training to ensure compliance with subsection (n).

(3) PROCURING SAFE FOODS.—Activities carried out under paragraph (1) shall include technical assistance and training on procuring safe foods, including the use of model specifications for procuring safe foods.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000 for each of fiscal years 2010 through [2015] *2021*, to remain available until expended.

(n) BUY AMERICAN.—

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

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

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

(2) REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(B) LIMITATIONS.—Subparagraph (A) shall apply only to—

(i) a school food authority located in the contiguous United States; and

(ii) a purchase of a domestic commodity or product for the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(3) APPLICABILITY TO HAWAII.—Paragraph (2)(A) shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(4) APPLICABILITY TO PUERTO RICO.—Paragraph (2)(A) shall apply to a school food authority in the Commonwealth of Puerto Rico with respect to domestic commodities or products that are produced in the Commonwealth of Puerto Rico in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(o) PROCUREMENT CONTRACTS.—In acquiring a good or service for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), a State, State agency, school, or school food authority may enter into a contract with a person that has provided specification information to the State, State agency, school, or school food au-

thority for use in developing contract specifications for acquiring such good or service.

[(p) PRICE FOR A PAID LUNCH.—

[(1) DEFINITION OF PAID LUNCH.—In this subsection, the term "paid lunch" means a reimbursable lunch served to students who are not certified to receive free or reduced price meals.

[(2) REQUIREMENT.—

[(A) IN GENERAL.—For each school year beginning July 1, 2011, each school food authority shall establish a price for paid lunches in accordance with this subsection.

[(B) LOWER PRICE.—

[(i) IN GENERAL.—In the case of a school food authority that established a price for a paid lunch in the previous school year that was less than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than the price charged in the previous school year, as adjusted by a percentage equal to the sum obtained by adding—

[(I) 2 percent; and

[(II) the percentage change in the Consumer Price Index for All Urban Consumers (food away from home index) used to increase the Federal reimbursement rate under section 11 for the most recent school year for which data are available, as published in the Federal Register.

[(ii) ROUNDING.—A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

[(iii) MAXIMUM REQUIRED PRICE INCREASE.—

[(I) IN GENERAL.—The maximum annual average price increase required to meet the requirements of this subparagraph shall not exceed 10 cents for any school food authority.

[(II) DISCRETIONARY INCREASE.—A school food authority may increase the average price for a paid lunch for a school year by more than 10 cents.

[(C) EQUAL OR GREATER PRICE.—

[(i) IN GENERAL.—In the case of a school food authority that established an average price for a paid lunch in the previous school year that was equal to or greater than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch.

[(ii) ROUNDING.—A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

[(3) EXCEPTIONS.—

[(A) REDUCTION IN PRICE.—A school food authority may reduce the average price of a paid lunch established under this subsection if the State agency ensures that funding from non-Federal sources (other than in-kind contributions) is added to the nonprofit school food service account of the school food authority in an amount estimated to be equal to at least the difference between—

[(i) the average price required of the school food authority for the paid lunches under paragraph (2); and

[(ii) the average price charged by the school food authority for the paid lunches.

[(B) NON-FEDERAL SOURCES.—For the purposes of subparagraph (A), non-Federal sources does not include revenue from the sale of foods sold in competition with meals served under the school lunch program authorized under this Act or the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

[(C) OTHER PROGRAMS.—This subsection shall not apply to lunches provided under section 17 of this Act.

[(4) REGULATIONS.—The Secretary shall establish procedures to carry out this subsection, including collecting and publishing the prices that school food authorities charge for paid meals on an annual basis and procedures that allow school food authorities to average the pricing of paid lunches at schools throughout the jurisdiction of the school food authority.]

[(q)] *(p)* NONPROGRAM FOOD SALES.—

(1) DEFINITION OF NONPROGRAM FOOD.—In this subsection:

(A) IN GENERAL.—The term "nonprogram food" means food that is—

(i) sold in a participating school other than a reimbursable meal provided under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(ii) purchased using funds from the nonprofit school food service account of the school food authority of the school.

(B) INCLUSION.—The term "nonprogram food" includes food that is sold in competition with a program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) REVENUES.—

(A) IN GENERAL.—The proportion of total school food service revenue provided by the sale of nonprogram foods to the total revenue of the school food service account shall be equal to or greater than the proportion of total food costs associated with obtaining nonprogram foods to the total costs associated with obtaining program and nonprogram foods from the account.

(B) ACCRUAL.—All revenue from the sale of nonprogram foods shall accrue to the nonprofit school food service account of a participating school food authority.

(C) EFFECTIVE DATE.—This subsection shall be effective beginning on July 1, 2011.

[(r)] *(q)* DISQUALIFIED SCHOOLS, INSTITUTIONS, AND INDIVIDUALS.—Any school, institution, service institution, facility, or individual that has been terminated from any program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and is on a list of disqualified institutions and individuals under section 13 or section 17(d)(5)(E) of this Act may not be approved to participate in or administer any program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

SEC. 13. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) AREA IN WHICH POOR ECONOMIC CONDITIONS EXIST.—

(i) IN GENERAL.—Subject to clause (ii), the term "area in which poor economic conditions exist", as the term relates to an area in which a program food service site is located, means—

(I) the attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(II) a geographic area, as defined by the Secretary based on the most recent census data available, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(III) an area—

(aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and

(bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(IV) a geographic area, as defined by the Secretary based on information provided from a department of welfare or zoning commission, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(V) an area for which the program food service site demonstrates through other means approved by the Secretary that at least 50 percent of the children enrolled at the program food service site are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(ii) DURATION OF DETERMINATION.—A determination that an area is an "area in which poor economic conditions exist" under clause (i) shall be in effect for—

(I) in the case of an area described in clause (i)(I), 5 years;

(II) in the case of an area described in clause (i)(II), until more recent census data are available;

(III) in the case of an area described in clause (i)(III), 1 year; and

(IV) in the case of an area described in subclause (IV) or (V) of clause (i), a period of time to be determined by the Secretary, but not less than 1 year.

(B) CHILDREN.—The term "children" means—

(i) individuals who are 18 years of age and under; and

(ii) individuals who are older than 18 years of age who are—

(I) determined by a [State educational agency] *State agency* or a local public educational agency of a State, in accordance with regulations promulgated by the Secretary, to have a disability, and

(II) participating in a public or nonprofit private school program established for individuals who have a disability.

(C) PROGRAM.—The term "program" means the summer food service program for children authorized by this section.

(D) SERVICE INSTITUTION.—The term "service institution" means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp, that develops special summer or school vacation programs providing food service similar to food service made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(E) STATE.—The term "State" means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands; and

(vii) the United States Virgin Islands.

(2) PROGRAM AUTHORIZATION.—

(A) IN GENERAL.—The Secretary may carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit summer food service programs for children in service institutions.

(B) PREPARATION OF FOOD.—

(i) IN GENERAL.—To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools.

(ii) INFORMATION AND TECHNICAL ASSISTANCE.—The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

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

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

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

(ii) qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) PRIORITY.—

(A) IN GENERAL.—The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(i) Local schools.

(ii) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

(iii) New public institutions.

(iv) New private nonprofit organizations eligible under paragraph (7).

(B) RURAL AREAS.—The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(C) EDUCATIONAL AND ENRICHMENT ACTIVITIES.—In determining participation under subparagraph (A), the State shall prioritize applications that include an educational or enrichment activity, or demonstrate a partnership with an entity providing such activity.

(5) CAMPS.—Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966.

(6) GOVERNMENT INSTITUTIONS.—Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7) PRIVATE NONPROFIT ORGANIZATIONS.—

(A) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—In this paragraph, the term "private nonprofit organization" means an organization that—

(i) exercises full control and authority over the operation of the program at all sites under the sponsorship of the organization;

(ii) provides ongoing year-round activities for children or families;

(iii) demonstrates that the organization has adequate management and the fiscal capacity to operate a program under this section;

(iv) is an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code; and

(v) meets applicable State and local health, safety, and sanitation standards.

(B) ELIGIBILITY.—Private nonprofit organizations (other than organizations eligible under paragraph (1)) shall be eligible for the program under the same terms and conditions as other service institutions.

[(8) SEAMLESS SUMMER OPTION.—Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this Act or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

[(9) EXEMPTION.—

[(A) IN GENERAL.—For each of calendar years 2005 and 2006 in rural areas of the State of Pennsylvania (as determined by the Secretary), the threshold for determining "areas in which poor economic conditions exist" under paragraph (1)(C) shall be 40 percent.

[(B) EVALUATION.—

[(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in subparagraph (A) as compared to the eligibility criteria described in paragraph (1)(C).

[(ii) IMPACT.—The evaluation shall assess the impact of the threshold in subparagraph (A) on—

[(I) the number of sponsors offering meals through the summer food service program;

[(II) the number of sites offering meals through the summer food service program;

[(III) the geographic location of the sites;

[(IV) services provided to eligible children; and

[(V) other factors determined by the Secretary.

[(iii) REPORT.—Not later than January 1, 2008, 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 describing the results of the evaluation under this subparagraph.

[(iv) FUNDING.—

[(I) IN GENERAL.—On January 1, 2005, 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 subparagraph $400,000, to remain available until expended.

[(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subparagraph the funds transferred under subclause (I), without further appropriation.

[(10) SUMMER FOOD SERVICE RURAL TRANSPORTATION.—

[(A) IN GENERAL.—The Secretary shall provide grants, through not more than 5 eligible State agencies selected by the Secretary, to not more than 60 eligible service institutions selected by the Secretary to increase participation at congregate feeding sites in the summer food service program for children authorized by this section through innovative approaches to limited transportation in rural areas.

[(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph—

[(i) a State agency shall submit an application to the Secretary, in such manner as the Secretary shall establish, and meet criteria established by the Secretary; and

[(ii) a service institution shall agree to the terms and conditions of the grant, as established by the Secretary.

[(C) DURATION.—A service institution that receives a grant under this paragraph may use the grant funds during the 3-fiscal year period beginning in fiscal year 2006.

[(D) REPORTS.—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—

[(i) not later than January 1, 2008, an interim report that describes—

[(I) the use of funds made available under this paragraph; and

[(II) any progress made by using funds from each grant provided under this paragraph; and

[(ii) not later than January 1, 2009, a final report that describes—

[(I) the use of funds made available under this paragraph;

[(II) any progress made by using funds from each grant provided under this paragraph;

[(III) the impact of this paragraph on participation in the summer food service program for children authorized by this section; and

[(IV) any recommendations by the Secretary concerning the activities of the service institutions receiving grants under this paragraph.

[(E) FUNDING.—

[(i) 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 paragraph—

[(I) on October 1, 2005, $2,000,000; and

[(II) on October 1, 2006, and October 1, 2007, $1,000,000.

[(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

[(iii) AVAILABILITY OF FUNDS.—Funds transferred under clause (i) shall remain available until expended.

[(iv) REALLOCATION.—The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.]

(8) STREAMLINING.—

(A) SEAMLESS SUMMER.—Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this Act or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(B) SUMMER AND CACFP AT-RISK STREAMLINING.—

(i) IN GENERAL.—Notwithstanding subsections (b)(2) and (c)(1), in order for States and service institutions to operate more effectively through the year, a State may elect to streamline and simplify program operations and requirements by reducing paperwork and other administrative burdens, and consolidating training, monitoring, and other requirements, while retaining appropriate measures of program integrity. Such State election may include the utilization of technical assistance provided to the State under clause (iv) and shall apply to service institutions that—

(I) are described in paragraphs (6) or (7);

(II) provide care to at-risk school children (as defined in section 17(r)(2)), and may be eligible child care centers or homes (as defined under section 17(a)(2)); and

(III) are not public schools.

(ii) STREAMLINED REIMBURSEMENT.—States that demonstrate streamlined and simplified program operations under clause (i) for service institutions, and that are selected by the Secretary under clause (v), shall streamline reimbursements for such service institutions by providing reimbursements for—

(I) lunch and either breakfast or a supplement served to at-risk school children—

(aa) during each day of operation during the months of May through September; and

(bb) in the case of a service institution that provides meal service to such children who are not in school for a period during the school year due to a natural disaster, building repair, court order, or similar cause, at any time during such period in that school year; and

(II) up to 1 meal and 1 supplement served to at-risk school children during each day of operation outside of school hours during the regular or continuous school calendar, including after school, weekends, and school holidays.

(iii) RATE OF REIMBURSEMENT.—The State shall reimburse service institutions seeking reimbursement under this subparagraph at a rate that is consistent with section 17(r)(4)(B).

(iv) TECHNICAL ASSISTANCE.—

(I) IN GENERAL.—Not later than December 31, 2016, the Secretary shall develop guidance and provide technical assistance for States and service institutions to assist in the implementation of this subparagraph, including by identifying areas of programmatic overlap in the program under this section and the child and adult care food program under section 17 in order for States to simplify the administration and oversight of each such program.

(II) GUIDANCE.—Such guidance shall include information on possible ways States may ensure participation under this subparagraph will lead to reduced paperwork and other administrative burdens, including recommendations for streamlined program applications, reporting requirements, inspections, and other areas of potential duplication, while retaining appropriate measures of program integrity.

(III) OTHER STATES.—Information provided under this clause shall be provided in such a manner that any State may identify areas of programmatic overlap, and reduce paperwork and other burdens, even if such State has not yet been selected to provide reimbursements to service institutions in accordance with this subparagraph.

(v) SUCCESSFUL IMPLEMENTATION.—

(I) IN GENERAL.—A State seeking to provide reimbursements in accordance this subparagraph

shall demonstrate to the Secretary the ways in which the State has used the election under clause (i) to reduce paperwork and other administrative burdens while retaining appropriate measures of program integrity, which may include the utilization of technical assistance provided to the State under clause (iv).

(II) INITIAL SELECTION OF STATES.—

(aa) IN GENERAL.—The Secretary shall select not more than 5 States to provide reimbursements in accordance with this subparagraph, beginning in May 2017, if such States have the capacity to effectively implement this subparagraph, as demonstrated by streamlining and simplifying program operations in accordance with subclause (I).

(bb) UPDATE.—When appropriate, but not later than May 31, 2018, and consistent with subclause (V)(bb), the Secretary shall update the information under clause (iv).

(III) NEXT SELECTION OF STATES.—

(aa) IN GENERAL.—If the Secretary determines that additional States have the capacity described in subclause (I) and additional best practices could be provided by further implementation of this subparagraph, the Secretary may select not more than 5 such States to provide reimbursements in accordance with this subparagraph beginning in October 2018.

(bb) UPDATE.—Not later than September 30, 2019, and consistent with subclause (V)(bb), the Secretary shall update the information under clause (iv) to reflect the further implementation of this subparagraph.

(IV) ADDITIONAL SELECTION OF STATES.—The Secretary may select additional States to provide reimbursements in accordance with this subparagraph beginning in May 2020, and each year thereafter, if such States have the capacity described in subclause (I).

(V) BEST PRACTICES.—

(aa) IN GENERAL.—As a condition of being selected under this clause, a State shall provide, in such time and in such manner as the Secretary may reasonably require, information to the Secretary regarding best practices of successful implementation of this subparagraph.

(bb) UPDATE.—The Secretary shall continue to periodically update the information under clause (iv) to include the best practices provided under item (aa) for continued successful implementation of this subparagraph.

[(11)**]** *(9)* OUTREACH TO ELIGIBLE FAMILIES.—

(A) IN GENERAL.—The Secretary shall require each State agency that administers the national school lunch program under this Act to ensure that, to the maximum extent practicable, school food authorities participating in the school lunch program under this Act cooperate with participating service institutions to distribute materials to inform families of—

(i) the availability and location of summer food service program meals; and

(ii) the availability of reimbursable breakfasts served under the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(B) INCLUSIONS.—Informational activities carried out under subparagraph (A) may include—

(i) the development or dissemination of printed materials, to be distributed to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals;

(ii) the development or dissemination of materials, to be distributed using electronic means to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals; and

(iii) such other activities as are approved by the applicable State agency to promote the availability and location of summer food service program meals to school children and the families of school children.

(C) MULTIPLE STATE AGENCIES.—If the State agency administering the program under this section is not the same State agency that administers the school lunch program under this Act, the 2 State agencies shall work cooperatively to implement this paragraph.

[(12) SUMMER FOOD SERVICE SUPPORT GRANTS.—

[(A) IN GENERAL.—The Secretary shall use funds made available to carry out this paragraph to award grants on a competitive basis to State agencies to provide to eligible service institutions—

[(i) technical assistance;

[(ii) assistance with site improvement costs; or

[(iii) other innovative activities that improve and encourage sponsor retention.

[(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph, a State agency shall submit an application to the Secretary in such manner, at such time, and containing such information as the Secretary may require.

[(C) PRIORITY.—In making grants under this paragraph, the Secretary shall give priority to—

[(i) applications from States with significant low-income child populations; and

[(ii) State plans that demonstrate innovative approaches to retain and support summer food service

programs after the expiration of the start-up funding grants.

[(D) USE OF FUNDS.—A State and eligible service institution may use funds made available under this paragraph to pay for such costs as the Secretary determines are necessary to establish and maintain summer food service programs.

[(E) REALLOCATION.—The Secretary may reallocate any amounts made available to carry out this paragraph that are not obligated or expended, as determined by the Secretary.

[(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $20,000,000 for fiscal years 2011 through 2015.]

(10) TEMPORARY ALLOWANCE FOR OFF-SITE CONSUMPTION.—

(A) IN GENERAL.—Beginning in May 2017, the Secretary shall grant requests made by a State to allow children who are participating in the program but for whom an operation under paragraph (12) is not available, to consume meals away from a congregate feeding site when the program is available to such children at the site, but—

(i) the site is closed due to extreme weather conditions;

(ii) violence or other public safety concerns in the area temporarily prevent children from traveling safely to the site; or

(iii) other emergency circumstances, as defined by the State, prevent access to the site.

(B) LIMITATIONS.—In granting a request under subparagraph (A), the Secretary shall ensure that—

(i) allowances are issued by a State only between the months of May through September;

(ii) allowances are granted in the most efficient and effective manner to ensure programs and States can quickly respond and adapt to the circumstances described in clauses (i) through (iii) of subparagraph (A); and

(iii) once an allowance is issued, any meal in which a component is offered but not served is not reimbursed under subsection (b).

(C) STATE PLAN.—As part of the management and administration plan described in subsection (n), a State shall describe—

(i) the approval process, including the timeline, the State would undertake to issue an allowance;

(ii) standards for what circumstances merit an allowance, how long an allowance will last, and when an allowance may be extended; and

(iii) how the program would operate once an allowance is issued.

(11) OFF-SITE CONSUMPTION.—

(A) IN GENERAL.—Beginning in May 2017, a State may elect for service institutions to carry out an off-site consumption operation in the State to provide summer food service program meals to children eligible to participate in

the program that such children may consume away from a congregate feeding site.

(B) AVAILABILITY.—The operation described in subparagraph (A) shall be available to a child described in subparagraph (A) only if the child lives in an area that is eligible to participate in the summer food service program, but that is not currently being served, and such area—

(i) is rural, as defined by the State; or

(ii) is not rural, and is an area in which more than 80 percent of students are certified as eligible for free or reduced price meals.

(C) ADMINISTRATION.—

(i) IN GENERAL.—The following shall apply to an operation described in subparagraph (A):

(I) The number of meals served to each child in a single meal service is limited to 2 meals, and the number of meals in a seven-day period shall be limited to 10 meals.

(II) Any meal served shall meet the same standards for nutrition, safety, and quality as a meal served at a congregate feeding site.

(III) Any meal in which a component is offered but not served shall not be reimbursed under subsection (b).

(IV) Each State shall give priority to children who are living where congregate feeding sites are not accessible.

(V) Nothing in this section shall be construed to allow congregate feeding sites to cease from operating in order to be replaced by off-site consumption operations under this paragraph.

(VI) A State shall not—

(aa) operate an off-site consumption operation simultaneously in the same service area with a congregate feeding site;

(bb) use more than 10 percent of funds received for administrative expenses to carry out this paragraph; or

(cc) implement an off-site consumption operation in all service areas in the State.

(ii) STATE PLAN.—Each State choosing to provide summer food service program meals through an off-site consumption operation under this paragraph shall describe how the State plans to implement the operation in the management and administration plan in subsection (n), which shall include information on how the State will—

(I) document operation, including implementation;

(II) determine the method for selecting eligible areas and eligible service institutions to most effectively deliver summer food service program meals in the manner described in this paragraph;

(III) design mechanisms by which households with children eligible to participate in the program

could indicate a need for meal service through such an operation;

(IV) develop an appropriate maintenance of effort requirement for service institutions currently operating congregate feeding sites;

(V) develop requirements for implementing safety and security measures to ensure that safety and security through such an operation is equivalent to such measures at a congregate feeding site; and

(VI) periodically reevaluate the potential for children to be served at a congregate feeding site.

(b) SERVICE INSTITUTIONS.—

(1) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and in addition to amounts made available under paragraph (3), payments to service institutions shall be—

(i) $1.97 for each lunch and supper served;

(ii) $1.13 for each breakfast served; and

(iii) 46 cents for each meal supplement served.

(B) ADJUSTMENTS.—Amounts specified in subparagraph (A) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.

(C) SEAMLESS SUMMER REIMBURSEMENTS.—A service institution described in subsection (a)(8) shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this Act (other than subparagraphs (A) and (B) of this paragraph and paragraph (4)) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.

(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to 3 meals, or 2 meals and 1 supplement, during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap.

(3) PERMANENT OPERATING AGREEMENTS AND BUDGET FOR ADMINISTRATIVE COSTS.—

(A) PERMANENT OPERATING AGREEMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the program, a service institution that meets the conditions of eligibility described in this section and in regulations promulgated by the Secretary, shall be required to enter into a permanent agreement with the applicable State agency.

(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to

ensure that the service institution is in compliance with all requirements established in this section or by the Secretary.

(iii) TERMINATION.—A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the service institution and State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with subsection (q) and with regulations promulgated by the Secretary; or

(bb) on termination of participation of the service institution in the program.

(B) BUDGET FOR ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—When applying for participation in the program, and not less frequently than annually thereafter, each service institution shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State.

(ii) AMOUNT.—Payment to service institutions for administrative costs shall equal the levels determined by the Secretary pursuant to the study required in paragraph (4).

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-related costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c)(1) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause.

(2) Children participating in National Youth Sports Programs operated by higher education institutions shall be eligible to partici-

pate in the program under this paragraph on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program.

(d) Not later than April 15, May 15, and July 1 of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service institution. The State shall not release the second month's advance program payment to any service institution (excluding a school) that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities. No advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided,* That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to

service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f)(1) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research.

(2) The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection.

(3) Meals described in paragraph (1) shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.

(4) To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State.

(5) Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) conformance with standards set by local health authorities.

(6) Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

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

(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications and handbooks by February 1 of each fiscal year. In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to

time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949, or purchased under section 32 of the Act of August 24, 1935 or section 709 of the Food and Agriculture Act of 1965. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided,* That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

[(3) To provide]

(3) NUTRITIONAL AND FOOD QUALITY MONITORING.—

(A) IN GENERAL.—To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(B) INSUFFICIENT FUNDS.—

(i) IN GENERAL.—If funds provided under subparagraph (A) are insufficient to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality, as required under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), State agencies may elect to use funds described in paragraph (1) for those activities.

(ii) LIMITATION.—Funds described in clause (i) shall not exceed the lesser of—

(I) actual costs; or

(II) 1 percent of program funds.

(l)(1) Service institutions may contract on a competitive basis with food service management companies for the furnishing of meals or management of the entire food service under the program,

except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity.

(2) Each State may provide for the registration of food service management companies.

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

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

(m) States and service institutions 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 necessary.

[(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children; (3) the State's plans for providing technical assistance and training eligible service institutions; (4) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (5) the State's plan for timely and effective action against program violators; and (6) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary.**]**

(n) STATE PLAN.—Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its in-

tent to administer the program and shall submit, by February 15, a management and administration plan for the program for the fiscal year, which shall include, at a minimum—

(1) the State's administrative budget for the fiscal year; and

(2) the State's plans for—

(A) use of program funds and additional State or private funds to reach children with the greatest need, to the maximum extent practicable;

(B) strengthening the congregate feeding model for program delivery, including a process for identifying gaps in service and barriers to access;

(C) administrative and fiscal plans for using the allowance described in subsection (a)(10) and, if applicable, the option described in subsection (a)(11) to assist service institutions in reaching children with the greatest need;

(D) providing technical assistance and training for eligible service institutions;

(E) monitoring and inspecting service institutions, feeding sites, and food service management companies and ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently, and in compliance with the program;

(F) timely and effective action against program violators; and

(G) ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary.

(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a fine or not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons to any act to effect the object of the conspiracy or collusion,

each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

(2) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraph (1) not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

(q) TERMINATION AND DISQUALIFICATION OF PARTICIPATING ORGANIZATIONS.—

(1) IN GENERAL.—Each State agency shall follow the procedures established by the Secretary for the termination of participation of institutions under the program.

(2) FAIR HEARING.—The procedures described in paragraph (1) shall include provision for a fair hearing and prompt determination for any service institution aggrieved by any action of the State agency that affects—

(A) the participation of the service institution in the program; or

(B) the claim of the service institution for reimbursement under this section.

(3) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—

(A) IN GENERAL.—The Secretary shall maintain a list of service institutions and individuals that have been terminated or otherwise disqualified from participation in the program under the procedures established pursuant to paragraph (1).

(B) AVAILABILITY.—The Secretary shall make the list available to States for use in approving or renewing applications by service institutions for participation in the program.

(r) For the period beginning October 1, 1977, and ending September 30, [2015] *2021*, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

COMMODITY DISTRIBUTION PROGRAM

SEC. 14. (a) Notwithstanding any other provision of law, the Secretary shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products), for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title III of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b)(1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

(2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

(c) The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily purchased for donation under ⟦section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4))⟧ *section 311(c)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(4))* or for cash payments in lieu of such donations under section 311(b)(1) of such Act ⟦(42 U.S.C. 3030(b)(1))⟧ *(42 U.S.C. 3030a(b)(1))*. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966.

(e) Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

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

(g)(1) As used in this subsection, the term "eligible school district" has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

[(h) NOTICE OF IRRADIATED FOOD PRODUCTS.—

[(1) IN GENERAL.—The Secretary shall develop a policy and establish procedures for the purchase and distribution of irradiated food products in school meals programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

[(2) MINIMUM REQUIREMENTS.—The policy and procedures shall ensure, at a minimum, that—

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

[(B) reimbursements to schools for irradiated food products are equal to reimbursements to schools for food products that are not irradiated;

[(C) States and school food authorities are provided factual information on the science and evidence regarding irradiation technology, including—

[(i) notice that irradiation is not a substitute for safe food handling techniques; and

[(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals programs;

[(D) States and school food authorities are provided model procedures for providing to school food authorities, parents, and students—

[(i) factual information on the science and evidence regarding irradiation technology; and

[(ii) any other similar information determined by the Secretary to be necessary to promote food safety in school meals;

[(E) irradiated food products distributed to the Federal school meals program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) are labeled with a symbol or other printed notice that—

[(i) indicates that the product was irradiated; and

[(ii) is prominently displayed in a clear and understandable format on the container;

[(F) irradiated food products are not commingled in containers with food products that are not irradiated; and

[(G) schools that offer irradiated food products are encouraged to offer alternatives to irradiated food products as part of the meal plan used by the schools.]

* * * * * * *

ELECTION TO RECEIVE CASH PAYMENTS

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

(b) When such payments are made, the [State educational agency] *State agency* shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

SEC. 17. CHILD AND ADULT CARE FOOD PROGRAM.

(a) PROGRAM PURPOSE, GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

(1) IN GENERAL.—

(A) PROGRAM PURPOSE.—

(i) FINDINGS.—Congress finds that—

(I) eating habits and other wellness-related behavior habits are established early in life; and

(II) good nutrition and wellness are important contributors to the overall health of young children and essential to cognitive development.

(ii) PURPOSE.—The purpose of the program authorized by this section is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

(B) GRANT AUTHORITY.—The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care.

(2) DEFINITION OF INSTITUTION.—In this section, the term "institution" means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B) any other private organization providing nonresidential child care or day care outside school hours for school children, [if] *if, during the month preceding the date of submission of the applicable initial application or reapplication—*

(i) 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

(ii) the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

(i) described in subparagraph (B); or

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

(E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; [and]

(F) any emergency shelter (as defined in subsection (t))[.]*;*

(G) any public or licensed nonprofit private residential child care institution (as defined in subsection (v)(1)) that is not concurrently receiving reimbursement under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(H) any boarding school funded by the Bureau of Indian Education that is not concurrently receiving reimbursements under such school lunch program or school breakfast program.

(3) AGE LIMIT.—Except as provided in [subsection (r)] *subsections (r) and (v)*, reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities).

(4) ADDITIONAL GUIDELINES.—The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

(5) LICENSING.—In order to be eligible, an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

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

(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

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

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

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

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

(6) ELIGIBILITY CRITERIA.—No institution shall be eligible to participate in the program unless it satisfies the following criteria:

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

(B) has not been seriously deficient in its operation of the child and adult care food program, or any other program under this Act or the Child Nutrition Act of 1966, or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, for a period of time specified by the Secretary;

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

(ii) in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accordance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes;

(D) in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited;

(E) in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibilities and duties of the employees of the organization with respect to the program; and

(F) in the case of a sponsoring organization that applies for initial participation in the program on or after the date of the enactment of this subparagraph and that operates in a State that requires such institutions to be bonded

under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.

(7) DURATION OF DETERMINATION.—With respect to an institution described in paragraph (2)(B), an eligibility determination under this subsection shall remain in effect for a period of 4 months after the date such institution is approved by the State under subsection (d).

(b) [For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the] *The* Secretary shall provide cash assistance to States for meals as provided in subsection (f) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

(c)(1) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11(a) of this Act).

(3) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in 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 meets the eligibility criteria prescribed under section 645(a)(1)(B) of the Head Start Act (42 U.S.C. 9840(a)(1)(B)).

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

(d) INSTITUTION APPROVAL AND APPLICATIONS.—

(1) INSTITUTION APPROVAL.—

(A) ADMINISTRATIVE CAPABILITY.—Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

(i) is financially viable;

(ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and

(iii) has internal controls in effect to ensure program accountability.

(B) APPROVAL OF PRIVATE INSTITUTIONS.—

(i) IN GENERAL.—In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

(I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and

(II) the institution—

(aa) has tax exempt status under the Internal Revenue Code of 1986;

(bb) is operating a Federal program requiring nonprofit status to participate in the program; or

(cc) is described in subsection (a)(2)(B).

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

(C) EXCEPTION FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program only if the State agency determines that—

(I) the institution meets the requirements established by subparagraphs (A) and (B); and

(II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(ii) CRITERIA FOR SELECTION.—The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the

child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(D) NOTIFICATION TO APPLICANTS.—Not later than 30 days after the date on which an applicant institution files a completed application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.

(E) PERMANENT OPERATING AGREEMENTS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the child and adult care food program, an institution that meets the conditions of eligibility described in this subsection shall be required to enter into a permanent agreement with the applicable State agency.

(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the institution is in compliance with all requirements established in this section or by the Secretary.

(iii) TERMINATION.—A permanent agreement described in clause (i)—

(I) may be terminated for convenience by the institution or State agency that is a party to the permanent agreement; and

(II) shall be terminated—

(aa) for cause by the applicable State agency in accordance with paragraph (5); or

(bb) on termination of participation of the institution in the child and adult care food program.

(2) PROGRAM APPLICATIONS.—

(A) IN GENERAL.—The Secretary shall develop a policy under which each institution providing child care that participates in the program under this section shall—

(i) submit to the State agency an initial application to participate in the program that meets all requirements established by the Secretary by regulation;

(ii) annually confirm to the State agency that the institution, and any facilities of the institution in which the program is operated by a sponsoring organization, is in compliance with subsection (a)(5); and

(iii) annually submit to the State agency any additional information necessary to confirm that the institution is in compliance with all other requirements to participate in the program, as established in this Act and by the Secretary by regulation.

(B) REQUIRED REVIEWS OF SPONSORED FACILITIES.—

(i) IN GENERAL.—The Secretary shall develop a policy under which each sponsoring organization participating in the program under this section shall conduct—

(I) periodic unannounced site visits at not less than 3-year intervals to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) at least 1 scheduled site visit each year to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations.

(ii) VARIED TIMING.—Sponsoring organizations shall vary the timing of unannounced reviews under clause (i)(I) in a manner that makes the reviews unpredictable to sponsored facilities.

(C) REQUIRED REVIEWS OF INSTITUTIONS.—The Secretary shall develop a policy under which each State agency shall conduct—

(i) at least 1 scheduled site visit at not less than 3-year intervals to each institution under the State agency participating in the program under this section—

(I) to identify and prevent management deficiencies and fraud and abuse under the program; and

(II) to improve program operations; and

(ii) more frequent reviews of any institution that—

(I) sponsors a significant share of the facilities participating in the program;

(II) conducts activities other than the program authorized under this section;

(III) has serious management problems, as identified in a prior review, or is at risk of having serious management problems; or

(IV) meets such other criteria as are defined by the Secretary.

(D) DETECTION AND DETERRENCE OF ERRONEOUS PAYMENTS AND FALSE CLAIMS.—

(i) IN GENERAL.—The Secretary may develop a policy to detect and deter, and recover erroneous payments to, and false claims submitted by, institutions, sponsored child and adult care centers, and family or group day care homes participating in the program under this section.

(ii) BLOCK CLAIMS.—

(I) DEFINITION OF BLOCK CLAIM.—In this clause, the term "block claim" has the meaning given the term in section 226.2 of title 7, Code of Federal Regulations (or successor regulations).

(II) PROGRAM EDIT CHECKS.—The Secretary may not require any State agency, sponsoring organization, or other institution to perform edit checks or on-site reviews relating to the detection of block claims by any child care facility.

(III) ALLOWANCE.—Notwithstanding subclause (II), the Secretary may require any State agency, sponsoring organization, or other institution to collect, store, and transmit to the appropriate entity information necessary to develop any other policy developed under clause (i).

(3) PROGRAM INFORMATION.—

(A) IN GENERAL.—On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child's parents or guardians—

(i) information that describes the program and its benefits; and

(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

(B) FORM.—The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child's parents or guardians.

(4) ALLOWABLE ADMINISTRATIVE EXPENSES FOR SPONSORING ORGANIZATIONS.—[In consultation]

(A) IN GENERAL.—In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.

(B) REPORTS.—Each sponsoring organization shall, on an annual basis, submit to the applicable State agency a report that describes, with respect to the preceding fiscal year—

(i) the expenditures of program funds by the sponsoring organization; and

(ii) the amount of meal reimbursements retained by the sponsoring organization for administrative costs, if applicable.

(5) TERMINATION OR SUSPENSION OF PARTICIPATING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

(B) STANDARDS.—Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

(ii) substantially fails to fulfill the terms of its agreement with the State agency.

(C) CORRECTIVE ACTION.—Procedures established pursuant to subparagraph (A)—

(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the entity or the entity engages in any activity that poses a threat to public health or safety.

(D) HEARING.—

(i) IN GENERAL.—Except as provided in clause (ii), an institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

(ii) EXCEPTION FOR FALSE OR FRAUDULENT CLAIMS.—

(I) IN GENERAL.—If a State agency determines that an institution has knowingly submitted a false or fraudulent claim for reimbursement, the State agency may suspend the participation of the institution in the program in accordance with this clause.

(II) REQUIREMENT FOR REVIEW.—Prior to any determination to suspend participation of an institution under subclause (I), the State agency shall provide for an independent review of the proposed suspension in accordance with subclause (III).

(III) REVIEW PROCEDURE.—The review shall—

(aa) be conducted by an independent and impartial official other than, and not accountable to, any person involved in the determination to suspend the institution;

(bb) provide the State agency and the institution the right to submit written documentation relating to the suspension, including State agency documentation of the alleged false or fraudulent claim for reimbursement and the response of the institution to the documentation;

(cc) require the reviewing official to determine, based on the review, whether the State agency has established, based on a preponderance of the evidence, that the institution has knowingly submitted a false or fraudulent claim for reimbursement;

(dd) require the suspension to be in effect for not more than 120 calendar days after the institution has received notification of a determination of suspension in accordance with this clause; and

(ee) require the State agency during the suspension to ensure that payments continue to be made to sponsored centers and family

and group day care homes meeting the requirements of the program.

(IV) HEARING.—A State agency shall provide an institution that has been suspended from participation in the program under this clause an opportunity for a fair hearing on the suspension conducted in accordance with subsection (e)(1).

(E) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—

(i) IN GENERAL.—The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

(ii) AVAILABILITY.—The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family or group day care homes, and individuals for participation in the program.

(F) SERIOUS DEFICIENCY PROCESS.—

(i) IN GENERAL.—Not later than 1 year after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review the serious deficiency process for the program under this section.

(ii) REVIEW.—In carrying out clause (i), the Secretary shall review the processes for, and those involved in—

(I) a finding of serious deficiency, including—

(aa) what measures automatically result in a finding of serious deficiency; and

(bb) how differentiation is being made between—

(AA) a reasonable margin of human error and systematic or intentional noncompliance; and

(BB) State-specific requirements and Federal law and regulations, if applicable;

(II) appeals and mediation in any case in which there is a finding of serious deficiency;

(III) determining the circumstances under which a corrective action plan is acceptable;

(IV) information sharing between Departments of Agriculture and Health and Human Services; and

(V) termination and disqualification, including maintenance of the list under subparagraph (E).

(iii) GUIDANCE AND REGULATIONS.—

(I) IN GENERAL.—After conducting the review under this subparagraph, the Secretary shall use findings from such review to assist sponsoring organizations, State agencies, and the Food and Nutrition Service in ensuring a fair, uniform, and effective administration of the serious deficiency process, while retaining program integrity, by

issuing guidance, and, as appropriate, regulations, on the following:

(aa) Clarity on the different measures for noncompliance.

(bb) Parameters for an appeals process to review a finding of serious deficiency or a determination that a corrective action plan is inadequate.

(cc) Adequate timeframes under a corrective action plan for compliance that are consistent for all types of institutions participating in the program, including family or group day care homes.

(II) INFORMATION SHARING.—Within such guidance or regulation, and as soon as practicable, the Secretary shall ensure information about findings are shared with the Secretary of Health and Human Services as to allow for maximum health, safety, oversight, and monitoring of participating child care and Head Start facilities.

(e) HEARINGS.—

(1) IN GENERAL.—Except as provided in paragraph (4), each State agency shall provide, in accordance with regulations promulgated by the Secretary, an opportunity for a fair hearing and a prompt determination to any institution aggrieved by any action of the State agency that affects—

(A) the participation of the institution in the program authorized by this section; or

(B) the claim of the institution for reimbursement under this section.

(2) REIMBURSEMENT.—In accordance with paragraph (3), a State agency that fails to meet timeframes for providing an opportunity for a fair hearing and a prompt determination to any institution under paragraph (1) in accordance with regulations promulgated by the Secretary, shall pay, from non-Federal sources, all valid claims for reimbursement to the institution and the facilities of the institution during the period beginning on the day after the end of any regulatory deadline for providing the opportunity and making the determination and ending on the date on which a hearing determination is made.

(3) NOTICE TO STATE AGENCY.—The Secretary shall provide written notice to a State agency at least 30 days prior to imposing any liability for reimbursement under paragraph (2).

(4) FEDERAL AUDIT DETERMINATION.—A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(5) SECRETARIAL HEARING.—If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

(f) STATE DISBURSEMENTS TO INSTITUTIONS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Funds paid to any State under this section shall be disbursed to eligible institutions by the

State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(B) FRAUD OR ABUSE.—

(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

(ii) PAYMENT.—Amounts recovered under clause (i)—

(I) may be paid by the institution to the State over a period of one or more years; and

(II) shall not be paid from funds used to provide meals and supplements.

(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.

(2)(A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch, or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.

(C) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the

funds provided under paragraph (1) to pay the administrative expenses of the organization.

(iii) CARRYOVER FUNDS.—Not more than 10 percent of the amount reserved by sponsoring organizations under clause (i) for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year for administrative purposes.

(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term "tier I family or group day care home" means—

(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

(bb) a family or group day care home that is located in an area served by a school enrolling students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households

whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

(dd) TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.—If a family or group day care home elects to be provided reimbursement factors described in subclause (II), the family or group day care home may assist in the transmission of necessary household income information to the family or group day care home sponsoring organization in accordance with the policy described in item (ee).

(ee) POLICY.—The Secretary shall develop a policy under which a sponsored family or group day care home described in item (dd) may, under terms and conditions specified by the Secretary and with the written consent of the parents or guardians of a child in a family or group day care home participating in the program, assist in the transmission of the income information of the family to the family or group day care home sponsoring organization.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) ADMINISTRATIVE FUNDS.—

(i) IN GENERAL.—In addition to reimbursement factors described in subparagraph (A), a family or group day care home sponsoring organization shall receive reimbursement for the administrative expenses of the sponsoring organization in an amount that is not less than the product obtained each month by multiplying—

(I) the number of family and group day care homes of the sponsoring organization submitting a claim for reimbursement during the month; by

(II) the appropriate administrative rate determined by the Secretary.

(ii) ANNUAL ADJUSTMENT.—The administrative reimbursement levels specified in clause (i) shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available.

(iii) CARRYOVER FUNDS.—The Secretary shall develop procedures under which not more than 10 percent of the amount made available to sponsoring organizations under this section for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year.

[(C)(i) Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

[(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations assist unlicensed family or group day care homes in becoming licensed.]

[(D)] *(C)* LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good

cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.

[(E)] *(D)* PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(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 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.

(4) By the first day of each month of operation, the State may provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In

the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g) NUTRITIONAL REQUIREMENTS FOR MEALS AND SNACKS SERVED IN INSTITUTIONS AND FAMILY OR GROUP DAY CARE HOMES.—

(1) DEFINITION OF DIETARY GUIDELINES.—In this subsection, the term "Dietary Guidelines" means the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

(2) NUTRITIONAL REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), reimbursable meals and snacks served by institutions, family or group day care homes, and sponsored centers participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

(B) CONFORMITY WITH THE DIETARY GUIDELINES AND AUTHORITATIVE SCIENCE.—

(i) IN GENERAL.—Not less frequently than once every 10 years, the Secretary shall review and, as appropriate, update requirements for meals served under the program under this section to ensure that the meals—

(I) are consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program authorized under this section, as indicated by the most recent relevant nutrition science and appropriate authoritative scientific agency and organization recommendations.

(ii) COST REVIEW.—The review required under clause (i) shall include a review of the cost to child care centers and group or family day care homes resulting from updated requirements for meals and snacks served under the program under this section.

(iii) REGULATIONS.—Not later than 18 months after the completion of the review of the meal pattern under clause (i), the Secretary shall promulgate proposed regulations to update the meal patterns for meals and snacks served under the program under this section.

(C) EXCEPTIONS.—

(i) SPECIAL DIETARY NEEDS.—The minimum nutritional requirements prescribed under subparagraph (A) shall not prohibit institutions, family or group day care homes, and sponsored centers from substituting

foods to accommodate the medical or other special dietary needs of individual participants.

(ii) EXEMPT INSTITUTIONS.—The Secretary may elect to waive all or part of the requirements of this subsection for emergency shelters participating in the program under this section.

(3) MEAL SERVICE.—Institutions, family or group day care homes, and sponsored centers shall ensure that reimbursable meal service contributes to the development and socialization of enrolled children by providing that food is not used as a punishment or reward.

(4) FLUID MILK.—

(A) IN GENERAL.—If an institution, family or group day care home, or sponsored center provides fluid milk as part of a reimbursable meal or supplement, the institution, family or group day care home, or sponsored center shall provide the milk in accordance with the most recent version of the Dietary Guidelines.

(B) MILK SUBSTITUTES.—In the case of children who cannot consume fluid milk due to medical or other special dietary needs other than a disability, an institution, family or group day care home, or sponsored center may substitute for the fluid milk required in meals served, a nondairy beverage that—

(i) is nutritionally equivalent to fluid milk; and

(ii) meets nutritional standards established by the Secretary, including, among other requirements established by the Secretary, fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.

(C) APPROVAL.—

(i) IN GENERAL.—A substitution authorized under subparagraph (B) may be made—

(I) at the discretion of and on approval by the participating day care institution; and

(II) if the substitution is requested by written statement of a medical authority, or by the parent or legal guardian of the child, that identifies the medical or other special dietary need that restricts the diet of the child.

(ii) EXCEPTION.—An institution, family or group day care home, or sponsored center that elects to make a substitution authorized under this paragraph shall not be required to provide beverages other than beverages the State has identified as acceptable substitutes.

(D) EXCESS EXPENSES BORNE BY INSTITUTION.—A participating institution, family or group day care home, or sponsored center shall be responsible for any expenses that—

(i) are incurred by the institution, family or group day care home, or sponsored center to provide substitutions under this paragraph; and

(ii) are in excess of expenses covered under reimbursements under this Act.

(5) NONDISCRIMINATION POLICY.—No physical segregation or other discrimination against any person shall be made because

of the inability of the person to pay, nor shall there be any overt identification of any such person by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

[(6) USE OF ABUNDANT AND DONATED FOODS.—To the maximum extent practicable, each institution shall use in its food service foods that are—

[(A) designated from time to time by the Secretary as being in abundance, either nationally or in the food service area; or

[(B) donated by the Secretary.]

(6) USE OF DONATED FOODS.—To the maximum extent practicable, each institution shall use in its food service foods that are donated by the Secretary.

(h)(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

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

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(E) ENGAGEMENT WITH STATE AND LOCAL AGENCIES.—

(i) IN GENERAL.—Subject to clause (ii), institutions participating in the program under this section may engage with State agencies and local educational agencies to use existing infrastructure to enhance the use of, and increase access to, donated commodities.

(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph shall compel a local educational agency unwillingly to serve any institution participating in the program under this section.

(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the

provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) AUDITS.—

(1) DISREGARDS.—

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

(B) CRIMINAL OR FRAUD VIOLATIONS.—In carrying out this paragraph, 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.

(2) FUNDING.—

(A) IN GENERAL.—The Secretary shall make available for each fiscal year to each State agency administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount of up to 1.5 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

(B) ADDITIONAL FUNDING.—

(i) IN GENERAL.—Subject to clause (ii), for fiscal year 2016 and each fiscal year thereafter, the Secretary may increase the amount of funds made available to any State agency under subparagraph (A), [if the State agency demonstrates that the State agency can effectively use the funds to improve program management under criteria established by the Secretary.] *if the State agency demonstrates that the State agency can use funds to improve program management, oversight, and integrity, including by working with other State agencies involved with the monitoring of institutions under this section in order to streamline and coordinate the efforts of such State agencies.*

(ii) LIMITATION.—The total amount of funds made available to any State agency under this paragraph shall not exceed 2 percent of the funds used by each State agency in the program under this section, during the second preceding fiscal year.

(j) AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall issue regulations directing States to develop and provide for the use of a standard

form of agreement between each sponsoring organization and the family or group day care homes or sponsored day care centers 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.

(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

(l) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m) States and institutions participating in the program 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 the requirements of this section. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(o)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consulation with the Assistant Secretary for Aging, shall establish, within 6 months of enactment, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.

(4) For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).

(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(q) MANAGEMENT SUPPORT.—

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

(2) TECHNICAL AND TRAINING ASSISTANCE FOR IDENTIFICATION AND PREVENTION OF FRAUD AND ABUSE.—As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.

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

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

(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 12(d)(1)(A); and

(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—An institution may participate in the program authorized under this section only if the institution provides meals or supplements under a program—

(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(B) with an educational or enrichment purpose.

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

(4) MEAL AND SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for one meal per child per day and one supplement per child per day served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year.

(B) RATES.—

(i) MEALS.—A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

(ii) SUPPLEMENTS.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

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

[(5) LIMITATION.—An institution participating in the program under this subsection may not claim reimbursement for meals and snacks that are served under section 18(h) on the same day.

[(6) HANDBOOK.—

[(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary shall—

[(i) issue guidelines for afterschool meals for at-risk school children; and

[(ii) publish a handbook reflecting those guidelines.

[(B) REVIEW.—Each year after the issuance of guidelines under subparagraph (A), the Secretary shall—

[(i) review the guidelines; and

[(ii) issue a revised handbook reflecting changes made to the guidelines.]

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

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

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

(A) receives materials that include—

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

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

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

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

(C) provides the information described in subparagraph (A) to [parents of enrolled children at enrollment] *parents or legal guardians of enrolled children in an easily accessible manner*.

(t) PARTICIPATION BY EMERGENCY SHELTERS.—

(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term "emergency shelter" means—

(A) an emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)); or

(B) a site operated by the shelter.

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

(3) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(5) shall not apply to an emergency shelter.

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

(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 18 years of age; or

(II) children with disabilities; and

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

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

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

(u) PROMOTING HEALTH AND WELLNESS IN CHILD CARE.—

(1) PHYSICAL ACTIVITY AND ELECTRONIC MEDIA USE.—The Secretary shall encourage participating child care centers and family or group day care homes—

(A) to provide to all children under the supervision of the participating child care centers and family or group day care homes daily opportunities for structured and unstructured age-appropriate physical activity; and

(B) to limit among children under the supervision of the participating child care centers and family or group day care homes the use of electronic media to an appropriate level.

(2) WATER CONSUMPTION.—Participating child care centers and family or group day care homes shall make available to children, as nutritionally appropriate, potable water as an acceptable fluid for consumption throughout the day, including at meal times.

(3) TECHNICAL ASSISTANCE AND GUIDANCE.—

(A) IN GENERAL.—The Secretary shall provide technical assistance to institutions participating in the program under this section to assist participating child care centers and family or group day care homes in complying with the nutritional requirements and wellness recommendations prescribed by the Secretary in accordance with this subsection and subsection (g).

(B) GUIDANCE.—Not later than January 1, 2012, the Secretary shall issue guidance to States and institutions to encourage participating child care centers and family or group day care homes serving meals and snacks under this section to—

(i) include foods that are recommended for increased serving consumption in amounts recommended by 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), including fresh, canned, dried, or frozen fruits and vegetables, whole grain products, lean meat products, and low-fat and non-fat dairy products; and

(ii) reduce sedentary activities and provide opportunities for regular physical activity in quantities recommended by the most recent Dietary Guidelines for Americans described in clause (i).

(C) NUTRITION.—Technical assistance relating to the nutritional requirements of this subsection and subsection (g) shall include—

(i) nutrition education *for distribution to participants and families of participants*, including education

that emphasizes the relationship between nutrition, physical activity, and health;

(ii) menu planning;

(iii) interpretation of nutrition labels; and

(iv) food preparation and purchasing guidance to produce meals and snacks that are—

(I) consistent with the goals of the most recent Dietary Guidelines; and

(II) promote the health of the population served by the program under this section, as recommended by authoritative scientific organizations.

(D) PHYSICAL ACTIVITY.—Technical assistance relating to the physical activity requirements of this subsection shall include—

(i) education on the importance of regular physical activity to overall health and well being; and

(ii) sharing of best practices for physical activity plans in child care centers and homes as recommended by authoritative scientific organizations.

(E) ELECTRONIC MEDIA USE.—Technical assistance relating to the electronic media use requirements of this subsection shall include—

(i) education on the benefits of limiting exposure to electronic media by children; and

(ii) sharing of best practices for the development of daily activity plans that limit use of electronic media.

(F) MINIMUM ASSISTANCE.—At a minimum, the technical assistance required under this paragraph shall include a handbook, developed by the Secretary in coordination with the Secretary for Health and Human Services, that includes recommendations, guidelines, and best practices for participating institutions and family or group day care homes that are consistent with the nutrition, physical activity, and wellness requirements and recommendations of this subsection.

(G) ADDITIONAL ASSISTANCE.—In addition to the requirements of this paragraph, the Secretary shall develop and provide such appropriate training and education materials, guidance, and technical assistance as the Secretary considers to be necessary to comply with the nutritional and wellness requirements of this subsection and subsection (g).

(H) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to provide technical assistance under this subsection $10,000,000, to remain available until expended.

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

(iii) SUNSET.—The Secretary shall return to the general fund of the Treasury any funds that were—

(I) made available under this subparagraph; and

(II) not obligated as of the date of the enactment of the Improving Child Nutrition and Education Act of 2016.

(v) PARTICIPATION BY RESIDENTIAL CHILD CARE INSTITUTIONS.—

(1) DEFINITION OF RESIDENTIAL CHILD CARE INSTITUTION.—In this subsection, the term "residential child care institution" means any public or nonprofit private residential child care institution, or distinct part of such an institution, that—

(A) operates principally for the care of children; and

(B) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or local agency.

(2) ADMINISTRATION.—Except as otherwise provided in this subsection, a residential child care institution shall be considered eligible for reimbursement for meals and supplements served to eligible children residing at the residential child care institution, so long as the institution does not simultaneously participate in the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(3) MEAL OR SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—A residential child care institution may claim reimbursement under this section—

(i) only for a meal or supplement served to children residing at the residential child care institution, who are—

(I) not more than 18 years of age; or

(II) children with disabilities; and

(ii) for not more than—

(I) 1 breakfast, 1 lunch, and 1 supplement per child per day; or

(II) 1 breakfast, 1 supper, and 1 supplement per child per day.

(B) RATE.—A meal or supplement eligible for reimbursement under this subsection shall be reimbursed at the rate at which free, reduced price, and paid meals and supplements, respectively, are reimbursed under subsection (c).

* * * * * * *

PILOT PROJECTS

SEC. 18.

(b)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987. The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

(c)(1) The Secretary may conduct pilot projects to test alternative counting and claiming procedures.

(2) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

[(g) ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.—

[(1) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term "eligible school" means a school or institution that participates in a program under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

[(2) PROGRAM.—The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural producers, and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools.

[(3) GRANTS.—

[(A) IN GENERAL.—The Secretary shall award competitive grants under this subsection to be used for—

[(i) training;

[(ii) supporting operations;

[(iii) planning;

[(iv) purchasing equipment;

[(v) developing school gardens;

[(vi) developing partnerships; and

[(vii) implementing farm to school programs.

[(B) REGIONAL BALANCE.—In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

[(i) geographical diversity; and

[(ii) equitable treatment of urban, rural, and tribal communities.

[(C) MAXIMUM AMOUNT.—The total amount provided to a grant recipient under this subsection shall not exceed $100,000.

[(4) FEDERAL SHARE.—

[(A) IN GENERAL.—The Federal share of costs for a project funded through a grant awarded under this subsection shall not exceed 75 percent of the total cost of the project.

[(B) FEDERAL MATCHING.—As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

[(5) CRITERIA FOR SELECTION.—To the maximum extent practicable, in providing assistance under this subsection, the

Secretary shall give the highest priority to funding projects that, as determined by the Secretary—

[(A) make local food products available on the menu of the eligible school;

[(B) serve a high proportion of children who are eligible for free or reduced price lunches;

[(C) incorporate experiential nutrition education activities in curriculum planning that encourage the participation of school children in farm and garden-based agricultural education activities;

[(D) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;

[(E) include adequate and participatory evaluation plans;

[(F) demonstrate the potential for long-term program sustainability; and

[(G) meet any other criteria that the Secretary determines appropriate.

[(6) EVALUATION.—As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation by the Secretary of the program carried out using grant funds.

[(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and information to assist eligible schools, State and local agencies, Indian tribal organizations, and nonprofit entities—

[(A) to facilitate the coordination and sharing of information and resources in the Department that may be applicable to the farm to school program;

[(B) to collect and share information on best practices; and

[(C) to disseminate research and data on existing farm to school programs and the potential for programs in underserved areas.

[(8) FUNDING.—

[(A) IN GENERAL.—On October 1, 2012, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $5,000,000, 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.

[(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under paragraph (8), there are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.

[(h) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

[(1) IN GENERAL.—

[(A) DEFINITIONS.—In this paragraph:

[(i) ELIGIBLE PROGRAM.—The term "eligible program" means—

[(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or

[(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

[(ii) ELIGIBLE SCHOOL.—The term "eligible school" means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this Act.

[(B) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

[(i) be planted, cared for, and harvested by students at the eligible schools; and

[(ii) teach the students participating in the community gardens about agriculture production practices and diet.

[(C) PRIORITY STATES.—Of the States in which grantees under this paragraph are located—

[(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;

[(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and

[(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

[(D) USE OF PRODUCE.—Produce from a community garden provided a grant under this paragraph may be—

[(i) used to supplement food provided at the eligible school;

[(ii) distributed to students to bring home to the families of the students; or

[(iii) donated to a local food bank or senior center nutrition program.

[(E) NO COST-SHARING REQUIREMENT.—A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

[(F) EVALUATION.—A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation carried out by the Secretary.

[(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2004 through 2015.]

(d) ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.—

(1) PROGRAM.—The Secretary shall carry out a program to assist eligible schools, State and local agencies, Indian tribal organizations, agricultural producers or groups of agricultural

producers, and nonprofit entities through grants, technical assistance, and research to implement farm to school programs that improve access to local foods and improve nutrition education in eligible schools.

(2) DEFINITIONS.—In this subsection:

(A) AGRICULTURAL PRODUCER.—The term "agricultural producer" means a farmer, rancher, or fisher (including of farm-raised fish).

(B) ELIGIBLE SCHOOL.—The term "eligible school" means a school or institution that participates in—

(i) a program under this Act, including the summer food service program for children under section 13 and the early care and afterschool portions of the child and adult care food program under section 17; or

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

(3) GRANTS.—

(A) IN GENERAL.—The Secretary shall award competitive grants under this subsection to be used for implementing farm to school programs for the purposes of improving access to local foods and improving nutrition education, through—

(i) research, training, and technical assistance;

(ii) supporting operations;

(iii) planning;

(iv) purchasing equipment;

(v) developing school gardens; and

(vi) developing partnerships to facilitate nutrition education and healthy eating.

(B) REGIONAL BALANCE.—In making awards under this subsection, the Secretary shall, to the maximum extent practicable, ensure—

(i) geographical diversity; and

(ii) equitable treatment of urban, rural, and tribal communities.

(C) IMPROVED PROCUREMENT AND DISTRIBUTION.—Funds provided under this subsection may be used to improve local food procurement and distribution options between agricultural producers and eligible schools, including innovative approaches to aggregation, processing, transportation, and distribution.

(D) AWARDS.—

(i) MAXIMUM AMOUNT.—The total amount provided to a grant recipient under this subsection shall not exceed $150,000.

(ii) TERM.—The term of an award shall not exceed 3 years.

(iii) LIMITATION.—The Secretary shall not award any entity more than 1 grant at any given time.

(iv) PURPOSE AND SCOPE.—In carrying out this subsection, the Secretary shall make awards of diverse amounts and duration so as to best match a variety of purposes, scopes, and needs of the project proposals.

(E) LIMITATION.—The Secretary shall not award a grant under this subsection if the majority of grant funds would be used solely for the purpose of carrying out a conference.

(4) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of costs for a project funded through a grant awarded under this subsection shall not exceed 75 percent of the total cost of the project.

(B) FEDERAL MATCHING.—As a condition of receiving a grant under this subsection, a grant recipient shall provide matching support in the form of cash or in-kind contributions, including facilities, equipment, or services provided by State and local governments, nonprofit organizations, and private sources.

(5) CRITERIA FOR SELECTION.—

(A) IN GENERAL.—To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give priority to proposals to—

(i) serve a high proportion of children who are eligible for free or reduced price meals;

(ii) incorporate nutrition education activities that encourage the participation of school children in farm and garden-based agricultural education activities;

(iii) provide families the opportunity to participate in educational programming, including through materials and engagement activities, to improve nutrition outside the school environment;

(iv) demonstrate collaboration between eligible schools, nongovernmental and community-based organizations, agricultural producer groups, and other community partners;

(v) make local food products available on the menu of reimbursable meals under this Act at the eligible school;

(vi) demonstrate the potential for long-term program sustainability with non-Federal funds; and

(vii) expand the selection of local commodities available for eligible schools.

(B) TRIBAL COMMUNITY PROJECTS.—In the case of projects serving tribal communities, the Secretary shall, to the maximum extent practicable, give highest priority to projects that propose to use products from tribal agricultural producers, in addition to the priorities under subparagraph (A).

(6) EVALUATION.—As a condition of receiving a grant under this subsection, each grant recipient shall agree to cooperate in an evaluation of the program by the Secretary.

(7) TECHNICAL ASSISTANCE AND RESEARCH.—

(A) IN GENERAL.—The Secretary shall provide technical assistance, research, and information through amounts reserved under this subsection for such purposes, to assist schools, State and local agencies, Indian tribal organizations, agricultural producers, and nonprofit entities—

(i) to facilitate the coordination and sharing of information and resources that may be applicable to the farm to school program;

(ii) to collect and share information on best practices;

(iii) to disseminate research and data on existing farm to school programs and the potential for programs to begin in underserved areas; and

(iv) to increase awareness of, and participation in, farm to school programs among agricultural and aquiculture producers or agricultural producer groups, including beginning, veteran, and socially disadvantaged farmers and ranchers.

(B) REVIEW.—Not later than 1 year after the date of the enactment of the Improving Child Nutrition and Education Act of 2016 and every 3 years thereafter, the Secretary shall review and submit to the Committee on Agriculture and 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 that describes the regulatory and other barriers related to including locally or regionally produced food products in school food programs, including any progress that has been made in identifying and eliminating such barriers through examining—

(i) barriers to the development and implementation of successful farm to school programs;

(ii) the direct and indirect costs affecting the production and marketing of locally or regionally produced agricultural food products for school food programs;

(iii) the costs local school food programs incur by acquiring such local foods for school meal programs in comparison to the costs for other foods in such school meal programs; and

(iv) local and regional market access for such food products, partnerships, small-scale production, and any barriers to and long-term feasibility of such access.

(8) FUNDING.—

(A) IN GENERAL.—On October 1, 2016, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $10,000,000, 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.

(C) ADMINISTRATION.—Of the funds made available to the Secretary under subparagraph (A), not more than 5 percent may be used to pay administrative costs incurred by the Secretary in carrying out this subsection and evaluating the program in accordance with paragraph (6).

(e) SUMMER MEAL SERVICE THROUGH BUSINESS PARTNERSHIP.—

(1) IN GENERAL.—From the funds made available under the summer food service program under section 13, the Secretary shall award grants on a competitive basis to not more than 4 State agencies to improve delivery of such summer food service program for low-income children in underserved areas during the summer through sustainable, scalable, business-driven solutions.

(A) DURATION.—A grant awarded under this subsection shall be for a period of not more than 3 years.

(B) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to State agencies that have met the application requirements under this subsection and which demonstrate a severe unmet need for serving children in additional eligible areas in the State through the summer food service program under section 13.

(C) LIMITATION.—Funds under this subsection will—

(i) be awarded for the purpose of reducing childhood hunger and allowing parents to better participate in the labor force or an education or workforce development program; and

(ii) not preempt or prevent operation of the summer food service program under section 13.

(2) STATE APPLICATION.—A State seeking to improve delivery of the summer food service program in such State in accordance with this subsection shall submit an application at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(A) State plans to implement and manage the program in accordance with other applicable Federal requirements under this Act;

(B) a determination of the eligible areas in the State in which poor economic conditions exist in accordance with the program, but where an eligible service institution is not currently in operation, where the State may reimburse a vendor;

(C) identified eligible vendors which the State has determined to be qualified to provide meals in accordance with this subsection;

(D) a proposed timeline for entering into contracts with eligible vendors and strategies for effective communication; and

(E) an assurance that funds will be used to provide meals to the most vulnerable, underserved, and rural populations, as determined by the State.

(3) ELIGIBLE VENDOR.—For purposes of this subsection, an eligible vendor is a food vendor which the State determines has the administrative capacity and proven operating performance to provide eligible meals to children in underserved areas in accordance with this subsection and the summer food service program requirements on management responsibilities of sponsors and self-preparation sites, including requirements that the vendor—

(A) accepts final administrative and financial responsibility for management of an effective food service, including auditing and reporting responsibilities, but will not receive administrative funding from the State to do so;

(B) has not been determined ineligible to participate in any other program under this Act or the Child Nutrition Act of 1966 by reason of violation of the requirements of that program;

(C) will provide adequate supervisory and operational personnel for monitoring and management of a self-preparation site;

(D) contracts directly with the State as a sponsor;

(E) ensures that meals are inspected periodically as required under existing program regulations;

(F) participates in applicable State and Federal reporting and auditing requirements under this Act as appropriate, including to provide other information determined relevant by the Secretary in accordance with paragraph (5);

(G) has State or local health certification for the facilities in which meals will be prepared and distributed for use in the program, and ensures that State and local health and sanitation requirements are met at all times; and

(H) has the organizational capacity to offer meals in underserved communities, including preparation and delivery logistics.

(4) STATE DISBURSEMENT.—A State shall use the grant awarded to the State under this subsection to reimburse an eligible vendor for meals served to eligible children in accordance with the summer food service program under section 13 and with this subsection, as follows:

(A) Reimbursements shall be available for an eligible vendor operating in an eligible area in which poor economic conditions exist where no sponsor is currently operating the program under section 13.

(B) To the extent practicable, a State shall give priority to eligible vendors that—

(i) demonstrate partnerships with entities providing summer enrichment activities such as schools, local government agencies, and nonprofit agencies; and

(ii) provide meals at a congregate site.

(C) A State shall follow established procedures in entering into contracts with a vendor, such as through a Request for Proposal, Invitation for Sealed Bid, Small Purchase Procedure, or other common method.

(5) AUDITING.—

(A) STATE REPORTING.—Not later than 1 year after the end of the grant period for a grant awarded to a State under this subsection, the State shall submit to the Secretary a report on—

(i) the activities carried out with such grant; and

(ii) the impacts of such activities on children, families, and eligible service institutions during the summer.

(B) REPORT FROM SECRETARY.—No later than 4 years after the first grant is awarded under this subsection, the Secretary shall provide 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 the grant program under this subsection, which shall include—

(i) a review of information submitted by States under subparagraph (A); and

(ii) best practices on reducing childhood hunger in the summer months.

(6) LIMITATIONS.—The following rules shall apply with respect to this subsection:

(A) No commodities shall be provided to businesses or vendors under this subsection.

(B) Vendors shall assume all administrative costs under this subsection.

(C) Meals shall be provided to children eligible for the summer food service program under section 13.

(D) A vendor receiving reimbursements shall not profit directly from such reimbursements under this subsection.

(E) The Secretary shall include payments to States under this subsection in its calculations for administrative costs incurred by States under subsection (k)(1) of section 13.

(f) SUMMER ELECTRONIC BENEFIT TRANSFER FOR CHILDREN.—

(1) PURPOSE.—The purposes of the provision of electronic benefits provided through this subsection are to assess the use of alternate methods of providing access to food for children during the summer months when school is not in regular session that are intended to—

(A) increase summer food service program effectiveness and efficiency;

(B) reduce or eliminate the food insecurity and hunger of children; and

(C) improve the nutritional status of children.

(2) DEMONSTRATION.—

(A) ELECTION.—A State that, as of the date of enactment of the Improving Child Nutrition and Education Act of 2016, is operating, or has operated, a summer electronic benefit transfer for children demonstration may elect to continue operating such demonstration in accordance with the requirements of this subsection as an alternative to other delivery models of providing meals to children during the summer months when school is not in regular session.

(B) STATE REQUIREMENTS.—As a condition of participating in the demonstration under this subsection, a State shall—

(i) comply with the requirements under this subsection; and

(ii) agree to provide such information the Secretary may require for the evaluation of the demonstration as required under this subsection.

(3) DEFINITIONS.—In this subsection:

(A) ELIGIBLE HOUSEHOLD.—The term "eligible household" means a household that includes 1 or more school-aged child determined as eligible to receive free or reduced price school meals during the prior school year, but such child is not participating in a program that provides food during the summer through the summer food service program under section 13.

(B) STATE.—The term "State" includes a tribal entity.

(C) SUMMER ELECTRONIC BENEFIT TRANSFER FOR CHILDREN DEMONSTRATION.—The term "summer electronic benefit transfer for children demonstration" means an elec-

tronic benefit transfer demonstration project under section 748(g)(1) of the Agriculture, Rural Development, Food and Drug Administration, and Related Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2132).

(4) BENEFIT LEVELS.—

(A) IN GENERAL.—The Secretary shall approve States seeking to make an election under paragraph (2)(A) that will evaluate the impact of providing a variety of differentiated benefit levels to eligible children as a way to reach such children to the greatest extent practicable. The values of such benefits shall be determined by the State, but shall be between $15 and $30 per month for each school-aged child in an eligible household.

(B) RATE DETERMINATION.—In determining the values under subparagraph (A), a State may consider differentiating rates based on the need for such benefits, which may be determined through factors such as—

(i) the proportion of applicants that are eligible for free price meals;

(ii) total number of households and children seeking to participate;

(iii) food security in children across communities in such State;

(iv) average redemption rates of benefits;

(v) impact of such values at improving food security in children;

(vi) availability of other community programs that provide meals to children during the summer months when school is not in regular session where children might otherwise receive nutrition assistance; and

(vii) any other information a State determines is useful for determining such rates.

(C) LIMITATIONS.—

(i) TIME.—No child may receive more than 3 months of benefits under this paragraph in any 12-month period.

(ii) AMOUNT.—No child may receive more than $30 of benefits under this paragraph per month.

(D) COST SHARING.—Nothing in this paragraph shall be construed to prohibit States or local entities from providing additional non-Federal resources for the purposes of this subsection.

(5) EFFECTIVE IMPLEMENTATION.—

(A) IN GENERAL.—In administering this subsection and providing benefits to children in accordance with this subsection, a State shall consider previous State experiences and best practices in implementing the summer electronic benefit transfer for children demonstration carried out before the date of enactment of the Improving Child Nutrition and Education Act of 2016, including information evaluating findings of the demonstration (including the 2013 final report published by the Department of Agriculture).

(B) TECHNICAL ASSISTANCE.—The Secretary shall provide, and periodically update, technical assistance to States for purposes of this paragraph.

(6) USE OF BENEFITS.—

(A) IN GENERAL.—Benefits issued to families through the election under paragraph (2)(A) may be used only for the purchase of food for consumption by school-aged children in such family.

(B) TIMING.—Benefits issued through the election described in this subparagraph may be redeemed only when school is out of session for the summer period.

(7) ADMINISTRATION.—In administering this subsection, the State shall—

(A) ensure that benefits are issued only to eligible households that live—

(i) in areas with high rates of poverty or long-term poverty that are rural and have no congregate feeding sites or access to meals otherwise provided through the summer food service program authorized under section 13; or

(ii) outside an area in which poor economic conditions exist but in an area with no access to meals otherwise provided through the summer food service program authorized under section 13;

(B) issue benefits to eligible households only after such household has made an oral or written request to receive electronic benefit transfer benefits under this subsection; and

(C) document how the election will be administered in the management and administration plan described in subsection (n), including the process for identifying areas in which benefits will be issued.

(8) EVALUATION.—The Secretary shall provide for an ongoing, independent evaluation of the demonstration carried out under this subsection, including quasi-experimental or other methods that are capable of producing scientifically valid information to determine effectiveness in achieving the purposes described in paragraph (1), including examining or assessing—

(A) feasibility of, or barriers to, successful implementation of this subsection;

(B) varied approaches in State implementation of this subsection, including different approaches, challenges, and lessons learned;

(C) specific levels of use and receipt of benefits;

(D) impact on children's food security and nutritional impacts, including by the different impacts on children in a variety of geographical areas such as rural, urban, and suburban areas, localities, and States;

(E) total cost (including administrative cost) of implementing and operating this subsection, including in comparison to other methods of providing summer meal service to school-aged children;

(F) impacts and results of such evaluation in comparison to evaluations of the summer electronic benefits transfer for children demonstration published by the Secretary of Agriculture; and

(G) the potential for benefits provided under this subsection to improve effectiveness and efficiency of the sum-

mer food service program in comparison to other methods of providing summer meal service to school-aged children.

(9) REPORT.—Not later than one year after amounts are first appropriated under paragraph (10), and each year thereafter, the Secretary shall submit to Congress a report that—

(A) includes the information resulting from the most recent evaluation under paragraph (8); and

(B) takes into consideration evaluations of the summer electronic benefits transfer for children demonstration published by the Secretary of Agriculture.

(10) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection not more than $10,000,000 for each of fiscal years 2018 through 2020, to remain available until expended.

(B) LIMITATIONS.—Of such appropriations, for each fiscal year—

(i) each State shall utilize a portion for administrative funds that shall be equal to the levels necessary to effectively and efficiently administer the State's demonstration under this subsection, as determined by the State;

(ii) not more than 1 percent may be spent on administrative funds by the Secretary; and

(iii) not more than $499,999 shall be available for the Secretary to comply with paragraph (8).

(11) GUIDANCE.—Not later than December 31, 2016, the Secretary shall provide guidance to States to implement this subsection, including recommendations for States to successfully continue to implement the summer electronic benefit transfer for children demonstration while complying with the new or additional requirements of this subsection.

[(i)] *(g)* YEAR-ROUND SERVICES FOR ELIGIBLE ENTITIES.—

(1) IN GENERAL.—A service institution that is described in section 13(a)(6) (excluding a public school), or a private nonprofit organization described in section 13(a)(7), and that is located in the State of California may be reimbursed—

(A) for up to 2 meals during each day of operation served—

(i) during the months of May through September;

(ii) in the case of a service institution that operates a food service program for children on school vacation, at anytime under a continuous school calendar; and

(iii) in the case of a service institution that provides meal service at a nonschool site to children who are not in school for a period during the school year due to a natural disaster, building repair, court order, or similar case, at anytime during such a period; and

(B) for a snack served during each day of operation after school hours, weekends, and school holidays during the regular school calendar.

(2) PAYMENTS.—The service institution shall be reimbursed consistent with section 13(b)(1).

(3) ADMINISTRATION.—To receive reimbursement under this subsection, a service institution shall comply with section 13, other than subsections (b)(2) and (c)(1) of that section.

(4) EVALUATION.—Not later than September 30, 2007, the State agency shall submit to the Secretary a report on the effect of this subsection on participation in the summer food service program for children established under section 13.

(5) FUNDING.—The Secretary shall provide to the State of California such sums as are necessary to carry out this subsection for each of fiscal years [2011 through 2015] *2017 through 2021*.

[(j) FREE LUNCH AND BREAKFAST ELIGIBILITY.—

[(1) IN GENERAL.—Subject to the availability of funds under paragraph (4), the Secretary shall expand the service of free lunches and breakfasts provided at schools participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) in all or part of 5 States selected by the Secretary (of which at least 1 shall be a largely rural State with a significant Native American population).

[(2) INCOME ELIGIBILITY.—The income guidelines for determining eligibility for free lunches or breakfasts under this subsection 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 section 9(b)(1)(B).

[(3) EVALUATION.—

[(A) IN GENERAL.—Not later than 3 years after the implementation of this subsection, the Secretary shall conduct an evaluation to assess the impact of the changed income eligibility guidelines by comparing the school food authorities operating under this subsection to school food authorities not operating under this subsection.

[(B) IMPACT ASSESSMENT.—

[(i) CHILDREN.—The evaluation shall assess the impact of this subsection separately on—

[(I) children in households with incomes less than 130 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 9(b)(1)(B); and

[(II) children in households with incomes greater than 130 percent and not greater than 185 percent of the applicable family income levels contained in the nonfarm poverty income guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with section 9(b)(1)(B).

[(ii) FACTORS.—The evaluation shall assess the impact of this subsection on—

[(I) certification and participation rates in the school lunch and breakfast programs;

[(II) rates of lunch- and breakfast-skipping;

[(III) academic achievement;

[(IV) the allocation of funds authorized in title I of the Elementary and Secondary Education Act (20 U.S.C. 6301) to local educational agencies and public schools; and

[(V) other factors determined by the Secretary.

[(C) COST ASSESSMENT.—The evaluation shall assess the increased costs associated with providing additional free, reduced price, or paid meals in the school food authorities operating under this subsection.

[(D) REPORT.—On completion of the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this paragraph.

[(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

[(k) ORGANIC FOOD PILOT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall establish an organic food pilot program (referred to in this subsection as the "pilot program") under which the Secretary shall provide grants on a competitive basis to school food authorities selected under paragraph (3).

[(2) USE OF FUNDS.—

[(A) IN GENERAL.—The Secretary shall use funds provided under this section—

[(i) to enter into competitively awarded contracts or cooperative agreements with school food authorities selected under paragraph (3); or

[(ii) to make grants to school food authority applicants selected under paragraph (3).

[(B) SCHOOL FOOD AUTHORITY USES OF FUNDS.—A school food authority that receives a grant under this section shall use the grant funds to establish a pilot program that increases the quantity of organic foods provided to schoolchildren under the school lunch program established under this Act.

[(3) APPLICATION.—

[(A) IN GENERAL.—A school food authority seeking a contract, grant, or cooperative agreement under this subsection shall submit to the Secretary an application in such form, containing such information, and at such time as the Secretary shall prescribe.

[(B) CRITERIA.—In selecting contract, grant, or cooperative agreement recipients, the Secretary shall consider—

[(i) the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section)) applicable to a family of the size involved of the households in the district served by the school food authority, giving preference to school food authority applicants in which not less than 50 percent of the households in the district are at or below the Federal poverty line;

[(ii) the commitment of each school food authority applicant—

[(I) to improve the nutritional value of school meals;

[(II) to carry out innovative programs that improve the health and wellness of schoolchildren; and

[(III) to evaluate the outcome of the pilot program; and

[(iii) any other criteria the Secretary determines to be appropriate.

[(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for fiscal years 2011 through 2015.]

(h) STATE ADMINISTRATION OF CHILD NUTRITION PROGRAMS.—

(1) PURPOSES.—The purposes of this subsection are to provide States flexibility to develop programs and policies to best meet the nutritional needs of school-aged children in the State by providing flexibility over school meal programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and other programs to address such needs more effectively and efficiently with less Federal involvement, including by—

(A) removing duplication, redundancies, regulatory burden, and unnecessary requirements resulting from the Federal administration of the school meal programs;

(B) more efficiently using Federal, State, local, and nongovernmental resources to strengthen delivery of the school meal programs and other programs; and

(C) supporting healthy meals through involvement by parents, family members, and the community, including nonprofit organizations, health organizations, and school officials from large and small urban, suburban, and rural areas in the State.

(2) GRANTS AUTHORIZED.—

(A) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to up to 3 States to enable the States to carry out the activities described in this subsection.

(B) CONSIDERATIONS.—In awarding grants under this subsection, the Secretary shall—

(i) in a case in which more than 3 States apply for a grant under this subsection, give priority to States by taking into consideration regional diversity; and

(ii) ensure each State awarded a grant under this subsection meets the required assurances under paragraph (3)(D), except that the Secretary shall not approve or disapprove an application on the basis of a State's plan or proposed program.

(C) DURATION OF GRANTS.—A grant to a State under this subsection—

(i) shall be awarded to the State for a 3-year period; and

(ii) may be renewed by the Secretary for an additional 3-year period if the State can demonstrate suc-

cess in meeting the nutritional needs of the school-aged children in the State.

(D) AMOUNT OF GRANTS.—The amount of a grant awarded to a State under this subsection for each year of the grant period shall be equal to the amount described in paragraph (3)(C).

(E) MATCHING REQUIREMENT.—Each State that receives a grant under this subsection shall provide funds from non-Federal sources (which may be provided in cash, commodities, or in kind) to support the activities under this subsection.

(F) LIMITATIONS.—A State that receives a grant under this subsection may not, during any period during which the State receives such grant, receive funds under any of the following:

(i) The school lunch program under this Act.

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

(iii) The special milk program under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772).

(iv) The State administrative expenses funding under section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776).

(v) The team nutrition network under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788).

(3) APPLICATION.—To receive a grant under this subsection, a State shall submit an application at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(A) an assurance that each school-aged child in the State will have access to at least one affordable meal service option during the school day at the school in which the child is enrolled, and a plan for how the State will carry out such assurance, including—

(i) the income thresholds or other needs-based determinations to be used for determining—

(I) which students are eligible for free meals;

(II) which students are eligible for reduced price meals; and

(III) which students are required to pay the full price for meals;

(ii) the estimated number of students in the State eligible for the thresholds for each meal category described in clause (i);

(iii) the price to be charged to students eligible for reduced price meals and the price to be charged to students required to pay the full price for meals;

(iv) how the State will identify and verify eligibility of such students, such as through census data, application processes, or any other State-determined method;

(v) an identification of any non-Federal sources, including State funds, the State will utilize to meet the needs of school-aged children in the State if the grant received under this subsection is not sufficient to cover

the cost of the meals to be served during the period in which the State receives such grant;

(vi) any other factors the State will use to determine distribution of funds received under the grant to each elementary school and secondary school in the State to reimburse the schools for the cost of the meals served, including how the State will ensure a fair distribution of such funds to address the need for such meals at each such school; and

(vii) the monitoring plan the State will use to ensure the funding described in clause (v) will be used in accordance with this subsection;

(B) a description of the requirements for meals provided under this subsection that the State will require, including requirements for meal standards and pricing;

(C) a request for an amount of grant funds for each year that the State will receive a grant under this subsection, which may not, for each such year exceed the amount the State received for fiscal year 2016—

(i) for free and reduced price meal reimbursements under the programs described in clauses (i) and (ii) of paragraph (2)(F), excluding any additional reimbursements received under section 4(b)(3) of this Act; and

(ii) under the programs described in paragraphs (iii) through (v) of paragraph (2)(F); and

(D) assurances that the State will—

(i) provide healthy meals to school-aged children in the State to ensure maximum participation of students in the State;

(ii) provide technical assistance to local educational agencies and schools to ensure maximum participation of students in the State;

(iii) provide an annual report to the Secretary that outlines the activities and progress made in providing healthy meals to students in a more cost efficient manner than such meals were provided prior to the State receiving such grant; and

(iv) work with school leaders, school nutrition providers, and health professionals to develop and implement the plan under subparagraph (A) and to ensure that meals provided in schools in the State using the grant will be healthy and provided in an efficient and cost effective manner.

(4) USE OF FUNDS.—

(A) IN GENERAL.—A State that receives a grant under this subsection shall use the grant funds to—

(i) provide meals to school-aged children in accordance with paragraph (3);

(ii) carry out the activities described in subparagraph (B) of this paragraph; and

(iii) carry out any other activities the State determines will support the goals of this subsection.

(B) ADDITIONAL STATE ACTIVITIES.—Each State that receives a grant under this subsection shall, in addition to the activities described in clauses (i) and (ii) of subpara-

graph (A), provide nutritional assistance to low-income and vulnerable children, as determined by the State, by—

(i) addressing specific State and community nutritional needs;

(ii) engaging partners to deliver the meal programs to spur innovation in such delivery, including local governments and school officials, businesses, non-profit and faith-based organizations, and other community partners;

(iii) developing or strengthening private sector partnerships to support the community and nutritional needs of school-aged children; and

(iv) achieving administrative and other programmatic cost savings.

(C) LIMITATION.—A State may use not more than 10 percent of the grant received under this subsection for administrative and outreach expenses.

(5) STATE REPORTING.—Not later than 2 years after receiving a grant under this subsection, a State shall submit to the Secretary a report on how the State was better able to operate school meals and other programs to address needs more effectively compared to how the State addressed such needs before the grant was awarded to the State. The report shall include—

(A) a description of how the State used the grant funds, the State costs of carrying out the activities under this subsection (including food, administrative, labor, oversight, and any other costs), and any revenue the State received by carrying out such activities (including Federal, non-Federal, and family contributions);

(B) the strategies and activities undertaken at the State and, if applicable, local level to meet the goals of this subsection;

(C) financial efficiencies the State has identified through the grant, including the extent to which activities under the grant have led to the addition, blending, or braiding of other Federal or private funding, and the specific or estimated amount of cost-savings, reduced burdens, and other efficiencies;

(D) the impacts the State has made in meeting the goals of this subsection;

(E) any barriers the State has identified in providing school meals, and ways in which to overcome such barriers; and

(F) other State-determined and voluntarily provided information intended to share best practices for future implementation of this subsection.

(6) LIMITATIONS ON FEDERAL INTERFERENCE.—Nothing in this subsection shall be construed to authorize the Secretary to establish, as a condition to receive a grant under this subsection or as requirement to operate such a grant, any criterion that specifies, defines, or prescribes—

(A) nutritional guidelines, standards, or meal requirements, including the methods that a State uses to develop, implement, or improve such nutritional guidelines, standards, or meal requirements;

(B) specific aspects, parameters, or measures of programmatic quality, including measures of compliance or evaluation;

(C) nutritional curriculum, programs of instruction, or instructional content;

(D) any aspect of meal provision criteria, including nutritional requirements, timing, duration, type, price, amount, or any other aspect of meals or meal program operation;

(E) any term under this subsection as such term applies to activities carried out by a State, including the terms healthy, affordable meal, school day, and nutritional needs;

(F) the ways in which a State identifies and verifies eligibility for benefits, including child, family, and provider eligibility;

(G) differentiated payment rates a State may use;

(H) the amount or sources of non-Federal funds that a State must provide;

(I) the percentages or amounts of grant funds to be used for specific activities within or among programs;

(J) the scope or structure of programs, including number of meals served, timing within the day, and length or time of year a program operates; and

(K) any aspect or parameter of programmatic evaluation.

(7) FEDERAL REPORTING.—Not later than 4 years after the first grant is awarded under this subsection, the Secretary shall provide to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to States, a report on the feasibility of scaling the implementation of this subsection, including the efficiencies, cost savings, and other benefits identified by State implementation of the programs described in paragraph (2)(F) under this subsection. Such determination of feasibility shall be based on information including—

(A) State reports submitted under paragraph (5);

(B) a determination of the level of Federal cost-savings achieved and the amount of future cost-saving implications;

(C) programmatic simplifications the Federal Government could pursue; and

(D) other information provided by States or private entities that would be useful in recommendations to the public, States, and to Congress.

SEC. 19. [FRESH] FRUIT AND VEGETABLE PROGRAM.

(a) IN GENERAL.—For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free [fresh] fruits and vegetables available in elementary schools (referred to in this section as the "program").

(b) PROGRAM.—A school participating in the program shall make free [fresh] fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

(c) FUNDING TO STATES.—

(1) MINIMUM GRANT.—Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

(2) ADDITIONAL FUNDING.—Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 4 based on the proportion that—

(A) the population of the State; bears to

(B) the population of the United States.

(d) SELECTION OF SCHOOLS.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

(A) ensure that each school chosen to participate in the program is a school—

(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this Act; and

(ii) that submits an application in accordance with subparagraph (D);

(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this Act;

(C) ensure that each school selected is an elementary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

(D) solicit applications from interested schools that include—

(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;

(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);

(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and

(iv) such other information as may be requested by the Secretary; and

(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

(2) EXCEPTION.—Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a

sufficient number of additional schools that meet the requirement of that clause.

(3) OUTREACH TO LOW-INCOME SCHOOLS.—

(A) IN GENERAL.—Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

(B) REQUIREMENT.—In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

(e) NOTICE OF AVAILABILITY.—If selected to participate in the program, a school shall widely publicize within the school the availability of free [fresh] fruits and vegetables under the program.

(f) PER-STUDENT GRANT.—The per-student grant provided to a school under this section shall be—

(1) determined by a State agency; and

(2) not less than $50, nor more than $75.

(g) LIMITATION.—To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at the school under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(h) EVALUATION AND REPORTS.—

(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—

(A) increased consumption of fruits and vegetables;

(B) other dietary changes, such as decreased consumption of less nutritious foods; and

(C) such other outcomes as are considered appropriate by the Secretary.

(2) REPORT.—Not later than September 30, 2011, the Secretary shall submit to the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).

(i) FUNDING.—

(1) IN GENERAL.—Out of the funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use the following amounts to carry out this section:

(A) On October 1, 2008, $40,000,000.

(B) On July 1, 2009, $65,000,000.

(C) On July 1, 2010, $101,000,000.

(D) On July 1, 2011, $150,000,000.

(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending

the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

(2) MAINTENANCE OF EXISTING FUNDING.—In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section 18(f) on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

(3) EVALUATION FUNDING.—On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010.

(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

[(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.]

[(6)] *(5)* ADMINISTRATIVE COSTS.—

(A) IN GENERAL.—Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

(B) RESERVATION OF FUNDS.—The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

[(7) REALLOCATION.—

[(A) AMONG STATES.—The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

[(B) WITHIN STATES.—A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.]

(6) CLARIFICATION.—

(A) GUIDANCE.—The Secretary shall issue guidance with respect to how funds under the program may be used, which—

(i) clarifies to States that such funds may be used on all forms of fruits and vegetables, provided the fruit or vegetable product meets the requirements of section 210.11 of title 7, Code of Federal Regulations (as in ef-

fect on the date of enactment of the Improving Child Nutrition and Education Act of 2016);

(ii) provides the appropriate exemptions described in such section 210.11 of the Code of Federal Regulations; and

(iii) encourages schools to introduce fruits and vegetables to children in new contexts, including by allowing schools to offer combinations of fruits and vegetables with tree nuts, which provide a good source of protein per serving and meet the nutrition standards of such section 210.11 of the Code of Federal Regulations, except that the Secretary shall provide exemptions from the total fat requirements under such section 210.11 for tree nut products.

(B) LOCAL DECISION.—Nothing in this section shall be construed to require a school participating in the program to select forms of fruit or vegetables other than fresh.

* * * * * * *

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—

(A) training and technical assistance to improve the skills of individuals employed in—

(i) food service programs carried out with assistance under this Act and, to the maximum extent practicable, using individuals who administer exemplary local food service programs in the State;

(ii) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(iii) as appropriate, other federally assisted feeding programs; and

(B) 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—

(i) addresses the cost savings and improvements in program integrity and operations that would result from the use of new or upgraded technology;

(ii) ensures that there is not any overt identification of any child by special tokens or tickets, announced or published list of names, or by any other means;

(iii) provides for processing and verifying applications for free and reduced price school meals;

(iv) integrates menu planning, production, and serving data to monitor compliance with section 9(f)(1); and

(v) establishes compatibility with statewide reporting systems;

(C) assistance, on a competitive basis, to State agencies with low proportions of schools or students that—

(i) participate in the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(ii) 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

(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute.

(b) MINIMUM REQUIREMENTS.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

(1) menu planning;

(2) implementation of regulations and appropriate guidelines; and

(3) compliance with program requirements and accountability for program operations.

(c) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—

(1) IN GENERAL.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

(A) food service programs assisted under this Act;

(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

(C) as appropriate, other federally assisted feeding programs.

(2) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

(B) providing training and technical assistance with respect to—

(i) efficient use of physical resources;

(ii) financial management;

(iii) efficient use of computers;

(iv) procurement;

(v) sanitation;

(vi) safety, including food handling, hazard analysis and critical control point plan implementation, emergency readiness, responding to a food recall, and food biosecurity training;

(vii) meal planning and related nutrition activities;
(viii) culinary skills; and
(ix) other appropriate activities;

(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

(D) developing training materials for use in the programs and workshops described in subparagraph (C);

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs;

(F) training food service personnel to comply with the nutrition guidance and objectives established by the Secretary through a national network of instructors or other means;

(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

(H) assisting [State educational agencies] *State agencies* in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives established by the Secretary.

(d) COORDINATION.—

(1) IN GENERAL.—The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.

(e) FOOD SERVICE MANAGEMENT INSTITUTE.—

(1) FUNDING.—

(A) IN GENERAL.—In addition to any amounts otherwise made available for fiscal year 2011, on October 1, 2010, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subsection (a)(2) $5,000,000, to remain available until expended.

(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subsection (a)(2) the funds transferred under subparagraph (A), without further appropriation.

(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under paragraph (1), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

(3) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available

under paragraphs (1) and (2), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.

(f) ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIAL.—In collaboration with [State educational agencies] *State agencies*, local educational agencies, and school food authorities of varying sizes, the Secretary shall develop and distribute training and technical assistance material relating to the administration of school meals programs that are representative of the best management and administrative practices.

(g) 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;

(ii) on October 1, 2006, October 1, 2007, October 1, 2008, and October 1, 2009, $2,000,000; and

(iii) on October 1, 2010, and every October 1 thereafter, $4,000,000.

(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 and material related to improving program integrity and administrative accuracy in school meals programs; and

(B) to assist [State educational agencies] *State agencies* in reviewing the administrative practices of local educational agencies, to the extent determined by the Secretary.

SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

(a) UNIFIED ACCOUNTABILITY SYSTEM.—

[(1) IN GENERAL.—]There shall be a unified system prescribed and administered by the Secretary to ensure that local food service authorities participating in the school lunch program established under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) comply with those Acts, including compliance with—

[(A)] *(1)* the nutritional requirements of section 9(f) of this Act for school lunches; and

[(B)] *(2)* as applicable, the nutritional requirements for school breakfasts under section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

(b) FUNCTIONS OF SYSTEM.—

(1) IN GENERAL.—Under the system described in subsection (a), each [State educational agency] *State agency* shall—

(A) require that local food service authorities comply with the nutritional requirements described in subparagraphs (A) and (B) of paragraph (1);

(B) to the maximum extent practicable, ensure compliance through reasonable audits and supervisory assistance reviews;

(C) in conducting audits and reviews for the purpose of determining compliance with this Act, including the nutritional requirements of section 9(f)—

(i) conduct audits and reviews during a [3-year cycle] *5-year cycle* or other period prescribed by the Secretary;

(ii) select schools for review in each local educational agency using criteria established by the Secretary;

(iii) report the final results of the reviews to the public in the State in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary; and

(iv) submit to the Secretary each year a report containing the results of the reviews in accordance with procedures developed by the Secretary; and

(D) when any local food service authority is reviewed under this section, ensure that the final results of the review by the [State educational agency] *State agency* are posted and otherwise made available to the public on request in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary.

(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each [State educational agency] *State 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.

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

[(A) DEFINITION OF SELECTED LOCAL EDUCATIONAL AGENCIES.—In this paragraph, the term "selected local educational agency" means a local educational agency that has a demonstrated 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 followup review of the selected local educational agency under standards established by the Secretary.]

(3) ERROR REDUCTION PLANS.—

(A) IN GENERAL.—Each State agency shall work with the local educational agencies that have the highest rates of certification errors according to the verification process under section 9(a)(D) to develop an error reduction plan and monitor implementation of the plan over the remainder of the review cycle.

(B) PLAN COMPONENTS.—Each error reduction plan shall include—

(i) specific measures that the local educational agency shall take to reduce certification errors, including at a minimum—

(I) increasing the standard verification sample size, except such increase shall not result in a verification sample size of more than 15 percent;

(II) improvements in the application;

(III) the use of technology to minimize opportunities for error; and

(IV) enhanced training and oversight of staff involved in the certification and verification process;

(ii) a timeline for the local educational agency to implement those measures within the review cycle;

(iii) annual goals for reductions in certification errors;

(iv) technical assistance to be provided by the State agency; and

(v) working with an educational service agency to help conduct the verification process and other aspects of the program as necessary to help reduce errors in the administration of the program.

(C) STATE AGENCY RESPONSIBILITIES.—Each State agency shall—

(i) assist the local educational agencies identified under subparagraph (D) with developing an error reduction plan that complies with subparagraph (B);

(ii) provide technical assistance as described in the error reduction plan under subparagraph (B)(iv);

(iii) conduct annual reviews focused on the direct certification, application, certification, verification, meal counting, and meal claiming processes; and

(iv) report annually to the Secretary on the progress of the State in reducing errors.

(D) SELECTION OF LOCAL EDUCATIONAL AGENCIES.—

(i) IN GENERAL.—Each State agency shall select up to 10 percent of the local educational agencies in the State to develop an error reduction plan.

(ii) LIMITATION.—The percentage of local educational agencies selected under clause (i) shall not be comprised of more than 50 percent of small local educational agencies, as determined by the Secretary.

(iii) ASSESSMENT OF CERTIFICATION ERROR.—In selecting local educational agencies under this paragraph, certification error shall be assessed based on a measure determined by the Secretary that considers—

(I) the results of the reviews conducted under paragraph (1) and

(II) the percentage of household applications verified under section 9(b)(3)(D)(i) that had the level of benefits changed as a result of information obtained during the verification process, excluding benefit terminations resulting from not obtaining information during household verification conducted under section 9(b)(3)(G).

(4) HIGH PERFORMANCE.—

(A) IN GENERAL.—If a local educational agency is determined to be in the top 20 percent of local educational agencies in the State, as determined by the State under subparagraph (B), the sample size under section 9(b)(3)(D)(i)(II) shall be a verification sample size of 2.5 percent.

(B) CONSIDERATIONS.—The State shall determine whether a local educational agency is in the top 20 percent of local educational agencies in the State by considering error rates, confirmation rates, non-response rates, response rates, and other factors as necessary to make such determination.

[(4)**]** *(5)* RETAINING 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 followup review under paragraph (1) or (3) or subsection (a), the Secretary may require the **[**State educational agency**]** *State agency* to retain funds that would otherwise be paid to the local educational agency for school meals programs under procedures prescribed by the Secretary.

(B) AMOUNT.—The amount of funds retained under subparagraph (A) shall equal the value of any overpayment made to the local educational agency or school food authority 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 overpayment 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 followup review conducted by the [State educational agency] *State 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 followup review conducted by the [State educational agency] *State 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)] *(6)* USE OF RETAINED FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), funds retained under [paragraph (4)] *paragraph (5)* shall—

(i) be returned to 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 to [State educational agencies] *State agencies* and, to the extent determined by the Secretary, to local educational agencies and school food authorities;

(II) to assist [State educational agencies] *State agencies* in reviewing the administrative practices of local educational agencies in carrying out school meals programs; and

(III) to carry out section 21(f); or

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

(B) STATE SHARE.—A [State educational agency] *State agency* may retain not more than 25 percent of an amount recovered under [paragraph (4)] *paragraph (5)*, to carry out school meals program integrity initiatives to assist local educational agencies and school food authorities 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] *State agency* shall—

(i) submit to the Secretary a plan describing how the [State educational agency] *State agency* will use the funds to improve school meals program integrity, including measures to give priority to local educational agencies from which funds were retained under [paragraph (4)] *paragraph (5)*;

(ii) consider using individuals who administer exemplary local food service programs in the provision of training and technical assistance; and

(iii) obtain the approval of the Secretary for the plan.

[(6)] *(7)* ELIGIBILITY DETERMINATION REVIEW FOR SELECTED LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—A local educational agency that has demonstrated a high level of, or a high risk for, administrative error associated with certification, verification, and other administrative processes, as determined by the Secretary, shall ensure that the initial eligibility determination for each application is reviewed for accuracy prior to notifying a household of the eligibility or ineligibility of the household for free or reduced price meals.

(B) TIMELINESS.—The review of initial eligibility determinations—

(i) shall be completed in a timely manner; and

(ii) shall not result in the delay of an eligibility determination for more than 10 operating days after the date on which the application is submitted.

(C) ACCEPTABLE TYPES OF REVIEW.—Subject to standards established by the Secretary, the system used to review eligibility determinations for accuracy shall be conducted by an individual or entity that did not make the initial eligibility determination.

(D) NOTIFICATION OF HOUSEHOLD.—Once the review of an eligibility determination has been completed under this paragraph, the household shall be notified immediately of the determination of eligibility or ineligibility for free or reduced price meals.

(E) REPORTING.—

(i) LOCAL EDUCATIONAL AGENCIES.—In accordance with procedures established by the Secretary, each local educational agency required to review initial eligibility determinations shall submit to the relevant State agency a report describing the results of the reviews, including—

(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

(II) such other information as the Secretary determines to be necessary.

(ii) STATE AGENCIES.—In accordance with procedures established by the Secretary, each State agency shall submit to the Secretary a report describing the results of the reviews of initial eligibility determinations, including—

(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

(II) such other information as the Secretary determines to be necessary.

(iii) TRANSPARENCY.—The Secretary shall publish annually the results of the reviews of initial eligibility determinations by State, number, percentage, and type of error.

(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

(1) assist the [State educational agency] *State agency* in the monitoring of programs conducted by local food service authorities; and

(2) through management evaluations, review the compliance of the [State educational agency] *State agency* and the local school food service authorities 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) $10,000,000 for each of fiscal years [2011 through 2015] *2017 through 2021*.

(e) FINES FOR VIOLATING PROGRAM REQUIREMENTS.—

(1) SCHOOL FOOD AUTHORITIES AND SCHOOLS.—

(A) IN GENERAL.—The Secretary shall establish criteria by which the Secretary or a State agency may impose a fine against any school food authority or school administering a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary or the State agency determines that the school food authority or school has—

(i) failed to correct severe mismanagement of the program;

(ii) disregarded a program requirement of which the school food authority or school had been informed; or

(iii) failed to correct repeated violations of program requirements.

(B) LIMITS.—

(i) IN GENERAL.—In calculating the fine for a school food authority or school, the Secretary shall base the amount of the fine on the reimbursement earned by school food authority or school for the program in which the violation occurred.

(ii) AMOUNT.—The amount under clause (i) shall not exceed—

(I) 1 percent of the amount of meal reimbursements earned for the fiscal year for the first finding of 1 or more program violations under subparagraph (A);

(II) 5 percent of the amount of meal reimbursements earned for the fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

(III) 10 percent of the amount of meal reimbursements earned for the fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

(2) STATE AGENCIES.—

(A) IN GENERAL.—The Secretary shall establish criteria by which the Secretary may impose a fine against any State agency administering a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary determines that the State agency has—

(i) failed to correct severe mismanagement of the program;

(ii) disregarded a program requirement of which the State had been informed; or

(iii) failed to correct repeated violations of program requirements.

(B) LIMITS.—In the case of a State agency, the amount of a fine under subparagraph (A) shall not exceed—

(i) 1 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the first finding of 1 or more program violations under subparagraph (A);

(ii) 5 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

(iii) 10 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

(3) SOURCE OF FUNDING.—Funds to pay a fine imposed under paragraph (1) or (2) shall be derived from non-Federal sources.

SEC. 23. CHILDHOOD HUNGER RESEARCH.

(a) RESEARCH ON CAUSES AND CONSEQUENCES OF CHILDHOOD HUNGER.—

(1) IN GENERAL.—The Secretary shall conduct research on—

(A) the causes of childhood hunger and food insecurity;

(B) the characteristics of households with childhood hunger and food insecurity; and

(C) the consequences of childhood hunger and food insecurity.

(2) AUTHORITY.—In carrying out research under paragraph (1), the Secretary may—

(A) enter into competitively awarded contracts or cooperative agreements; or

(B) provide grants to States or public or private agencies or organizations, as determined by the Secretary.

(3) APPLICATION.—To be eligible to enter into a contract or cooperative agreement or receive a grant under this subsection, a State or public or private agency or organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require.

(4) AREAS OF INQUIRY.—The Secretary shall design the research program to advance knowledge and understanding of information on the issues described in paragraph (1), such as—

(A) economic, health, social, cultural, demographic, and other factors that contribute to childhood hunger or food insecurity;

(B) the geographic distribution of childhood hunger and food insecurity;

(C) the extent to which—

(i) existing Federal assistance programs, including the Internal Revenue Code of 1986, reduce childhood hunger and food insecurity; and

(ii) childhood hunger and food insecurity persist due to—

(I) gaps in program coverage;

(II) the inability of potential participants to access programs; or

(III) the insufficiency of program benefits or services;

(D) the public health and medical costs of childhood hunger and food insecurity;

(E) an estimate of the degree to which the Census Bureau measure of food insecurity underestimates childhood hunger and food insecurity because the Census Bureau excludes certain households, such as homeless, or other factors;

(F) the effects of childhood hunger on child development, well-being, and educational attainment; and

(G) such other critical outcomes as are determined by the Secretary.

(5) FUNDING.—

(A) IN GENERAL.—On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $10,000,000, 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.

(b) DEMONSTRATION PROJECTS TO END CHILDHOOD HUNGER.—

(1) DEFINITIONS.—In this subsection:

(A) CHILD.—The term "child" means a person under the age of 18.

(B) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—The term "supplemental nutrition assistance program" means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(2) PURPOSE.—Under such terms and conditions as are established by the Secretary, the Secretary shall carry out demonstration projects that test innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger and food insecurity.

(3) PROJECTS.—Demonstration projects carried out under this subsection may include projects that—

(A) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

(B) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

(C) target Federal, State, or local assistance, including emergency housing or family preservation services, at households with children who are experiencing hunger or

food insecurity, to the extent permitted by the legal authority establishing those assistance programs and services.

(4) GRANTS.—

(A) DEMONSTRATION PROJECTS.—

(i) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as determined by the Secretary), for use in accordance with demonstration projects that meet the purposes of this subsection.

(ii) REQUIREMENT.—At least 1 demonstration project funded under this subsection shall be carried out on an Indian reservation in a rural area with a service population with a prevalence of diabetes that exceeds 15 percent, as determined by the Director of the Indian Health Service.

(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this subsection, an organization or agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) SELECTION CRITERIA.—Demonstration projects shall be selected based on publicly disseminated criteria that may include—

(i) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

(ii) a commitment to a demonstration project that allows for a rigorous outcome evaluation as described in paragraph (6);

(iii) a focus on innovative strategies to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

(iv) such other criteria as are determined by the Secretary.

(5) CONSULTATION.—In determining the range of projects and defining selection criteria under this subsection, the Secretary shall consult with—

(A) the Secretary of Health and Human Services;

(B) the Secretary of Labor; and

(C) the Secretary of Housing and Urban Development.

(6) EVALUATION AND REPORTING.—

(A) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of each demonstration project carried out under this subsection that—

(i) measures the impact of each demonstration project on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

(ii) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically

valid information regarding which activities are effective in reducing the prevalence or preventing the incidence of food insecurity and hunger in the community, especially among children.

(B) REPORTING.—Not later than December 31, 2013 and each December 31 thereafter until the date on which the last evaluation under subparagraph (A) is completed, the Secretary shall—

(i) submit to the Committee on Agriculture and the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

(I) the status of each demonstration project; and

(II) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

(ii) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

(7) FUNDING.—

(A) IN GENERAL.—On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $40,000,000, to remain available until September 30, 2017.

(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) USE OF FUNDS.—

(i) IN GENERAL.—Funds made available under subparagraph (A) may be used to carry out this subsection, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this subsection.

(ii) INDIAN RESERVATIONS.—Of amounts made available under subparagraph (A), the Secretary shall use a portion of the amounts to carry out research relating to hunger, obesity and type 2 diabetes on Indian reservations, including research to determine the manner in which Federal nutrition programs can help to overcome those problems.

(iii) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(I) describes the manner in which Federal nutrition programs can help to overcome child hunger nutrition problems on Indian reservations; and

(II) contains proposed administrative and legislative recommendations to strengthen and streamline all relevant Department of Agriculture nutrition programs to reduce childhood hunger, obesity, and type 2 diabetes on Indian reservations.

(D) LIMITATIONS.—

(i) DURATION.—No project may be funded under this subsection for more than 5 years.

(ii) PROJECT REQUIREMENTS.—No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this subsection unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

(iii) HUNGER-FREE COMMUNITIES.—No project may be funded under this subsection that receives funding under section 4405 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7517).

(iv) OTHER BENEFITS.—Funds made available under this subsection may not be used for any project in a manner that is inconsistent with—

(I) this Act;

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(III) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(IV) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).

[SEC. 24. STATE CHILDHOOD HUNGER CHALLENGE GRANTS.

[(a) DEFINITIONS.—In this section:

[(1) CHILD.—The term "child" means a person under the age of 18.

[(2) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—The term "supplemental nutrition assistance program" means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

[(b) PURPOSE.—Under such terms and conditions as are established by the Secretary, funds made available under this section may be used to competitively award grants to or enter into cooperative agreements with Governors to carry out comprehensive and innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger by 2015.

[(c) PROJECTS.—State demonstration projects carried out under this section may include projects that—

[(1) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

[(2) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

[(3) target Federal, State, or local assistance, including emergency housing, family preservation services, child care, or

temporary assistance at households with children who are experiencing hunger or food insecurity, to the extent permitted by the legal authority establishing those assistance programs and services;

[(4) enhance outreach to increase access and participation in Federal nutrition assistance programs; and

[(5) improve the coordination of Federal, State, and community resources and services aimed at preventing food insecurity and hunger, including through the establishment and expansion of State food policy councils.

[(d) GRANTS.—

[(1) IN GENERAL.—In carrying out this section, the Secretary may competitively award grants or enter into competitively awarded cooperative agreements with Governors for use in accordance with demonstration projects that meet the purposes of this section.

[(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under this section, a Governor shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

[(3) SELECTION CRITERIA.—The Secretary shall evaluate proposals based on publicly disseminated criteria that may include—

[(A) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

[(B) a commitment to approaches that allow for a rigorous outcome evaluation as described in subsection (f);

[(C) a comprehensive and innovative strategy to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

[(D) such other criteria as are determined by the Secretary.

[(4) REQUIREMENTS.—Any project funded under this section shall provide for—

[(A) a baseline assessment, and subsequent annual assessments, of the prevalence and severity of very low food security among children in the State, based on a methodology prescribed by the Secretary;

[(B) a collaborative planning process including key stakeholders in the State that results in a comprehensive agenda to eliminate childhood hunger that is—

[(i) described in a detailed project plan; and

[(ii) provided to the Secretary for approval;

[(C) an annual budget;

[(D) specific performance goals, including the goal to sharply reduce or eliminate food insecurity among children in the State by 2015, as determined through a methodology prescribed by the Secretary and carried out by the Governor; and

[(E) an independent outcome evaluation of not less than 1 major strategy of the project that measures—

[(i) the specific impact of the strategy on food insecurity among children in the State; and

[(ii) if applicable, the nutrition assistance participation rate among children in the State.

[(e) CONSULTATION.—In determining the range of projects and defining selection criteria under this section, the Secretary shall consult with—

[(1) the Secretary of Health and Human Services;

[(2) the Secretary of Labor;

[(3) the Secretary of Education; and

[(4) the Secretary of Housing and Urban Development.

[(f) EVALUATION AND REPORTING.—

[(1) GENERAL PERFORMANCE ASSESSMENT.—Each project authorized under this section shall require an independent assessment that—

[(A) measures the impact of any activities carried out under the project on the level of food insecurity in the State that—

[(i) focuses particularly on the level of food insecurity among children in the State; and

[(ii) includes a preimplementation baseline and annual measurements taken during the project of the level of food insecurity in the State; and

[(B) is carried out using a methodology prescribed by the Secretary.

[(2) INDEPENDENT EVALUATION.—Each project authorized under this section shall provide for an independent evaluation of not less than 1 major strategy that—

[(A) measures the impact of the strategy on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

[(B) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective in reducing the prevalence or preventing the incidence of food insecurity and hunger in the community, especially among children.

[(3) REPORTING.—Not later than December 31, 2011 and each December 31 thereafter until the date on which the last evaluation under paragraph (1) is completed, the Secretary shall—

[(A) submit to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

[(i) the status of each State demonstration project; and

[(ii) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

[(B) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

[(g) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2011 through 2014, to remain available until expended.

[(2) USE OF FUNDS.—Funds made available under paragraph (1) may be used to carry out this section, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this section.

[(3) LIMITATIONS.—

[(A) DURATION.—No project may be funded under this section for more than 5 years.

[(B) PERFORMANCE BASIS.—Funds provided under this section shall be made available to each Governor on an annual basis, with the amount of funds provided for each year contingent on the satisfactory implementation of the project plan and progress towards the performance goals defined in the project year plan.

[(C) ALTERING NUTRITION ASSISTANCE PROGRAM REQUIREMENTS.—No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this section unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

[(D) OTHER BENEFITS.—Funds made available under this section may not be used for any project in a manner that is inconsistent with—

[(i) this Act;

[(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

[(iii) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

[(iv) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).]

SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

(2) providing training, technical advice, and guidance in identifying and preventing the activities.

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

(1) CHILD NUTRITION PROGRAM.—The term "child nutrition program" means—

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

(B) the summer food service program for children established under section 13;

(C) the child and adult care food program established under section 17;

(D) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(E) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

(F) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

(2) CONTRACTOR.—The term "contractor" means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

(3) LOCAL AGENCY.—The term "local agency" means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

(4) NONPROCUREMENT DEBARMENT.—The term "nonprocurement debarment" means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

(5) PERSON.—The term "person" means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

(d) NONPROCUREMENT DEBARMENT.—

(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;
(C) knowingly receiving stolen property;
(D) making a false claim or statement; or
(E) any other obstruction of justice.

(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

(i) reverse a debarment decision;

(ii) reduce the period or scope of a debarment;

(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

(5) INFORMATION.—On request, the Secretary shall present to the [Committee on Education and Labor] *Committee on Education and the Workforce*, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other ad-

verse action against a person in a civil, criminal, or administrative proceeding.

(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

(1) exhaust all administrative procedures prescribed by the Secretary; and

(2) receive notice of the final determination of the Secretary.

(g) FINES.—

(1) IN GENERAL.—In a situation in which a contractor is found guilty in any criminal proceeding or found liable in any civil or administrative proceeding, of the activities listed in paragraph (2), in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, the Secretary shall impose a civil penalty of not more than $100,000,000, as determined by the Secretary, to provide restitution to the program for harm done to the program.

(2) INCLUDED ACTIVITIES.—Activities include, at a minimum—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) any other obstruction of justice.

(3) USE OF FUNDS.—Any funds collected under this subsection shall be credited to the child nutrition programs appropriations account.

[(g)**]** *(h)* INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the **[**Committee on Education and Labor**]** *Committee on Education and the Workforce*, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.

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SEC. 27. IMPROVEMENTS TO SCHOOL LUNCH FACILITIES.

(a) DEFINITIONS.—In this section:

(1) DURABLE EQUIPMENT.—The term "durable equipment" means durable food preparation, handling, cooking, serving, and storage equipment greater than $500 in value.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a local educational agency or a school food authority administering or operating a school lunch program under this Act;

(B) a tribal organization; or

(C) a consortium that includes a local educational agency or school food authority described in subparagraph (A), a tribal organization, or both.

(3) INFRASTRUCTURE.—The term "infrastructure" means a food storage facility, kitchen, food service facility, cafeteria, dining room, or food preparation facility.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) SCHOOL FOOD AUTHORITY.—The term "school food authority" has the meaning given the term in section 210.2 of title 7, Code of Federal Regulations (or a successor regulation).

(6) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) LOAN GUARANTEES.—

(1) AUTHORITY.—The Secretary shall issue a loan guarantee to an eligible lender for purposes of financing the construction, remodeling, or expansion of infrastructure or the purchase of durable equipment that will assist the eligible entity in providing healthy meals through the school lunch program authorized under this Act.

(2) PREFERENCE.—In issuing a loan guarantee under this subsection, the Secretary shall give a preference to an eligible entity that, as compared with other eligible entities seeking a loan guarantee under this subsection, demonstrates substantial or disproportionate—

(A) need for infrastructure improvement or durable equipment; or

(B) impairment in durable equipment.

(3) OVERSIGHT.—The Secretary, acting through the Under Secretary for Rural Development, shall establish procedures to oversee any project or purchase for which a loan guarantee is issued under this subsection.

(4) GUARANTEE AMOUNT.—A loan guarantee issued under this subsection may not guarantee more than 80 percent of the principal amount of the loan.

(5) FEES AND COSTS.—

(A) IN GENERAL.—The Secretary shall establish fees for loan guarantees under this subsection that are, to the maximum extent practicable, equal to all costs of the loan guarantees as determined under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.), as determined by the Secretary.

(B) FEE SHORTFALL.—To the extent that the Secretary determines that fees described in subparagraph (A) are not sufficient to pay for all of the costs for the loan guarantees pursuant to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.), the Secretary may use funds described in paragraph (6) to pay for the costs of loan guarantees not paid for by the fees.

(6) FUNDING.—Subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for fiscal year 2017 and each fiscal year thereafter.

(c) GRANTS.—

(1) AUTHORITY.—Beginning in fiscal year 2017 and subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this subsection, the Secretary shall make grants, on a competitive basis, to eligible entities for the purchase of durable equipment and infrastructure needed to serve healthier meals and improve food safety.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to eligible entities that—

(A) are located in States that have enacted comparable statutory grant funding mechanisms or that have otherwise appropriated funds for the purpose described in paragraph (1); and

(B) have identified and are reasonably expected to meet an unmet local or community need—

(i) through a public-private partnership or partnership with a food pantry or other low-income assistance agency; or

(ii) by allowing related community organizations to use kitchen or cafeteria space.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of costs for assistance funded through a grant awarded under this subsection shall not exceed 80 percent of the total cost of the durable equipment or infrastructure.

(B) MATCHING.—To receive a grant under this subsection, an eligible entity shall provide matching support in the form of cash or in-kind contributions.

(C) WAIVER.—The Secretary may waive or vary the requirements of subparagraphs (A) and (B) if the Secretary determines that undue hardship or effective exclusion from participation would otherwise result.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated $25,000,000 to carry out this subsection for fiscal year 2017 through fiscal year 2019.

(B) LIMIT.—The Secretary may use not more than 5 percent of the funds made available under subparagraph (A) to provide technical assistance.

(d) SALAD BARS.—Not later than 180 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review or revise any guidance in existence on that date of enactment so as to ensure that school food authorities have flexibility in the establishment and implementation of salad bars.

SEC. 28. PROGRAM EVALUATION.

(a) PERFORMANCE ASSESSMENTS.—

(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (3), the Secretary, acting through the Administrator of the Food and Nutrition Service, may conduct annual national performance assessments of the meal programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) COMPONENTS.—In conducting an assessment, the Secretary may assess—

(A) the cost of producing meals and meal supplements under the programs described in paragraph (1); and

(B) the nutrient profile of meals, and status of menu planning practices, under the programs.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2004 and each subsequent fiscal year.

(b) CERTIFICATION IMPROVEMENTS.—

(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (5), the Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct a study of the feasibility of improving the certification process used for the school lunch program established under this Act.

(2) PILOT PROJECTS.—In carrying out this subsection, the Secretary may conduct pilot projects to improve the certification process used for the school lunch program.

(3) COMPONENTS.—In carrying out this subsection, the Secretary shall examine the use of—

(A) other income reporting systems;

(B) an integrated benefit eligibility determination process managed by a single agency;

(C) income or program participation data gathered by State or local agencies; and

(D) other options determined by the Secretary.

(4) WAIVERS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may waive such provisions of this Act and the Child

Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) as are necessary to carry out this subsection.

(B) PROVISIONS.—The protections of section 9(b)(6) shall apply to any study or pilot project carried out under this subsection.

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

(c) COOPERATION WITH PROGRAM RESEARCH AND EVALUATION.—States, [State educational agencies] *State agencies*, local educational agencies, schools, institutions, facilities, and contractors participating in programs authorized under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall cooperate with officials and contractors acting on behalf of the Secretary, in the conduct of evaluations and studies under those Acts.

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SEC. 30. PROHIBITIONS.

Nothing in this Act, the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Healthy, Hunger-Free Kids Act of 2010, or the Improving Child Nutrition and Education Act of 2016 shall—

(1) authorize the Secretary to issue or establish any regulations or requirements not explicitly authorized under any such Act; or

(2) authorize the Secretary to require, as a condition of participation in any program under any such Act—

(A) any curriculum or education requirements for participating schools or child care providers; or

(B) the adoption of any specific education standards for nutrition education.

CHILD NUTRITION ACT OF 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966".

* * * * * * *

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3. (a)(1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as the Secretary may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act, and (B) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act.

(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the Richard B. Russell National School Lunch Act.

(3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the District of Columbia.

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as the Secretary administered the special milk program provided for by Public Law 89–642, as amended, during the fiscal year ending June 30, 1969.

(5) Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act shall receive the special milk program upon its request.

(6) Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.

(7) For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted [on an annual basis each] *annually by February 15 for the upcoming* school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8) Such adjustment shall be computed to the nearest one-fourth cent.

(9) Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

(10) The [State educational agency] *State agency* shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the [State educational agency] *State agency* to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(b) Commodity only schools shall not be eligible to participate in the special milk program under this section. For the purposes of the preceding sentence, the term "commodity only schools" means schools that do not participate in the school lunch program under the Richard B. Russell National School Lunch Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4. (a) There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States and the Department of Defense through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health and Human Services functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b)(1)(A)(i) The Secretary shall make breakfast assistance payments to each [State educational agency] *State agency* each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in an amount equal to the product obtained by multiplying—

(I) the number of breakfasts served during such fiscal year to children in schools in such States which participate in the school breakfast program under agreements with such [State educational agency] *State agency*; by

(II) the national average breakfast payment for free breakfasts, for reduced price breakfasts, or for breakfasts served to children not eligible for free or reduced price meals, as appropriate, as prescribed in clause (B) of this paragraph.

(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the [State educational agency] *State agency* to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the Richard B. Russell National School Lunch Act. The national average payment for each reduced price breakfast shall be one-half of the national average payment for each free breakfast, except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced price meals shall be 8.25 cents (as adjusted pursuant to section 11(a) of the Richard B. Russell National School Lunch Act).

(C) No school which receives breakfast assistance payments under this section may charge a price of more than 30 cents for a reduced price breakfast.

(D) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.

(E) 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] *State 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.

(F) INCREASED REIMBURSEMENT.—(i) For school year 2018–2019, the Secretary shall increase by 2 cents the annually adjusted payment for each breakfast (free, reduced price, and paid) described in subparagraph (B).

(ii) For school year 2019–2020, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the result obtained under such clause (i) applicable to such breakfast, as annually adjusted for the school year in accordance with subparagraph (B).

(iii) For school year 2020–2021, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the annually adjusted payment for such breakfast, as determined under clause (ii) of this subparagraph, plus 1 cent.

(iv) For school year 2021–2022, and each succeeding school year, the national average payment for each breakfast referred to in clause (i) of this subparagraph shall equal the result obtained under clause (iii) of this subparagraph applicable to such breakfast, as annually adjusted for the school year in accordance with subparagraph (B).

(2)(A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced price meal at schools that are in severe need.

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

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

(ii) 45 cents (as adjusted pursuant to section 11(a)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C 1759a(a)(3)(B))).

(C) The maximum payment for each such reduced price breakfast shall be thirty cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph.

(3) The Secretary shall increase by 6 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the Richard B. Russell National School Lunch Act. These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served

under this Act and section 17 of the Richard B. Russell National School Lunch Act.

(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the [State educational agency] *State agency* to schools selected by the [State educational agency] *State agency* to assist such schools in operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the [State educational agency] *State agency* shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d) SEVERE NEED ASSISTANCE.—

(1) IN GENERAL.—Each [State educational agency] *State 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—

(A) 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

(B) in the case of a school in which lunches were not served during the most recent second preceding school year, the Secretary otherwise determines that the requirements of subparagraph (A) would have been met.

(2) ADDITIONAL ASSISTANCE.—A school, on the submission of appropriate documentation about the need circumstances in that school and the eligibility of the school for additional assistance, shall be entitled to receive the meal reimbursement rate specified in subsection (b)(2).

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)(1)(A) Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free

or at a reduced price in section 9 of the Richard B. Russell National School Lunch Act.

(B) The Secretary shall provide through [State educational agencies] *State agencies* technical assistance and training[, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section,] to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs.

(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

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

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

* * * * * * *

SEC. 7. STATE ADMINISTRATIVE EXPENSES.

(a) AMOUNT AND ALLOCATION OF FUNDS.—

(1) AMOUNT AVAILABLE.—

(A) IN GENERAL.—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.

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

(2) EXPENSE GRANTS.—

(A) IN GENERAL.—Subject to subparagraph (B), 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.

(B) MINIMUM AMOUNT.—

(i) IN GENERAL.—In no case shall the grant available to any State under this paragraph be less than the amount such State was allocated in the fiscal year ending September 30, 1981, or $200,000 (as adjusted under **[**clause (ii)**]** *clause (ii))*, whichever is larger.

(ii) ADJUSTMENT.—On October 1, 2008, and each October 1 thereafter, the minimum dollar amount for a fiscal year specified in clause (i) shall be adjusted to reflect the percentage change between—

(I) the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(II) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the Richard B. Russell National School Lunch Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. If an agency in the State other than the **[**State educational agency**]** *State agency* administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program**[**, except as provided in paragraph (5)**]**. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the Richard B. Russell National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

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

[(B) REALLOCATION OF FUNDS.—

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

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

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

[(7)] *(6)* Where the Secretary is responsible for the administration of programs under this Act or the Richard B. Russell National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the Richard B. Russell National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.

[(8)] *(7)* In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the Richard B. Russell National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the Richard B. Russell National School Lunch Act.

[(9)] *(8)*(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766)), or compliance with a regulation issued pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the Rich-

ard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.

(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] *expenses for—*

(1) administrative and supervisory personnel; [for support services; for office equipment; and for staff]

(2) support services;

(3) office equipment;

(4) State-operated purchasing programs; and

(5) staff development.

(c) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

(d) Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.

(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.

(2) UPDATES AND INFORMATION MANAGEMENT SYSTEMS.—

(A) IN GENERAL.—After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.

(B) PLAN CONTENTS.—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—

(i) monitoring the nutrient content of meals served;

(ii) training local educational agencies, school food authorities, and schools in how to use technology and information management systems (including verifying eligibility for free or reduced price meals using program participation or income data gathered by State or local agencies); and

(iii) using electronic data to establish benchmarks to compare and monitor program integrity, program participation, and financial data.

(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.

(f) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the Richard B. Russell National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.

(g) PROFESSIONAL STANDARDS FOR SCHOOL FOOD SERVICE.—

(1) CRITERIA FOR SCHOOL FOOD SERVICE AND STATE AGENCY DIRECTORS.—

(A) SCHOOL FOOD SERVICE DIRECTORS.—

(i) IN GENERAL.—The Secretary shall establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority.

(ii) REQUIREMENTS.—The program shall include—

(I) minimum educational requirements necessary to successfully manage the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act;

(II) minimum program training and certification criteria for school food service directors; and

(III) minimum periodic training criteria to maintain school food service director certification.

(B) SCHOOL NUTRITION STATE AGENCY DIRECTORS.—The Secretary shall establish criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act.

(C) TRAINING PROGRAM PARTNERSHIP.—The Secretary may provide financial and other assistance to 1 or more professional food service management organizations—

(i) to establish and manage the program under this paragraph; and

(ii) to develop voluntary training and certification programs for other school food service workers.

(D) REQUIRED DATE OF COMPLIANCE.—

(i) SCHOOL FOOD SERVICE DIRECTORS.—The Secretary shall establish a date by which all school food service directors whose local educational agencies are participating in the school lunch program established under the Richard B. Russell National School Lunch

Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act shall be required to comply with the education, training, and certification criteria established in accordance with subparagraph (A).

(ii) SCHOOL NUTRITION STATE AGENCY DIRECTORS.—The Secretary shall establish a date by which all State agencies shall be required to comply with criteria and standards established in accordance with subparagraph (B) for the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act.

(2) TRAINING AND CERTIFICATION OF FOOD SERVICE PERSONNEL.—

(A) TRAINING FOR INDIVIDUALS CONDUCTING OR OVERSEEING ADMINISTRATIVE PROCEDURES.—

(i) 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 local educational agency and school food authority personnel and other appropriate personnel.

(ii) FEDERAL ROLE.—The Secretary shall—

(I) provide training and technical assistance described in clause (i) to the State; or

(II) at the option of the Secretary, directly provide training and technical assistance described in clause (i).

(iii) REQUIRED PARTICIPATION.—In accordance with procedures established by the Secretary, each local educational agency or school food authority shall ensure that an individual conducting or overseeing administrative procedures described in clause (i) receives training at least annually, unless determined otherwise by the Secretary.

(B) TRAINING AND CERTIFICATION OF ALL LOCAL FOOD SERVICE PERSONNEL.—

(i) IN GENERAL.—The Secretary shall provide training designed to improve—

(I) the accuracy of approvals for free and reduced price meals; and

(II) the identification of reimbursable meals at the point of service.

(ii) CERTIFICATION OF LOCAL PERSONNEL.—In accordance with criteria established by the Secretary, local food service personnel shall complete annual training and receive annual certification—

(I) to ensure program compliance and integrity; and

(II) to demonstrate competence in the training provided under clause (i).

[(iii) TRAINING MODULES.—In addition to the topics described in clause (i), a training program carried out

under this subparagraph shall include training modules on—

[(I) nutrition;

[(II) health and food safety standards and methodologies; and

[(III) any other appropriate topics, as determined by the Secretary.]

(iii) MINIMIZING DISRUPTIONS.—The Secretary shall encourage school food authorities to consider—

(I) providing the training required under this subparagraph to local food service personnel during paid, regular hours; and

(II) that to the extent that training must occur during nonwork hours, it is minimally disruptive to employees' other work obligations if employees are provided with sufficient notice of training.

(3) FUNDING.—

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

(i) on October 1, 2010, $5,000,000; and

(ii) on each October 1 thereafter, $1,000,000.

(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.

(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 local educational agencies carried out under section 22 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c).

(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 under 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 and WIC Reauthorization Act of 2004 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.

(i) TECHNOLOGY INFRASTRUCTURE IMPROVEMENT.—

(1) IN GENERAL.—Each State shall submit to the Secretary, for approval by the Secretary, an amendment to the plan required by subsection (e) that describes the manner in which funds provided under this section will be used for technology and information management systems.

(2) REQUIREMENTS.—The amendment shall, at a minimum, describe the manner in which the State will improve program integrity by—

(A) monitoring the nutrient content of meals served;

(B) providing training to local educational agencies, school food authorities, and schools on the use of technology and information management systems for activities including—

(i) menu planning;

(ii) collection of point-of-sale data; and

(iii) the processing of applications for free and reduced price meals; 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) TECHNOLOGY INFRASTRUCTURE GRANTS.—

(A) IN GENERAL.—Subject to the availability of funds made available under paragraph (4) to carry out this paragraph, the Secretary shall, on a competitive basis, provide funds to States to be used to provide grants to local educational agencies, school food authorities, and schools to defray the cost of purchasing or upgrading technology and information management systems for use in programs authorized by this Act (other than section 17) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) *and for the purposes described in section 749(h) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80; 123 Stat. 2133)*.

(B) INFRASTRUCTURE DEVELOPMENT PLAN.—To be eligible to receive a grant under this paragraph, a school or school food authority shall submit to the State a plan to purchase or upgrade technology and information management systems that addresses potential cost savings and methods to improve program integrity, including—

(i) processing and verification of applications for free and reduced price meals;

(ii) integration of menu planning, production, and serving data to monitor compliance with section 9(f)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(1)); and

(iii) compatibility with statewide reporting systems.

(C) PRIORITY.—In awarding funds to States under this paragraph, the Secretary shall give priority to States in

which local educational agencies, school food authorities, or schools submit a plan under subparagraph (B) that includes the use of technology or information management systems to provide assistance to tribal organizations administering the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) for purposes of improving the rate of direct certification of children in households participating in that program.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2010 through [2015] *2021*, to remain available until expended.

(j) CENTRALIZED EXCHANGE NETWORK.—

(1) ESTABLISHMENT.—The Secretary shall establish a centralized exchange network to facilitate State exchange of information and best practices, for programs authorized under this Act or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) NETWORK TOPICS.—State exchanges of information and best practices described in paragraph (1) may include, at a minimum, research methods and data related to—

(A) improved efficiency in the delivery of benefits;

(B) improved compliance in the programs; and

(C) reduction of fraud, waste, and abuse in the programs.

(3) ADMINISTRATIVE FUNDS.—The Secretary shall not use more than $450,000 for such network.

[(j)] *(k)* For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, [2015] *2021*, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

* * * * * * *

SEC. 10. REGULATIONS.

(a) IN GENERAL.—The Secretary shall prescribe such regulations as the Secretary may deem necessary to carry out this Act and the Richard B. Russell National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the Richard B. Russell National School Lunch Act.

(b) NATIONAL SCHOOL NUTRITION STANDARDS.—

(1) PROPOSED REGULATIONS.—

(A) IN GENERAL.—The Secretary shall—

(i) establish science-based nutrition standards for foods sold in schools other than foods provided under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(ii) not later than 1 year after the date of enactment of this paragraph, promulgate proposed regulations to carry out clause (i).

(B) APPLICATION.—The nutrition standards shall apply to all foods sold—

(i) outside the school meal programs;

(ii) on the school campus; and

(iii) at any time during the school day.

(C) REQUIREMENTS.—In establishing nutrition standards under this paragraph, the Secretary shall—

(i) establish standards that are consistent with 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), including the food groups to encourage and nutrients of concern identified in the Dietary Guidelines; [and]

(ii) consider—

(I) authoritative scientific recommendations for nutrition standards;

(II) existing school nutrition standards, including voluntary standards for beverages and snack foods and State and local standards;

(III) the practical application of the nutrition standards; and

(IV) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school[.]*;*

(iii) ensure that the nutrition standards under this paragraph do not apply to fundraisers held by student groups or organizations, and that the school and applicable State agency are not prohibited from determining which such fundraisers may be held; and

(iv) ensure that the nutrition standards under this paragraph allow any foods that may be served as part of a reimbursable meal served under the school meal programs to be sold in schools as described in subparagraph (B).

(D) UPDATING STANDARDS.—As soon as practicable after the date of publication by the Department of Agriculture and the Department of Health and Human Services of a new edition of the Dietary Guidelines for Americans under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Secretary shall review and update as necessary the school nutrition standards and requirements established under this subsection.

(2) IMPLEMENTATION.—

(A) EFFECTIVE DATE.—The interim or final regulations under this subsection shall take effect at the beginning of the school year that is not earlier than 1 year and not later than 2 years following the date on which the regulations are finalized.

(B) REPORTING.—The Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives a quarterly report that describes progress

made toward promulgating final regulations under this subsection.

(c) In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the Richard B. Russell National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

* * * * * * *

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) "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.

[(2) " 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.]

(2) STATE AGENCY.—The term "State agency" means—

(A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer);

(B) a board of education controlling the State department of education;

(C) the State Commissioner or individual who administers agricultural programs in the State; or

(D) a State official the State legislature designates to administer the programs under this Act.

(3) "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, 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 clauses (A) and (B) 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) "Secretary" means the Secretary of Agriculture.

(5) "School year" means the annual period from July 1 through June 30.

(6) Except as used in section 17 of this Act, the terms "child" and "children" as used in this Act, shall be deemed to include persons regardless of age who are determined by the [State educational agency] *State agency*, in accordance with regulations prescribed by the Secretary, to have 1 or more disabilities and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of

participating in a school program established for individuals with disabilities.

(7) 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.).

ACCOUNTS AND RECORDS

SEC. 16. (a) States, [State educational agencies] *State agencies*, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations 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 three years, as the Secretary determines is necessary.

(b) With regard to any claim arising under this Act or under the Richard B. Russell National School Lunch Act, the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either such Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education, including breastfeeding [promotion] *counseling, promotion,* and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons.

(b) As used in this section—

(1) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(2) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(3) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(4) "Costs of nutrition services and administration" or "nutrition services and administration" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, breastfeeding support and promotion, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(5) "Infants" means persons under one year of age.

(6) "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health and Human Services, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

(7) NUTRITION EDUCATION.—The term "nutrition education" means individual and group sessions and the provision of material that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

(8) "Nutritional risk" means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, (D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse, or (E) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, homelessness and migrancy.

(9) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program.

(10) "Postpartum women" means women up to six months after termination of pregnancy.

(11) "Pregnant women" means women determined to have one or more fetuses in utero.

(12) "Secretary" means the Secretary of Agriculture.

(13) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health and Human Services.

(14) *SUPPLEMENTAL FOOD.*— [“Supplemental foods" means those foods] *The term "supplemental food" means any food* con-

taining nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children and foods that promote the health of the population served by the program authorized by this section, as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, 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.

(15) "Homeless individual" means—

(A) an individual who lacks a fixed and regular nighttime residence; or

(B) an individual whose primary nighttime residence is—

(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

(iii) a temporary accommodation of not more than 365 days in the residence of another individual; or

(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(16) "Drug abuse education" means—

(A) the provision of information concerning the dangers of drug abuse; and

(B) the referral of participants who are suspected drug abusers to drug abuse clinics, treatment programs, counselors, or other drug abuse professionals.

(17) "Competitive bidding" means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

(18) "Rebate" means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

(19) "Discount" means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

(20) "Net price" means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under

a cost containment contract entered into with the pertinent State agency.

(21) REMOTE INDIAN OR NATIVE VILLAGE.—The term "remote Indian or Native village" means an Indian or Native village that—

(A) is located in a rural area;

(B) has a population of less than 5,000 inhabitants; and

(C) is not accessible year-around by means of a public road (as defined in section 101 of title 23, United States Code).".

(22) PRIMARY CONTRACT INFANT FORMULA.—The term "primary contract infant formula" means the specific infant formula for which manufacturers submit a bid to a State agency in response to a rebate solicitation under this section and for which a contract is awarded by the State agency as a result of that bid.

(23) STATE ALLIANCE.—The term "State alliance" means 2 or more State agencies that join together for the purpose of procuring infant formula under the program by soliciting competitive bids for infant formula.

(c)(1) The Secretary may carry out a special supplemental nutrition program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods, nutrition education, and breastfeeding support and promotion to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to—

(A) the supplemental nutrition assistance program;

(B) any program under which foods are distributed to needy families in lieu of supplemental nutrition assistance program benefits; and

(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

(2) Subject to amounts appropriated to carry out this section under subsection (g)—

(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of

benefits under the commodity supplemental food program and the program under this section.

(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.

(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the Richard B. Russell National School Lunch Act for free and reduced price meals;

(ii)(I) receives supplemental nutrition assistance program benefits under the Food and Nutrition Act of 2008; or

(II) is a member of a family that receives assistance under the State program funded established 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; or

(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

(B) For the purpose of determining income eligibility under this section, any State agency **[**may choose to**]** *shall* exclude from income—

(i) any basic allowance—

(I) for housing received by military service personnel residing off military installations; or

(II) provided under section 403 of title 37, United States Code, 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; **[**and**]**

(ii) any cost-of-living allowance provided under section 405 of title 37, United States Code, to a member of a uniformed service who is on duty outside the contiguous States of the United States**[**.**]***; and*

(iii) any basic allowance for subsistence provided under section 402 of title 37, United States Code, to a member of a uniformed service.

(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed

Forces deployed to a designated combat zone, if the additional pay—

(i) is the result of deployment to or service in a combat zone; and

(ii) was not received immediately prior to serving in a combat zone.

(D) In the case of a pregnant woman who is otherwise ineligible for participation in the program because the family of the woman is of insufficient size to meet the income eligibility standards of the program, the pregnant woman shall be considered to have satisfied the income eligibility standards if, by increasing the number of individuals in the family of the woman by 1 individual, the income eligibility standards would be met.

(E) CHILD SUPPORT PAYMENTS.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any child support payment for an applicant who is legally obligated to pay child support for any noncustodial child.

(3) CERTIFICATION.—

(A) PROCEDURES.—

(i) IN GENERAL.—Subject to clause (ii), a person shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(ii) BREASTFEEDING WOMEN.—A State may elect to certify a breastfeeding woman for a period of 1 year postpartum or until a woman discontinues breastfeeding, whichever is earlier.

(iii) CHILDREN.—A State may elect to certify participant children for a period of up to 1 year, if the State electing the option provided under this clause ensures that participant children receive required health and nutrition assessments.

(B) A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.

(C) PHYSICAL PRESENCE.—

(i) IN GENERAL.—Except as provided in clause (ii) and subject to the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each individual seeking certification or recertification for participation in the program shall be physically present at each certification or recertification determination in order to determine eligibility under the program.

(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;

(II) an infant or child who—

(aa) was present at the initial certification visit;

(bb) was present at a certification or recertification determination within the 1-year period ending on the date of the certification or recertification determination described in clause (i); and

(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.

(D) INCOME DOCUMENTATION.—

(i) IN GENERAL.—Except as provided in clause (ii), in order to participate in the program pursuant to clause (i) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of family income.

(ii) WAIVERS.—A State agency may waive the documentation requirement of clause (i), in accordance with criteria established by the Secretary, with respect to—

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

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

(E) ADJUNCT DOCUMENTATION.—In order to participate in the program pursuant to clause (ii) or (iii) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of receipt of assistance described in that clause.

(F) PROOF OF RESIDENCY.—An individual residing in a remote Indian or Native village or an individual served by an Indian tribal organization and residing on a reservation or pueblo may, under standards established by the Secretary, establish proof of residency under this section by providing to the State agency the mailing address of the individual and the name of the remote Indian or Native village.

(G) DATA EXCHANGE STANDARDS FOR IMPROVED INTEROPERABILITY.—

(i) DESIGNATION.—The Secretary, in consultation with an interagency work group established by the Office of Management and Budget, and taking into consideration State government perspectives, shall des-

ignate data exchange standards to govern, under this section—

(I) necessary categories of information that State agencies operating related programs are required under applicable law to electronically exchange with another State agency; and

(II) Federal reporting and data exchange required under applicable law.

(ii) REQUIREMENTS.—The data exchange standards required by clause (i) shall, to the maximum extent practicable—

(I) incorporate a widely accepted, nonproprietary, searchable, computer-readable format;

(II) contain interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model;

(III) incorporate interoperable standards developed and maintained by Federal entities with authority regarding contracting and financial assistance;

(IV) be consistent with, and implement, applicable accounting principles;

(V) be implemented in a manner that—

(aa) is cost effective; and

(bb) improves program efficiency and effectiveness;

(VI) be capable of being upgraded as necessary; and

(VII) protects the privacy of any personally identifiable information from being accessed by individuals who do not need access to such information.

(iii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph requires any change to an existing data exchange standard for Federal reporting that is determined to be effective and efficient.

(iv) IMPLEMENTATION.—

(I) IN GENERAL.—Not later than 2 years after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall issue a proposed rule to implement this subparagraph.

(II) REQUIREMENTS.—The proposed rule under this clause shall—

(aa) identify all federally required data exchanges;

(bb) include specification and timing for the exchanges to be standardized;

(cc) address the factors used in determining whether and when to standardize data exchanges;

(dd) specify State implementation options; and

(ee) describe future milestones.

[(e)(1) The State agency shall] *(e) NUTRITION AND DRUG ABUSE EDUCATION.—*

(1) EDUCATION.—

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

(B) DISPOSAL OF CERTAIN INFANT FORMULA.—

(i) IN GENERAL.—The State agency shall ensure that all pregnant, postpartum, and breastfeeding participants in the program, and parents or caretakers of infant and child participants in the program, are provided education regarding proper disposal of unused or excess infant formula obtained with food instruments issued under the program under this section.

(ii) INCLUSIONS.—The education under this subparagraph shall include information regarding—

(I) the safety hazards of purchasing infant formula from an unauthorized vendor; and

(II) the penalties associated with the gifting, trading, sale, or resale of infant formula or other supplemental foods obtained with food instruments issued under the program under this section, in accordance with subsection (o).

(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education, including breastfeeding support and education, under this section.

[(3) NUTRITION EDUCATION MATERIALS.—

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

[(B) SHARING OF MATERIALS WITH OTHER PROGRAMS.—

[(i) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program established under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) at no cost to that program.

[(ii) CHILD AND ADULT CARE FOOD PROGRAM.—A State agency may allow the local agencies or clinics under the State agency to share nutrition educational materials with institutions 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) at no cost to that program, if a written materials sharing agreement exists between the relevant agencies.]

(3) NUTRITION EDUCATION MATERIALS.—

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

(B) SHARING OF MATERIALS WITH CHILD AND ADULT CARE FOOD PROGRAM.—A State agency may allow the local agencies or clinics operating under the State agency to share nutrition educational materials with institutions 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) at no cost to that program, if a written materials-sharing agreement exists between the relevant agencies.

(4) The State agency—

(A) shall provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the "medicaid program");

(B) shall provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program; and

(C) may provide a local agency with materials describing other programs for which a participant in the program may be eligible.

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

[(f)(1)(A) Each State agency shall submit to the Secretary, by a date specified by the Secretary, an initial date specified by the Secretary, a plan of operation and administration for a fiscal year. After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.]

(f) PLAN OF OPERATION AND ADMINISTRATION BY STATE AGENCY.—

(1) REQUIREMENTS.—

(A) SUBMISSION.—

(i) IN GENERAL.—Each State agency shall submit to the Secretary a plan of operation and administration of the program authorized under this section.

(ii) DEADLINES.—Each State agency shall submit—

(I) an initial plan not later than such date as is specified by the Secretary; and

(II) an update to the plan every 3 years thereafter or, if the requirements of this section continue to be met by current plan, an assurance that the current plan continues to meet such requirements.

(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan [submitted for] *submitted covering* the fiscal year.

(C) The plan shall include—

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program at any of the authorized retail stores under the program, to be administered in accordance with standards developed by the Secretary, including a description of the State agency's vendor peer group system, competitive price criteria, and allowable reimbursement levels that demonstrate that the State is in compliance with the cost-containment provisions in subsection (h)(11);

(ii) procedures for accepting and processing vendor applications outside of the established timeframes if the State agency determines there will be inadequate access to the program, including in a case in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership;

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

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

(v) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants, homeless individuals, and Indians;

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

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

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

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

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

(xi) a plan to allow, during an emergency or disaster period, for different foods to be obtained with program benefits in lieu

of, or in addition to, the supplemental foods available to be obtained with such benefits;

(xii) a plan detailing the methods to be used by all local agencies to ensure compliance with subsection (d)(2); and

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

(D) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

[(5) State and local**]**

(5) ACCOUNTS, RECORDS, AND REVIEW.—

(A) IN GENERAL.—State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. 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 necessary.

(B) REVIEW.—The Secretary shall periodically review State and local agency compliance with the approved plan of operation and administration of the applicable State.

(6)(A) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education and breastfeeding counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State

plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction.

(7)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible individuals (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, organizations and agencies serving homeless individuals and shelters for victims of domestic violence, and religious and community organizations in low income areas).

(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible individuals who are most in need of the benefits, including pregnant women in the early months of pregnancy.

(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.

(8)(A) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant.

(9) If an individual certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that individual's certification of eligibility shall remain valid for the period for which the individual was originally certified.

[(10) The Secretary]

(10) STANDARDS FOR ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall establish standards for the proper, efficient, and effective administration of the program. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such

amounts of the State agency's funds for nutrition services and administration as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

(B) NOTIFICATION TO STATE AUTHORITY.—If, on reviewing the administration by a State of the program, the Secretary determines there is a need to temporarily halt the State from approving new vendors to address deficiencies in proper administration, the Secretary may issue a moratorium on the authority of the State to approve new vendors, subject to the condition that the Secretary shall provide the State with reasoning behind such determination and shall establish—

(i) a timeframe under which the moratorium will be issued, including any renewal or lifting of the moratorium;

(ii) a process to approve vendors for the State in a manner that does not impede—

(I) the sale of a business; or

(II) the establishment of any new business; and

(iii) a review process to be conducted by the Secretary to ensure that participants, nonparticipants, and vendors are not adversely impacted by the implementation of the moratorium.

(11) SUPPLEMENTAL FOODS.—

(A) IN GENERAL.—The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section.

(B) APPROPRIATE CONTENT.—To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

(C) REVIEW OF AVAILABLE SUPPLEMENTAL FOODS.—As frequently as determined by the Secretary to be necessary to reflect the most recent scientific knowledge, but not less than every 10 years, the Secretary shall—

(i) conduct a scientific review of the supplemental foods available under the program *which, beginning not later than 60 days after the date of enactment of the Improving Child Nutrition and Education Act of 2016, shall include an examination of criteria relating to fluid milk (in consideration of 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)), and an examination of the consumption and redemption rates of milk beginning on May 5, 2014*; [and]

(ii) amend the supplemental foods available, as necessary, to reflect nutrition science, public health concerns, [and cultural eating patterns.] *cultural eating patterns, commercial availability, and participant demand, except that any changes made under this clause shall not limit the overall fruit intake of children; and*

(iii) consider accommodations for medical, including food allergies, or other special dietary needs of individuals, including religious dietary restrictions.

(D) PRODUCT PACKAGE SIZES.—In promulgating or revising regulations under this paragraph, the Secretary shall allow a range of product package sizes to be selected by participants.

(E) CASH VALUE VOUCHERS.—In adjusting annually for food cost inflation in the food package under this paragraph, the Secretary shall round to the nearest dollar increment.

(F) PARTICIPANT CHOICE OPTIONS.—The Secretary shall maximize opportunities for State agency flexibility to ensure adequate and appropriate participant choice to meet participant needs and cultural preferences in supplemental foods made available under this section.

(12) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals.

(13) The State agency may (A) provide nutrition education, breastfeeding promotion, and drug abuse education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

(14) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.

(15) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.

(16) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.

(17) Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(18) Each local agency participating in the program under this section may provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

(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.

(20) Each State agency shall conduct monitoring reviews of each local agency at least biennially.

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

(A) the fiscal year in which the claim arises;

(B) the fiscal year in which the funds are collected; and

(C) the fiscal year following the fiscal year in which the funds are collected.

(22) The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.

(23) INDIVIDUALS PARTICIPATING AT MORE THAN ONE SITE.—Each State agency shall implement a system designed by the State agency to identify individuals who are participating at more than one site under the program.

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

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

(B) conduct compliance investigations of the vendors.

(25) INFANT FORMULA BENEFITS.—A State agency may round up to the next whole can of infant formula to allow all participants under the program to receive the full-authorized nutritional benefit specified by regulation.

(26) 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 penalty or 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 an investigation.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—

[(A) AUTHORIZATION.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2015.]

(A) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $6,350,000,000 for each of fiscal years 2017 through 2021.

(B) ADVANCE APPROPRIATIONS; AVAILABILITY.—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.

(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

(B) In any fiscal year—

(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the sec-

ond and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).

(4) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.

(5) Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $15,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, preparing reports on program participant characteristics, providing technical assistance to improve State agency administrative systems, administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations, and carrying out technical assistance and research evaluation projects of the programs under this section.

(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs of nutrition services and administration incurred by State and local agencies for such year.

(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued the preceding fiscal year, as adjusted.

(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the preceding fiscal year to reflect the percentage change between—

(I) the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

(C) REMAINING AMOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), in any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits

under this section, except to the extent that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

(ii) BREAST PUMPS.—A State agency may use amounts made available under clause (i) for the purchase of breast pumps.

(2)(A) 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) shall be designed to take into account—

(I) the varying needs of each State;

(II) the number of individuals participating in each State; and

(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

(ii) shall provide for each State agency—

(I) an estimate of the number of participants for the fiscal year involved; and

(II) a per participant grant for nutrition services and administration for such year;

(iii) shall provide for a minimum grant amount for State agencies; and

(iv) may provide funds to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

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

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

(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

(3)(A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

(I) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

(II) except as otherwise provided in subparagraphs (F) and (G), an amount equal to a proportionate share of the national minimum breastfeeding promotion expenditure, as described in subparagraph (E), with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

(E) For each fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

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

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

(4) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall—

(i) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

(ii) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

(iii) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration;

(iv) 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;

(v) 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;

(vi) partner with communities, State and local agencies, employers, health care professionals, and other entities in 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 initiative; [and]

(vii) annually compile and publish breastfeeding performance measurements based on program participant data on the number of partially and fully breast-fed infants, including breastfeeding performance measurements for—

(I) each State agency; and

(II) each local agency;

(viii) in accordance with subparagraph (B), implement a program to recognize exemplary breastfeeding support practices at local agencies or clinics participating in the special supplemental nutrition program established under this section; and

(ix) in accordance with subparagraph (C), implement a program to provide performance bonuses to State agencies.

(B) EXEMPLARY BREASTFEEDING SUPPORT PRACTICES.—

(i) IN GENERAL.—In evaluating exemplary practices under subparagraph (A)(viii), the Secretary shall consider—

(I) performance measurements of breastfeeding;

(II) the effectiveness of a peer counselor program;

(III) the extent to which the agency or clinic has partnered with other entities to build a supportive breastfeeding environment for women participating in the program; and

(IV) such other criteria as the Secretary considers appropriate after consultation with State and local program agencies.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities described in clause (viii) of subparagraph (A) such sums as are necessary.

(C) PERFORMANCE BONUSES.—

(i) IN GENERAL.—Following the publication of breastfeeding performance measurements under subparagraph (A)(vii), the Secretary shall provide performance bonus payments to not more than 15 State agencies that demonstrate, as compared to other State agencies participating in the program—

(I) the highest proportion of breast-fed infants; or

(II) the greatest improvement in proportion of breast-fed infants.

(ii) CONSIDERATION.—In providing performance bonus payments to State agencies under this subparagraph, the Secretary shall consider the proportion of fully breast-fed infants in the States.

(iii) USE OF FUNDS.—A State agency that receives a performance bonus under clause (i)—

(I) shall treat the funds as program income; and

(II) may transfer the funds to local agencies for use in carrying out the program.

(iv) IMPLEMENTATION.—The Secretary shall provide the first performance bonuses not later than 1 year after the date of enactment of this clause and may subsequently revise the criteria for awarding performance bonuses[; and].

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

(i) to cover allowable expenditures in such fiscal year; and

(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

(C) For the purposes of this paragraph, the term "acceptable measures" includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

(D) REMOTE INDIAN OR NATIVE VILLAGES.—For noncontiguous States containing a significant number of remote Indian or Native villages, a State agency may convert amounts allocated for food benefits for a fiscal year to the costs of nutrition services and administration to the extent that the conversion is necessary to cover expenditures incurred in providing services (including the full cost of air transportation and other transportation) to remote Indian or Native villages and to provide breastfeeding support in remote Indian or Native villages.

(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking

into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

(A) local agency staffing needs;

(B) density of population;

(C) number of individuals served; and

(D) availability of administrative support from other sources.

(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

(A) a new local agency;

(B) a new cost containment measure; or

(C) a significant change in an existing cost containment measure.

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

(I) a competitive bidding system; or

(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels change), such as—

(I) the number of infants who would not be expected to receive the primary contract infant formula under a competitive bidding system;

(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

(iii) COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award contracts to bidders offering the lowest net price for a specific infant formula for which manufacturers submit a bid unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.

(iv) SIZE OF STATE ALLIANCES.—

(I) IN GENERAL.—Except as provided in subclauses (II) through (IV), no State alliance may exist among

States if the total number of infants served by States participating in the alliance as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, would exceed 100,000.

(II) ADDITION OF INFANT PARTICIPANTS.—In the case of a State alliance that exists on the date of enactment of this clause, the alliance may continue and may expand to serve more than 100,000 infants but, except as provided in subclause (III), may not expand to include any additional State agency.

(III) ADDITION OF SMALL STATE AGENCIES AND INDIAN STATE AGENCIES.—Except as provided in paragraph (9)(B)(i)(II), any State alliance may expand to include any State agency that served less than 5,000 infant participants as of October 1, 2003, or such subsequent date determined by the Secretary for which data is available, or any Indian State agency, if the State agency or Indian State agency requests to join the State alliance.

(IV) SECRETARIAL WAIVER.—The Secretary may waive the requirements of this clause not earlier than 30 days after submitting 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 written report that describes the cost-containment and competitive benefits of the proposed waiver.

(v) FIRST CHOICE OF ISSUANCE.—The State agency shall use the primary contract infant formula as the first choice of issuance (by formula type), with all other infant formulas issued as an alternative to the primary contract infant formula.

(vi) REBATE INVOICES.— [Effective beginning]

(I) IN GENERAL.—Effective beginning October 1, 2004, 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.

(II) INFANT FORMULA.—Effective beginning on the date of the enactment of the Improving Child Nutrition and Education Act of 2016, a State agency that has fully implemented electronic benefits transfer systems throughout the State shall have in effect a system to ensure that infant formula rebate invoices, under competitive bidding, provide an actual count of the number of units sold to participants in the program under this section.

(vii) SEPARATE SOLICITATIONS.—In soliciting bids for infant formula under a competitive bidding system, any State agency, or State alliance, that served under the program a monthly average of more than 100,000 infants during the preceding 12-month period shall solicit bids from infant formula manufacturers under procedures that re-

quire that bids for rebates or discounts are solicited for milk-based and soy-based infant formula separately.

(viii) CENT-FOR-CENT ADJUSTMENTS.—A bid solicitation for infant formula under the program 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; and

(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.

(ix) LIST OF INFANT FORMULA WHOLESALERS, DISTRIBUTORS, RETAILERS, AND MANUFACTURERS.—The State agency shall maintain a list of—

(I) infant formula wholesalers, distributors, and retailers licensed in the State in accordance with State law (including regulations); and

(II) infant formula manufacturers registered with the Food and Drug Administration that provide infant formula.

(x) PURCHASE REQUIREMENT.—A vendor authorized to participate in the program under this section shall only purchase infant formula from the list described in clause (ix).

(xi) CONTRACT DURATION.—The contracts awarded under clause (iii) shall specify that—

(I) if the income eligibility limit under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for pregnant women or infants is substantially increased, the contractor may terminate the existing contract effective on the later of—

(aa) the date that is 1 year after the date on which the State decision to increase the eligibility limit by amending the State plan is made by—

(AA) adopting State legislation;

(BB) issuing a State executive order or administrative rule; or

(CC) any other applicable State process, as determined by the Secretary; and

(bb) the first day of the month during which the increase takes effect; and

(II) if a contractor elects to terminate a contract pursuant to subclause (I), the contractor shall notify the State agency by not later than the date that is 1 year before the proposed date of termination.

(B)(i) The Secretary shall waive the requirement of subparagraph (A) in the case of any State that demonstrates to the Secretary that—

(I) compliance with subparagraph (A) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

(iii) The Secretary shall provide information on a timely basis to the [Committee on Education and Labor] *Committee on Education and the Workforce* of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

(C)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

(ii) The Secretary shall also provide technical assistance, on request, to State agencies that desire to consider a cost containment system that covers more than 1 State agency.

(iii) The Secretary may waive the requirement of subparagraph (A) in the case of any Indian State agency that has not more than 1,000 participants.

(D) No State may enter into a cost containment contract (in this subparagraph referred to as the original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

(E) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

(F) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

(G) To reduce the costs of any supplemental foods, the Secretary may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(H)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the

Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

(I) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.

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

(K) REPORTING.—Effective beginning October 1, 2011, each State agency shall report rebate payments received from manufacturers in the month in which the payments are received, rather than in the month in which the payments were earned.

(9) COST CONTAINMENT MEASURE.—

(A) DEFINITION OF COST CONTAINMENT MEASURE.—In this subsection, the term "cost containment measure" means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in the approved State plan of operation and administration of the State agency.

(B) SOLICITATION AND REBATE BILLING REQUIREMENTS.—Any State agency instituting a cost containment measure for any authorized food, including infant formula, shall—

(i) in the bid solicitation—

(I) identify the composition of State alliances for the purposes of a cost containment measure; [and]

(II) verify that no additional States shall be added to the State alliance between the date of the bid solicitation and the end of the contract;

(III) limit the term of any contract (including any extension or renewal period) to a maximum of 5 years, subject to the condition that any such extension or renewal shall be approved only on mutual consent of the contractor and the State agency;

(IV) agree to provide, by not later than 180 days before exercising any termination for convenience clause, a written notice to each affected contractor;

(V) agree—

(aa) to receive an annual audit of infant formula rebate invoices by a contractor; and

(bb) to provide to each contractor accurate monthly redemption files; and

(VI) agree not to provide any State preference to any bidder in evaluating bids;

(ii) have a system to ensure that 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;

(iii) for any State agency that has fully implemented electronic benefits transfer systems throughout the State, have a system to ensure that rebate invoices under competitive bidding provide an actual count of the number of units lawfully sold to participants in the program under this section;

[(iii)**]** *(iv)* open and read aloud all bids at a public proceeding on the day on which the bids are due; **[**and**]**

[(iv)**]** *(v)* unless otherwise exempted by the Secretary, provide a minimum of **[**30**]** *45* days between the publication of the solicitation and the date on which the bids are due**[**.**]***;*

(vi) provide a process to negotiate the amount of funds to be returned to the bidder by the State agency, and the method of return, on determining and verifying that rebates were paid on any food, including infant formula, sold under fraudulent means;

(vii) open bids and enter into a contract under paragraph (8)(A)(iii) only after making a reasonable effort to confirm in writing, via email or other means, that the manufacturers on the list the State agency maintains under paragraph (8)(A)(ix) received the initial request for proposals or other bid solicitation document by not later than the date that is 45 days before the date on which the bids are due;

(viii) agree to provide to contractors supporting documentation for monthly invoices, subject to the participant and vendor confidentiality protections under program rules; and

(ix) not later than the date that is 90 days after the date for opening bids, submit to the Secretary a copy of the bid solicitation and any other contract documents.

(C) STATE ALLIANCES FOR AUTHORIZED FOODS OTHER THAN INFANT FORMULA.—Program requirements relating to the size of State alliances under paragraph (8)(A)(iv) shall apply to cost containment measures established for any authorized food under this section.

(D) CERTAIN FOOD FOR INFANTS.—Before any State agency solicits bids for a contract for infant fruits, vegetables,

cereal, or meat under a competitive bidding system, the State agency shall—

(i) consider—

(I) the impact of the contract on—

(aa) participation or redemption rates;

(bb) costs to the State agency for infant fruits, vegetables, cereal, or meat, including product, administrative, and procurement costs; and

(cc) the ability of the State agency—

(AA) to achieve the purpose described in subsection (a);

(BB) to provide infants with a variety of developmentally appropriate infant fruits, vegetables, cereal, or meat; and

(CC) to serve the nutritional needs of program participants; and

(dd) consumers who are not participants, including the availability of alternate brands and potential effects on retail pricing of infant fruits, vegetables, cereal, or meat; and

(II) whether the contract is compatible with—

(aa) the management information and food instrument system of the State agency;

(bb) eligible vendors; and

(cc) the capacity of the manufacturer to meet technical specifications; and

(ii) provide to the Secretary—

(I) a written explanation of how the considerations described in clause (i) affected the decision of the State agency to solicit bids for a contract; and

(II) not later than 15 months after the start of such contract, a report that shall include—

(aa) the net savings to date from the contract;

(bb) an assessment of the impact on eligible stores, non-participants, and retail prices for infant fruits, vegetables, cereal, and meat; and

(cc) an analysis of the costs and benefits of the contract, including an examination of retail prices of infant fruits, vegetables, cereal, and meat.

(10) FUNDS FOR INFRASTRUCTURE, MANAGEMENT INFORMATION SYSTEMS, AND SPECIAL NUTRITION EDUCATION.—

(A) IN GENERAL.—For each of fiscal years 2010 through 2015, the Secretary shall use for the purposes specified in subparagraph (B) $139,000,000 (as adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B)).

(B) PURPOSES.—Subject to subparagraph (C), of the amount made available under subparagraph (A) for a fiscal year—

(i) $14,000,000 shall be used for—

(I) infrastructure for the program under this section;

(II) special projects to promote breastfeeding, including projects to assess the effectiveness of particular breastfeeding promotion strategies; and

(III) special State projects of regional or national significance to improve the services of the program;

(ii) $35,000,000 shall be used to establish, improve, or administer management information systems for the program, including changes necessary to meet new legislative or regulatory requirements of the program, of which up to $5,000,000 may be used for Federal administrative costs; and

(iii) $90,000,000 shall be used for special nutrition education (such as breastfeeding peer counselors and other related activities), of which not more than $10,000,000 of any funding provided in excess of $50,000,000 shall be used to make performance bonus payments under paragraph (4)(C).

(C) ADJUSTMENT.—Each of the amounts referred to in clauses (i), (ii), and (iii) of subparagraph (B) shall be adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B).

(D) PROPORTIONAL DISTRIBUTION.—The Secretary shall distribute funds made available under subparagraph (A) in accordance with the proportional distribution described in subparagraphs (B) and (C).

(11) VENDOR COST CONTAINMENT.—

(A) PEER GROUPS.—

(i) IN GENERAL.—The State agency shall—

(I) establish a vendor peer group system;

(II) in accordance with subparagraphs (B) and (C), establish competitive price criteria and allowable reimbursement levels for each vendor peer group; and

(III) if the State agency elects to authorize any types of vendors described in subparagraph (D)(ii)(I)—

(aa) distinguish between vendors described in subparagraph (D)(ii)(I) and other vendors by establishing—

(AA) separate peer groups for vendors described in subparagraph (D)(ii)(I);or

(BB) distinct competitive price criteria and allowable reimbursement levels for vendors described in subparagraph (D)(ii)(I) within a peer group that contains both vendors described in subparagraph (D)(ii)(I) and other vendors; and

(bb) establish competitive price criteria and allowable reimbursement levels that comply with subparagraphs (B) and (C), respectively,

and that do not result in higher food costs if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

Nothing in this paragraph shall be construed to compel a State agency to achieve lower food costs if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

(ii) EXEMPTIONS.—The Secretary may exempt from the requirements of clause (i)—

(I) a State agency that elects not to authorize any types of vendors described in subparagraph (D)(ii)(I) and that demonstrates to the Secretary that—

(aa) compliance with clause (i) would be inconsistent with efficient and effective operation of the program administered by the State under this section; or

(bb) an alternative cost-containment system would be as effective as a vendor peer group system; or

(II) a State agency—

(aa) in which the sale of supplemental foods that are obtained with food instruments from vendors described in subparagraph (D)(ii)(I) constituted less than 5 percent of total sales of supplemental foods that were obtained with food instruments in the State in the year preceding a year in which the exemption is effective; and

(bb) that demonstrates to the Secretary that an alternative cost-containment system would be as effective as the vendor peer group system and would not result in higher food costs if program participants redeem supplemental food vouchers at vendors described in subparagraph (D)(ii)(I) rather than at vendors other than vendors described in subparagraph (D)(ii)(I).

(B) COMPETITIVE PRICING.—

(i) IN GENERAL.—The State agency shall establish competitive price criteria for each peer group for the selection of vendors for participation in the program that—

(I) ensure that the retail prices charged by vendor applicants for the program are competitive with the prices charged by other vendors; and

(II) consider—

(aa) the shelf prices of the vendor for all buyers; or

(bb) the prices that the vendor bid for supplemental foods, which shall not exceed the shelf prices of the vendor for all buyers.

(ii) PARTICIPANT ACCESS.—In establishing competitive price criteria, the State agency shall consider participant access by geographic area.

(iii) SUBSEQUENT PRICE INCREASES.—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not, subsequent to selection, increase prices to levels that would make the store ineligible for selection to participate in the program.

(C) ALLOWABLE REIMBURSEMENT LEVELS.—

(i) IN GENERAL.—The State agency shall establish allowable reimbursement levels for supplemental foods for each vendor peer group that ensure—

(I) that payments to vendors in the vendor peer group reflect competitive retail prices; and

(II) that the State agency does not reimburse a vendor for supplemental foods at a level that would make the vendor ineligible for authorization under the criteria established under subparagraph (B).

(ii) PRICE FLUCTUATIONS.—The allowable reimbursement levels may include a factor to reflect fluctuations in wholesale prices.

(iii) PARTICIPANT ACCESS.—In establishing allowable reimbursement levels, the State agency shall consider participant access in a geographic area.

(D) EXEMPTIONS.—The State agency may exempt from competitive price criteria and allowable reimbursement levels established under this paragraph—

(i) pharmacy vendors that supply only exempt infant formula or medical foods that are eligible under the program; and

(ii) vendors—

(I)(aa) for which more than 50 percent of the annual revenue of the vendor from the sale of food items consists of revenue from the sale of supplemental foods that are obtained with food instruments; or

(bb) who are new applicants likely to meet the criteria of item (aa) under criteria approved by the Secretary; and

(II) that are nonprofit.

(E) COST CONTAINMENT.—**[**If a State**]**

(i) IN GENERAL.—If a State agency elects to authorize any types of vendors described in subparagraph (D)(ii)(I), the State agency shall demonstrate to the Secretary, and the Secretary shall certify, that the competitive price criteria and allowable reimbursement levels established under this paragraph for vendors described in subparagraph (D)(ii)(I) do not result in average payments per voucher to vendors described in subparagraph (D)(ii)(I) that are higher than average

payments per voucher to comparable vendors other than vendors described in subparagraph (D)(ii)(I).

(ii) REQUIREMENT.—Effective not later than 120 days after the date of the enactment the Improving Child Nutrition and Education Act of 2016, in calculating average payments per voucher under clause (i), a State agency shall exclude food instruments not fully redeemed, based on an actual count or a reasonable estimate.

(F) LIMITATION ON PRIVATE RIGHTS OF ACTION.—Nothing in this paragraph may be construed as creating a private right of action.

(G) IMPLEMENTATION.—A State agency shall comply with this paragraph not later than 18 months after the date of enactment of this paragraph.

(12) ELECTRONIC BENEFIT TRANSFER.—

(A) DEFINITIONS.—In this paragraph:

(i) ELECTRONIC BENEFIT TRANSFER.—The term "electronic benefit transfer" means a ⟦food delivery system that provides⟧ *method to deliver* benefits using a card or other access device approved by the Secretary that permits electronic access to program benefits.

(ii) PROGRAM.—The term "program" means the special supplemental nutrition program established by this section.

(B) REQUIREMENTS.—

(i) IN GENERAL.—Not later than October 1, 2020, each State agency shall be required to implement electronic benefit transfer systems throughout the State, unless the Secretary grants an exemption under subparagraph (C) for a State agency that is facing unusual barriers to implement an electronic benefit transfer system.

(ii) RESPONSIBILITY.—The State agency shall be responsible for the coordination and management of the electronic benefit transfer system of the agency.

(C) EXEMPTIONS.—

(i) IN GENERAL.—To be eligible for an exemption from the statewide implementation requirements of subparagraph (B)(i), a State agency shall demonstrate to the satisfaction of the Secretary 1 or more of the following:

(I) There are unusual technological barriers to implementation.

(II) Operational costs are not affordable within the nutrition services and administration grant of the State agency.

(III) It is in the best interest of the program to grant the exemption.

(ii) SPECIFIC DATE.—A State agency requesting an exemption under clause (i) shall specify a date by which the State agency anticipates statewide implementation described in subparagraph (B)(i).

(D) REPORTING.—

(i) IN GENERAL.—Each State agency shall submit to the Secretary electronic benefit transfer project status reports to demonstrate the progress of the State toward statewide implementation.

(ii) CONSULTATION.—If a State agency plans to incorporate additional programs in the electronic benefit transfer system of the State, the State agency shall consult with the State agency officials responsible for administering the programs prior to submitting the planning documents to the Secretary for approval.

(iii) REQUIREMENTS.—At a minimum, a status report submitted under clause (i) shall contain—

(I) an annual outline of the electronic benefit transfer implementation goals and objectives of the State;

(II) appropriate updates in accordance with approval requirements for active electronic benefit transfer State agencies; and

(III) such other information as the Secretary may require.

(E) IMPOSITION OF COSTS ON VENDORS.—

(i) COST PROHIBITION.—Except as otherwise provided in this paragraph, the Secretary may not impose, or allow a State agency to impose, the costs of any equipment or system required for electronic benefit transfers on any authorized vendor in order to transact electronic benefit transfers if the vendor equipment or system is used solely to support the program.

(ii) COST-SHARING.—The Secretary shall establish criteria for cost-sharing by State agencies and vendors of costs associated with any equipment or system that is not solely dedicated to transacting electronic benefit transfers for the program.

(iii) FEES.—

(I) IN GENERAL.—A vendor that elects to accept electronic benefit transfers using multifunction equipment shall pay commercial transaction processing costs and fees imposed by a third-party processor that the vendor elects to use to connect to the electronic benefit transfer system of the State.

(II) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this paragraph.

(iv) STATEWIDE OPERATIONS.—After completion of statewide expansion of a system for transaction of electronic benefit transfers—

(I) a State agency may not be required to incur ongoing maintenance costs for vendors using multifunction systems and equipment to support electronic benefit transfers; and

(II) any retail store in the State that applies for authorization to become a program vendor shall be required to demonstrate the capability to accept program benefits electronically prior to au-

thorization, unless the State agency determines that the vendor is necessary for participant access.

(F) MINIMUM LANE COVERAGE.—

(i) IN GENERAL.—The Secretary shall establish minimum lane coverage guidelines for vendor equipment and systems used to support electronic benefit transfers.

(ii) PROVISION OF EQUIPMENT.—If a vendor does not elect to accept electronic benefit transfers using its own multifunction equipment, the State agency shall provide such equipment as is necessary to solely support the program to meet the established minimum lane coverage guidelines.

(G) TECHNICAL STANDARDS.—The Secretary shall—

(i) establish technical standards and operating rules for electronic benefit transfer systems; and

(ii) require each State agency, contractor, and authorized vendor participating in the program to demonstrate compliance with the technical standards and operating rules.

(H) REGULATIONS.—As State agencies transition to electronic benefit transfer for the program, the Secretary shall update regulations to account for the fact that State agencies—

(i) are receiving transaction pricing more frequently than twice a year from vendors; and

(ii) should adjust vendor reimbursement levels more frequently to reflect program food price changes in the marketplace.

(I) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—There is authorized to be appropriated to carry out this paragraph $25,000,000 for each of fiscal years 2017 through 2019.

(ii) USE.—The Secretary shall allocate the funds made available under this subparagraph to States for purposes of enhancing and accelerating the implementation of electronic benefit transfer systems.

(J) PENALTY FOR NONCOMPLIANCE.—For any State agency that fails to comply with subparagraph (B), including a State agency receiving an exemption under subparagraph (C), the Secretary shall—

(i) withhold such amounts otherwise required to be allocated to the State agency for nutrition services and administration as the Secretary determines to be appropriate; and

(ii) direct the amounts withheld for use by the State agency solely for achieving compliance with subparagraph (B).

(13) UNIVERSAL PRODUCT CODES DATABASE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary shall establish a national universal product code database to be used by all State agencies in carrying out the requirements of paragraph (12).

(B) FUNDING.—

(i) IN GENERAL.—On October 1, 2010, 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 to carry out this paragraph $1,000,000, to remain available until expended.

(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(iii) USE OF FUNDS.—The Secretary shall use the funds provided under clause (i) for development, hosting, hardware and software configuration, and support of the database required under subparagraph (A).

(C) ACCESS.—The Secretary shall make available upon request the national universal product code database to vendors approved for participation in the special supplemental food program established under this section.

(14) INCENTIVE ITEMS.—A State agency shall not authorize or make payments to a vendor described in paragraph (11)(D)(ii)(I) that provides incentive items or other free merchandise, except food or merchandise of nominal value (as determined by the Secretary), to program participants unless the vendor provides to the State agency proof that the vendor obtained the incentive items or merchandise at no cost.

(i)(1) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the amounts made available for food benefits under subsection (h)(1)(C) on the basis of a formula determined by the Secretary.

(2) Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation.

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

(i)(I) not more than 1 percent (except as provided in subparagraph (C)) of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods during the preceding fiscal year; and

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

(ii)(I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 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

(II) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than ½ of 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency, with the prior approval of the Secretary, for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.

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

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

(4) For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries.

(5) If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians.

(6) Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.

(8) TEMPORARY SPENDING AUTHORITY.—During each of fiscal years 2012 and 2013, the Secretary may authorize a State agency to expend more than the amount otherwise authorized under paragraph (3)(C) for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that—

(A) there has been a significant reduction in reported infant formula cost containment savings for the preceding fiscal year due to the implementation of subsection (h)(8)(K); and

(B) the reduction would affect the ability of the State agency to serve all eligible participants.

(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the "Secretaries") shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods, nutrition education, and breastfeeding support and promotion under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers.

(2) The initiative shall also include—

(A) activities to improve the coordination of the provision of supplemental foods, nutrition education, and breastfeeding support and promotion under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods, nutrition education, and breastfeeding support and promotion under the special supplemental nutrition program.

(3) The initiative may include—

(A) outreach and technical assistance for State and local agencies and the facilities described in paragraph (2)(A) and the health centers and facilities described in paragraph (2)(B);

(B) demonstration projects in selected State or local areas; and

(C) such other activities as the Secretaries find are appropriate.

(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)).

(B) The term "migrant health center" has the meaning given the term in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).

[(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of 24 members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indi-

ans; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental nutrition program; one member shall be a person involved at the retail sales level of food in the special supplemental nutrition program; two members shall be officials of the Department of Health and Human Services appointed by the Secretary of Health and Human Services; two members shall be officials of the Department of Agriculture appointed by the Secretary; 1 member shall be an expert in the promotion of breast feeding; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.

[(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health and Human Services shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

[(3) The Council shall elect a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

[(4) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

[(5) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.]

[(l)] *(k)* Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935 may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.

[(m)] *(l)*(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets and (at the option of a State) roadside stands, as defined in the State plans submitted under this subsection.

(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

(B) ensure coordination of the program among the appropriate agencies and organizations.

(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the administrative cost of the program, which may be satisfied from program income or State contributions that are made for similar programs. The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the administrative cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.

(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each approved State plan, and need not award grants to each State that submits a State plan.

(5) Each State that receives a grant under this subsection shall ensure that the program for which the grant is received complies with the following requirements:

(A) Individuals who are eligible to receive Federal benefits under the program shall only be individuals who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

(B) Construction or operation of a farmers' market may not be carried out using funds—

(i) provided under the grant; or

(ii) required to be provided by the State under paragraph (3).

(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

(i) less than $10 per year; or

(ii) more than $30 per year.

(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

(i) the highest concentration of eligible individuals;

(ii) the greatest access to farmers' markets; and

(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary and that maximize the availability of benefits to eligible individuals.

(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

(i) redeemed only by producers authorized by the State to participate in the program; and

(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program in any fiscal year not more than 17 percent of the total amount of program funds.

(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use not more than 2 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables.

(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

(6)(A) The Secretary shall give the same preference for funding under this subsection to eligible States that participated in the program under this subsection in a prior fiscal year as to States that participated in the program in the most recent fiscal year. The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.

(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

(ii) If amounts appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $75,000 or the amount that the State received for the prior fiscal year if that amount is less than $75,000.

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

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

(ii) documentation that demonstrates that—

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

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

(iii) demonstrated ability to satisfactorily operate the existing program; and

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

(D)(i) A State that desires to receive a grant under this subsection shall submit, for each fiscal year, a State plan to the Secretary by November 15 of each year.

(ii) Each State plan submitted under this paragraph shall contain—

(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

(II) a description of the State plan for complying with the requirements established in paragraph (5); and

(III) criteria developed by the State with respect to authorization of producers to participate in the program.

(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

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

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

(iii) In any fiscal year, any funds that remain unallocated after satisfying the requirements of clauses (i) and (ii) shall be reallocated in the following fiscal year according to procedures established pursuant to paragraph (10)(B)(ii).

(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

(B) Any programs for which a grant is received under this subsection shall be supplementary to the supplemental nutrition assistance program carried out under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) and to any other Federal or State pro-

gram under which foods are distributed to needy families in lieu of supplemental nutrition assistance program benefits.

(8) For each fiscal year, the Secretary shall collect from each State that receives a grant under this subsection information relating to—

(A) the number and type of recipients served by both Federal and non-Federal benefits under the program for which the grant is received;

(B) the rate of redemption of coupons distributed under the program;

(C) the average amount distributed in coupons to each recipient;

(D) the change in consumption of fresh fruits and vegetables by recipients, if the information is available;

(E) the effects of the program on farmers' markets, if the information is available; and

(F) any other information determined to be necessary by the Secretary.

(9) FUNDING.—

[(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2010 through 2015.]

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $18,548,000 for each of fiscal years 2017 through 2021.

(B)(i)(I) Each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unexpended funds shall be returned to the Secretary by February 1st of the following fiscal year.

(II) Notwithstanding any other provision of this subsection, a total of not more than 5 percent of funds made available to a State for any fiscal year may be expended by the State to reimburse expenses incurred for a program assisted under this subsection during the preceding fiscal year.

(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i).

(10) For purposes of this subsection:

(A) The term "coupon" means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

(B) The term "program" means—

(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

(ii) the farmers' market nutrition program authorized by this subsection.

(C) The term "recipient" means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection, or who is on a waiting list to receive such benefits.

(D) The term "State agency" has the meaning provided in subsection (b)(13), except that the term also includes the agri-

culture department of each State and any other agency approved by the chief executive officer of the State.

[(n)] *(m)* DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(2) TERMS.—A disqualification under paragraph (1)—

(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) shall not be subject to judicial or administrative review.

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

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

(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments (including any item described in subparagraph (A) issued in lieu of a food instrument under this section).

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

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

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

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

(4) EXCEPTIONS IN LIEU OF DISQUALIFICATION.—

(A) IN GENERAL.—A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to participate in the program if the State agency determines, in its sole discretion according to criteria established by the Secretary, that—

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

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

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

(B) CIVIL PENALTY.—If a State agency under subparagraph (A) permits a vendor to continue to participate in the program in lieu of disqualification, the State agency shall assess the vendor a civil penalty in an amount determined by the State agency, in accordance with criteria established by the Secretary, except that—

(i) the amount of the civil penalty shall not exceed $10,000 for each violation; and

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

[(p)] *(o)* CRIMINAL FORFEITURE.—

(1) IN GENERAL.—Notwithstanding any provision of State law and in addition to any other penalty authorized by law, a court may order a person that is convicted of a violation of a provision of law described in paragraph (2), with respect to food instruments (including any item described in [subsection (o)(1)(A)] *subsection (n)(1)(A)* issued in lieu of a food instrument under this section), funds, assets, or property that have a value of $100 or more and that are the subject of a grant or other form of assistance under this section, to forfeit to the United States all property described in paragraph (3).

(2) APPLICABLE LAWS.—A provision of law described in this paragraph is—

(A) section 12(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(g)); and

(B) any other Federal law imposing a penalty for embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments (including any item described in [subsection (o)(1)(A)] *subsection (n)(1)(A)* issued in lieu of a food instrument under this section), funds, assets, or property.

(3) PROPERTY SUBJECT TO FORFEITURE.—The following property shall be subject to forfeiture under paragraph (1):

(A) All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation described in paragraph (1).

(B) All property, real and personal, constituting, derived from, or traceable to any proceeds a person obtained directly or indirectly as a result of a violation described in paragraph (1).

(4) PROCEDURES; INTEREST OF OWNER.—Except as provided in paragraph (5), all property subject to forfeiture under this subsection, any seizure or disposition of the property, and any proceeding relating to the forfeiture, seizure, or disposition shall be subject to section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

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

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

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

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

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

(E) fifth, to reimburse any WIC infant formula manufacturer for any rebate provided to the State agency on WIC infant formula unlawfully trafficked under a provision of law described in paragraph (2).

(6) NOTICE OF INVESTIGATION.—

(A) IN GENERAL.—For any investigation into the trafficking of WIC infant formula pursuant to this subsection, the Secretary shall provide notice of resolution of the disposition of an unlawful action resulting from the investigation to all contracted manufacturers of the trafficked infant formula.

(B) ESTIMATES.—Not later than 60 days after the date on which notice is provided under subparagraph (A), the State shall submit to the contracted manufacturer an estimate of—

(i) the number of units, if any, for which rebates may have been issued as a result of the violation; and

(ii) the total dollar amount of the rebates.

[(q)] *(p)* The Secretary of Agriculture shall provide technical assistance to the Secretary of Defense, if so requested by the Secretary of Defense, for the purpose of carrying out the overseas special supplemental food program established under section 1060a(a) of title 10, United States Code.

(q) FRAUD AND SAFETY REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Improving Child Nutrition and Education Act of 2016, the Secretary shall review current guidance, regulations, and practices regarding fraud and safety for purposes of this section.

(2) INCLUSIONS.—The review under paragraph (1) shall include a review of issues relating to—

(A) excess and unused infant formula;

(B) invoices pertaining to products subject to rebate;

(C) the sale of infant formula by unauthorized entities; and

(D) the purchase of infant formula from unauthorized entities.

(3) UPDATES.—Based on the findings of the review under paragraph (1), the Secretary shall update current regulations and guidance and issue additional regulations and guidance, as necessary—

(A) to minimize fraud; and

(B) to ensure the safety of participants.

(r) COOPERATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, State agencies and law enforcement agencies shall share WIC vendor information relating to investigations or prosecutions under the program under this section, as determined by the Secretary.

(s) PILOT PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may conduct pilot projects to test alternative certification and food delivery procedures under this section.

(2) PROHIBITION.—In conducting pilot projects under paragraph (1), the Secretary may not waive or modify the application of program eligibility, supplemental foods, or cost containment requirements.

(3) EVALUATION.—The Secretary shall evaluate each pilot project carried out under this subsection after the pilot project has been in operation for 3 years.

SEC. 19. TEAM NUTRITION NETWORK.

(a) PURPOSES.—The purposes of the team nutrition network are—

(1) to establish State systems to promote the nutritional health of school children of the United States through nutrition education and the use of *evidence-based* team nutrition messages and material **[**developed by the Secretary**]**, and to encourage regular physical activity and other activities that support healthy lifestyles for children, including those based on 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);

(2) to provide assistance to States for the development of comprehensive and integrated nutrition education and active living programs in schools and facilities that participate in child nutrition programs *under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)*;

(3) to provide training and technical assistance and disseminate team nutrition messages to States, school and community nutrition programs, and child nutrition food service professionals;

(4) to coordinate and collaborate with other nutrition education and active living programs that share similar goals and **[**purposes; and**]** *purposes, including if appropriate—*

(A) State and local nutrition education programs, health and wellness policies, nutrition and health education resources, and other State resources; and

(B) Federal nutrition education efforts, including those programs under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(5) to identify and share innovative programs with demonstrated effectiveness in **[**helping children to maintain a healthy weight by**]** enhancing student understanding of healthful eating patterns and the importance of regular physical activity *in and out of school*.

[(b) DEFINITION OF TEAM NUTRITION NETWORK.—In this section, the term**]** *(b) DEFINITIONS.—In this section:*

(1) NUTRITION EDUCATION.—The term "nutrition education" means the provision of individual or group learning opportunities and materials for children and families that—

(A) emphasize the relationship between nutrition, physical activity, and health with a goal of improving long-term dietary and physical health and increasing food security; and

(B) include learning about food preparation.

(2) TEAM NUTRITION NETWORK.—The term "team nutrition network" means a statewide multidisciplinary program for children to promote healthy eating and physical activity based on scientifically valid information and sound educational, social, and marketing principles.

(c) ⟦GRANTS⟧ *STATE NETWORK GRANTS.*—

(1) IN GENERAL.—Subject to the availability of funds for use in carrying out this section, in addition to any other funds made available to the Secretary for team nutrition purposes, the Secretary, in consultation with the Secretary of Education, may make grants to State agencies for each fiscal year, in accordance with this section, to establish team nutrition networks to promote nutrition education through—

(A) the use of team nutrition network messages and other scientifically based information; and

(B) the promotion of active lifestyles.

(2) FORM.—A portion of the grants provided under this subsection may be in the form of competitive grants.

(3) FUNDS FROM NONGOVERNMENTAL SOURCES.—In carrying out this subsection, the Secretary may accept cash contributions from nongovernmental organizations made expressly to further the purposes of this section, to be managed by the Food and Nutrition Service, for use by the Secretary and the States in carrying out this section.

(4) ALLOCATION.—Subject to the availability of funds for use in carrying out this subsection, the total amount of funds made available for a fiscal year for grants under this subsection shall equal not more than the sum of—

(A) the product obtained by multiplying ½ cent by the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs; and

(B) the total value of funds received by the Secretary in support of this subsection from nongovernmental sources.

(5) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive a grant under this subsection, a State agency shall submit to the Secretary a plan, at such time and in such manner as the Secretary may require, including—

(A) a description of the goals and proposed State plan for addressing the nutrition of children;

(B) a description of the means by which the State agency will use and disseminate the team nutrition messages and material to children and, if appropriate, families of such children;

(C) an explanation of the ways in which the State agency will use the funds from the grant to work toward the goals required under clause (i), and to promote healthy eating in schools throughout the State;

(D) a description of the ways in which the State team nutrition network messages and activities will be coordinated at the State and local level with other community health promotion and education activities;

(E) an annual summary of the team nutrition network activities and their effectiveness;

(F) a description of the ways in which school environments might support healthy eating and physical activity; and

(G) a description of how all communications to parents and legal guardians of students who are members of a household receiving information under the program shall be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and legal guardians can understand.

(6) STATE COORDINATOR.—Each State that receives a grant under this subsection may appoint a team nutrition network coordinator. Such coordinator shall implement comprehensive, coordinated nutrition education programming through the team nutrition network, including to assist schools, school food authorities, and other child nutrition program providers in the State to administer and coordinate the team nutrition network activities.

(7) AUTHORIZED ACTIVITIES.—A State agency that receives a grant under this section may use funds from the grant to—

(A) identify the programs and services available to meet the health and nutritional needs of children and families in the State;

(B) disseminate team nutrition network messages and material that provide comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention education;

(C) implement demonstration projects in schools to promote physical activity and to enhance the nutrition education provided to students;

(D) improve access to local foods through coordinating with farm-to-school grant activities that include the provision of nutrition education;

(E) encourage schools to develop healthy eating and lifestyle policies;

(F) provide training and technical assistance to teachers and school food service professionals consistent with the purposes of this subsection; and

(G) collaborate with public and private and faith-based organizations, including community-based organizations, State medical associations, and public health groups, to provide nutrition and physical education targeting lower income children, ethnic minorities, and youth at a greater risk for obesity or malnourishment.

[(d) ALLOCATION.—Subject to the availability of funds for use in carrying out this section, the total amount of funds made available

for a fiscal year for grants under this section shall equal not more than the sum of—

[(1) the product obtained by multiplying ½ cent by the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) during the second preceding fiscal year in schools, institutions, and service institutions that participate in the food service programs; and

[(2) the total value of funds received by the Secretary in support of this section from nongovernmental sources.

[(e) REQUIREMENTS FOR STATE PARTICIPATION.—To be eligible to receive a grant under this section, a State agency shall submit to the Secretary a plan that—

[(1) is subject to approval by the Secretary; and

[(2) is submitted at such time and in such manner, and that contains such information, as the Secretary may require, including—

[(A) a description of the goals and proposed State plan for addressing the health and other consequences of children who are at risk of becoming overweight or obese;

[(B) an analysis of the means by which the State agency will use and disseminate the team nutrition messages and material developed by the Secretary;

[(C) an explanation of the ways in which the State agency will use the funds from the grant to work toward the goals required under subparagraph (A), and to promote healthy eating and physical activity and fitness in schools throughout the State;

[(D) a description of the ways in which the State team nutrition network messages and activities will be coordinated at the State level with other health promotion and education activities;

[(E) a description of the consultative process that the State agency 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;

[(F) a description of how the State agency will evaluate the effectiveness of each program developed by the State agency;

[(G) an annual summary of the team nutrition network activities;

[(H) a description of the ways in which the total school environment will support healthy eating and physical activity; and

[(I) a description of how all communications to parents and legal guardians of 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 maximum extent practicable, in a language that parents and legal guardians can understand.

[(f) STATE COORDINATOR.—Each State that receives a grant under this section shall appoint a team nutrition network coordinator who shall—

[(1) administer and coordinate the team nutrition network within and across schools, school food authorities, and other child nutrition program providers in the State; and

[(2) coordinate activities of the Secretary, acting through the Food and Nutrition Service, and State agencies responsible for other children's health, education, and wellness programs to implement a comprehensive, coordinated team nutrition network program.

[(g) AUTHORIZED ACTIVITIES.—A State agency that receives a grant under this section may use funds from the grant—

[(1)(A) to collect, analyze, and disseminate data regarding the extent to which children and youths in the State are overweight, physically inactive, or otherwise suffering from nutrition-related deficiencies or disease conditions; and

[(B) to identify the programs and services available to meet those needs;

[(2) to implement model elementary and secondary education curricula using team nutrition network messages and material developed by the Secretary to create a comprehensive, coordinated nutrition and physical fitness awareness and obesity prevention program;

[(3) to implement pilot projects in schools to promote physical activity and to enhance the nutritional status of students;

[(4) to improve access to local foods through farm-to-cafeteria activities that may include the acquisition of food and the provision of training and education;

[(5) to implement State guidelines in health (including nutrition education and physical education guidelines) and to emphasize regular physical activity during school hours;

[(6) to establish healthy eating and lifestyle policies in schools;

[(7) to provide training and technical assistance to teachers and school food service professionals consistent with the purposes of this section;

[(8) to collaborate with public and private organizations, including community-based 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.]

[(h)] *(d)* LOCAL NUTRITION *EDUCATION* AND PHYSICAL ACTIVITY GRANTS.—

(1) IN GENERAL.—Subject to the availability of funds to carry out this subsection, the Secretary, in consultation with the Secretary of Education, shall provide assistance to selected local educational agencies to create healthy school nutrition environments, promote healthy eating habits, and increase physical activity, consistent with the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), among elementary and secondary education students.

(2) SELECTION OF SCHOOLS.—In selecting local educational agencies for grants under this subsection, the Secretary shall—

(A) provide for the equitable distribution of grants among—

(i) urban, suburban, and rural schools; and

(ii) schools with varying family income levels;

(B) consider factors that affect need, including local educational agencies with significant minority or low-income student populations; and

(C) establish a process that allows the Secretary to conduct an evaluation of how funds were used.

(3) REQUIREMENT FOR PARTICIPATION.—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 need of the local educational agency for a nutrition and physical activity program, including an assessment of the nutritional environment of the school;

(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 the proposed project will be aligned with the local wellness policy required under section 204 of the Child Nutrition and WIC Reauthorization Act of 2004;

(D) 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 (42 U.S.C. 1751 et seq.), or other Acts, as appropriate, to improve student health and nutrition;

(E) a statement of the measurable goals of the local educational agency for nutrition and physical education programs and promotion;

(F) a description of the procedures the agency will use to assess and publicly report 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 maximum practicable, in a language that parents can understand.

(4) 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 beginning with the initial fiscal year for which the local educational agency receives funds.

(5) 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 published under section 301 of the National

Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); [and]

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

(iii) incorporate nutrition education into physical and health education, and, if appropriate, afterschool programs, including athletics; 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 more appealing, nutritious menus and recipes;

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

[(v)] *(iv)* 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)] *(v)* provide nutrient content or nutrition information on meals served through the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act and items sold a la carte during meal times;

[(vii)] *(vi)* encourage the increased consumption of [a variety of healthy foods, including fruits, vegetables, whole grains, and low-fat dairy products, through new initiatives to creatively market healthful foods, such as salad bars and fruit bars] *a variety of healthy foods, including through initiatives to creatively market such foods*;

[(viii)] *(vii)* offer healthy food choices outside program meals, including by making [low-fat and nutrient dense] *healthy* options available in vending machines, school stores, and other venues; and

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

(6) REPORT.—Not later than 18 months after completion of the projects and evaluations under this subsection, the Secretary shall—

(A) submit 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 under this subsection; and

(B) make the report available to the public, including through the Internet.

[(i)] *(e)* NUTRITION EDUCATION SUPPORT.—In carrying out the purpose of this section to support nutrition education, the Secretary [may provide for technical assistance and grants] *shall provide for technical assistance* to improve the quality of school meals and access to local foods in schools and institutions.

[(j)] *(f)* LIMITATION.—Material prepared under this section regarding agricultural commodities, food, or beverages, must be factual and without bias.

[(k) TEAM NUTRITION NETWORK INDEPENDENT EVALUATION.—

[(1) IN GENERAL.—Subject to the availability of funds to carry out this subsection, the Secretary shall offer to enter into an agreement with an independent, nonpartisan, science-based research organization—

[(A) to conduct a comprehensive independent evaluation of the effectiveness of the team nutrition initiative and the team nutrition network under this section; and

[(B) to identify best practices by schools 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 by increasing healthier meal choices by students, as 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;

[(vii) successfully involving parents, school administrators, the private sector, public health agencies, nonprofit organizations, and other community partners;

[(viii) ensuring the adequacy of time to eat during school meal periods; and

[(ix) successfully generating revenue through the sale of food items, while providing healthy options to students through vending, student stores, and other venues.

[(2) REPORT.—Not later than 3 years after funds are made available to carry out this subsection, the Secretary shall submit 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 a report describing the findings of the independent evaluation.]

[(l)] *(g)* AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated [such sums as are necessary to carry out this section.] *to carry out this section $17,000,000 for each fiscal year.*

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SEC. 23. GRANTS FOR EXPANSION OF SCHOOL BREAKFAST PROGRAMS.

(a) DEFINITION OF QUALIFYING SCHOOL.—In this section, the term "qualifying school" means a school in severe need, as described in section 4(d)(1).

(b) ESTABLISHMENT.—Subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this section, the Secretary shall establish a program under which the Secretary shall provide grants, on a competitive basis, to [State educational agencies] *State agencies* for the purpose of providing subgrants to local educational agencies for qualifying schools to establish, maintain, or expand the school breakfast program in accordance with this section.

(c) GRANTS TO [STATE EDUCATIONAL AGENCIES] *STATE AGENCIES*.—

(1) APPLICATION.—To be eligible to receive a grant under this section, a [State educational agency] *State agency* shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) ADMINISTRATION.—In carrying out this section, the Secretary shall—

(A) develop an appropriate competitive application process; and

(B) make information available to [State educational agencies] *State agencies* concerning the availability of funds under this section.

(3) ALLOCATION.—The amount of grants provided by the Secretary to [State educational agencies] *State agencies* for a fiscal year under this section shall not exceed the lesser of—

(A) the product obtained by multiplying—

(i) the number of qualifying schools receiving subgrants or other benefits under subsection (d) for the fiscal year; and

(ii) the maximum amount of a subgrant provided to a qualifying school under subsection (d)(4)(B); or

(B) $2,000,000.

(d) SUBGRANTS TO QUALIFYING SCHOOLS.—

(1) IN GENERAL.—A [State educational agency] *State agency* receiving a grant under this section shall use funds made available under the grant to award subgrants to local educational agencies for a qualifying school or groups of qualifying schools to carry out activities in accordance with this section.

(2) PRIORITY.—In awarding subgrants under this subsection, a [State educational agency] *State agency* shall give priority to local educational agencies with qualifying schools in which at least 75 percent of the students are eligible for free or reduced price school lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) STATE AND DISTRICT TRAINING AND TECHNICAL SUPPORT.—A local educational agency or [State educational agency] *State agency* may allocate a portion of each subgrant to provide training and technical assistance to the staff of qualifying schools to carry out the purposes of this section.

(4) AMOUNT; TERM.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, a subgrant provided by a [State educational agency] *State agency* to a local educational agency or qualifying school under this section shall be in such amount, and shall be provided for such term, as the [State educational agency] *State agency* determines appropriate.

(B) MAXIMUM AMOUNT.—The amount of a subgrant provided by a [State educational agency] *State agency* to a local educational agency for a qualifying school or a group of qualifying schools under this subsection shall not exceed $10,000 for each school year.

(C) MAXIMUM GRANT TERM.—A local educational agency or [State educational agency] *State agency* shall not provide subgrants to a qualifying school under this subsection for more than 2 fiscal years.

(e) BEST PRACTICES.—

(1) IN GENERAL.—Prior to awarding grants under this section, the Secretary shall make available to [State educational agencies] *State agencies* information regarding the most effective mechanisms by which to increase school breakfast participation among eligible children at qualifying schools.

(2) PREFERENCE.—In awarding subgrants under this section, a [State educational agency] *State agency* shall give preference to local educational agencies for qualifying schools or groups of qualifying schools that have adopted, or provide assurances that the subgrant funds will be used to adopt, the most effective mechanisms identified by the Secretary under paragraph (1).

(f) USE OF FUNDS.—

(1) IN GENERAL.—A qualifying school may use a grant provided under this section—

(A) to establish, promote, or expand a school breakfast program of the qualifying school under this section, which shall include a nutritional education component;

(B) to extend the period during which school breakfast is available at the qualifying school;

(C) to provide school breakfast to students of the qualifying school during the school day; or

(D) for other appropriate purposes, as determined by the Secretary.

(2) REQUIREMENT.—Each activity of a qualifying school under this subsection shall be carried out in accordance with applicable nutritional guidelines and regulations issued by the Secretary.

(g) MAINTENANCE OF EFFORT.—Grants made available under this section shall not diminish or otherwise affect the expenditure of funds from State and local sources for the maintenance of the school breakfast program.

(h) REPORTS.—Not later than 18 months following the end of a school year during which subgrants are awarded under this section, the Secretary shall submit to Congress a report describing the activities of the qualifying schools awarded subgrants.

(i) EVALUATION.—Not later than 180 days before the end of a grant term under this section, a local educational agency that receives a subgrant under this section shall—

(1) evaluate whether electing to provide universal free breakfasts under the school breakfast program in accordance with Provision 2 as established under subsections (b) through (k) of section 245.9 of title 7, Code of Federal Regulations (or successor regulations), would be cost-effective for the qualified schools based on estimated administrative savings and economies of scale; and

(2) submit the results of the evaluation to the [State educational agency] *State agency*.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2015.

MINORITY VIEWS

INTRODUCTION

Committee Democrats strongly oppose H.R. 5003, *the Improving Child Nutrition and Education Act of 2016.* During its consideration by the Full Committee on May 18, 2016, all Democratic Members in attendance voted in opposition to reporting the legislation. Committee Democrats strongly feel that efforts to reauthorize child nutrition programs present a valuable opportunity to continue to improve the eating habits of children, expand their access to nutritious meals, and alleviate the child hunger crisis in our country. A responsible reauthorization would make progress toward these goals and improve the school meals programs for the benefit of those they are intended to serve.

A child nutrition reauthorization that makes progress toward eliminating childhood hunger and food insecurity is not and should not be an impossible nor partisan goal. Rather than moving us forward, H.R. 5003 would roll back access to and availability of nutritious meals, putting at risk the current and future health of millions of schoolchildren. The partisan legislation introduced by Committee Republicans charts a path that ignores scientific research and uses rhetoric of reduced federal involvement to justify broad, irresponsible changes to programs with demonstrated efficacy. The Republican reauthorization means increased burden on schools and families who participate in school meals programs, the ability for states to restrict who is eligible for school meals through a pilot block grant program, and weakened nutrition standards for the foods that fuel our nation's children and students.

THE IMPORTANCE OF FEDERAL CHILD NUTRITION PROGRAMS

The passage of the Richard B. Russell National School Lunch Act, signed by President Harry S. Truman in 1946, created the National School Lunch Program (NSLP) to bolster national security threatened by rampant malnutrition among prospective military recruits. Over the last seventy years, this established federal role has expanded to include nutritional support for eligible children during breakfast and after school, over the summer, and in child care centers or provider homes, as well as nutritional support for mothers, infants, and young children through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

The national security purpose for which the National School Lunch Program was first created remains as important today as it was seventy years ago. In the twenty-first century, malnutrition and food insecurity remain a threat to our nation's youth. According to the Department of Agriculture's Economic Research Service, 7.8 percent of U.S. households with children (3 million households)

experienced food insecurity in 2015. These households were at times unable to provide adequate, nutritious food for their children during the year.[1] School meal programs serve as a major component of the nutrition safety net for our nation's students and families, providing them with nutritious foods and protecting them from falling further into poverty. In fact, the Census Bureau's Supplemental Poverty Measure demonstrates that nutrition programs, such as the school lunch program and the WIC program, have a tangible and measurable impact in alleviating poverty.[2]

There is a federal role in ensuring every child has access to healthy and nutritious food and is able to learn without the burden of hunger. Child nutrition programs provide not only a health benefit to children, but these programs also help ensure students are able to grow, both physically and intellectually. Studies from peer-reviewed journals on cognitive function and pediatrics describe how nutritional deficiencies and increases in the intake of nutrients can affect various brain functions, including cognition, concentration, perception, intuition, and reasoning. These studies also find that healthier students are likely to have fewer absences and disciplinary issues. Research published in the *Journal of School Health and American Journal of Diseases of Children* found that programs focused on improving students' health are associated with increased test scores.[3]

The benefits of a healthy diet at a young age extend beyond childhood. There is a large body of research demonstrating the importance of consistent access to nutritious food to support the health and wellbeing of children from early childhood through adulthood, which could result in substantial long-term savings in health care and education.[4]

H.R. 5003 ERODES SCIENCE–BASED NUTRITION STANDARDS

The previous bipartisan reauthorization of child nutrition programs, *the Healthy, Hunger-Free Kids Act of 2010,* introduced strong meal nutrition standards for foods served at schools, both during and outside the traditional meal service. The improvements in nutrition standards ensure that children are exposed to healthy foods and can begin forming healthy eating habits while in school. The new standards are based on scientific evidence—the Dietary Guidelines for Americans as well as the recommendations from nutrition experts at the Institute of Medicine. The standards are tailored to age groups and maintain flexibility for schools in their meal planning process. In short, the standards reflect the best available evidence about how to design and offer healthy and nutri-

[1] USDA ERS, *Household Food Security in the United States in 2015*, Economic Research Report No. (ERR–215), (September 2016) available at: *https://www.ers.usda.gov/webdocs/publications/err215/err-215.pdf.*

[2] United States Census Bureau. *The Supplemental Poverty Measure:* 2015, (September 13, 2016) available at: *http://www.census.gov/content/dam/Census/library/publications/2016/demo/p60-258.pdf.*

[3] M.D. Florence, M. Asbridge, & P.J. Veugelers. "Diet Quality and Academic Performance," *Journal of School Health,* (April 2008) available at: *https://www.ncbi.nlm.nih.gov/pubmed/18336680.*

[4] J.T. Cook & A. Poblacion. *Estimating the Health-Related Costs of Food Insecurity and Hunger*. Appendix of The Nourishing Effect: Ending Hunger, Improving Health, Reducing Inequality, (2015) available at: *http://www.childrenshealthwatch.org/wp-content/uploads/JohnCook__cost__of__hunger__study.pdf.*

tious meals, snacks, and beverages for students, while still allowing for flexibility for schools on how to achieve compliance.

The standards enacted in the wake of the 2010 reauthorization have resulted in healthier school environments across the country. According to researchers at the Harvard School of Public Health, the new federal standards have led to increased fruit and vegetable consumption.[5] Further, according to a three year study conducted by the Center for Public Health Nutrition at the University of Washington's School of Public Health, after the healthier standards were in place, the overall nutritional quality of the foods chosen by students increased by 29 percent and the calorie content per gram decreased by 13 percent. In spite of claims to the contrary, this study also found that there was no impact on participation rates.[6]

Through the hard work of many actors at the local, state, and federal levels, the improved nutrition standards are in place at over 98 percent of NSLP-participating schools.[7] The standards are not only widely adopted by schools, but are also widely supported by families; 90 percent of Americans support the current national school nutrition standards, with similar levels of support for maintaining or strengthening the nutrition standards.[8]

Ignoring the widespread success and adoption of the new nutrition standards, H.R. 5003 contains provisions that threaten these federal standards. The legislation proposes a three-year review of the nutrition standards by the United States Department of Agriculture, with the first review to be conducted almost immediately. The reviews would require the Department to certify that the regulations meet specific criteria. For example, certification must prove that nutrition standards are not responsible for either increased costs or decreased program participation. This shortsighted approach allows other factors—that could be entirely unrelated to the nutrition programs themselves, such as population changes, inflation, or demographic shifts—to negate the fundamental importance of science-based standards. The nutrition of students' meals could therefore be compromised by a regulatory process devoid of science. Ranking Member Scott offered an amendment to strike the three-year review, keeping the current apolitical, science-based review system in place, but this amendment was defeated by a partisan vote.

H.R. 5003 also makes changes to current law and regulations regarding the service of "a la carte" items. H.R. 5003 would allow any entree that was part of a reimbursable meal to be served as an a la carte item any day of the week. This allowance undermines the structure of the current nutrition standards, where average weekly meal targets for fat, calories, and sodium must be met. This provision has the effect of allowing high-fat, high-calorie, and/or high-

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[5] J. F.W. Cohen, S. Richardson, E. Parker, P.J. Catalano, & E.B. Rimm. "Impact of the New U.S. Department of Agriculture School Meal Standards on Food Selection, Consumption, and Waste," *American Journal of Preventive Medicine* (March 4, 2014).

[6] Donna Johnson, Mary Podrabsky, Anita Rocha, JJ. Otten, "Effect of the Healthy Hunger-Free Kids Act on the Nutritional Quality of Meals Selected by Students and School Lunch Participation Rates," *JAMA Pediatrics* (January 4, 2016) available at: *http://jamanetwork.com/journals/jamapediatrics/article-abstract/2478057.*

[7] USDA. *School Meal Certification Data*, (October 19, 2016) available at: *http://www.fns.usda.gov/sites/default/files/cn/SFAcert_*FY16Q3.pdf.

[8] W.K. Kellogg Foundation. *Food for Thought 2015*, available at: *http://ww2.wkkf.org/2015schoolfoodpoll/*.

sodium food items that might be an appropriate part of a weekly average—but not a daily meal component—to be served at any point, eroding the intent of the nutrition standards that students be served nutritionally balanced meals each day. Ms. Bonamici offered an amendment striking the a la carte change, but it was defeated by a partisan vote.

Committee Democrats recognize that legislators are not, in general, nutrition experts or medical professionals and that any changes to federal nutrition standards should be grounded in scientific data. Congress is not the appropriate venue for the current science-based process for determining nutrition standards. The above-mentioned changes to nutrition standards proposed in H.R. 5003, among others, represent a challenge to the standards as a whole, allowing less healthy foods in schools. Subcommittee Ranking Member Fudge also offered an amendment that would prohibit the bill from taking effect if it would: (1) lead to less healthy foods being available in schools; or, (2) make it more difficult for schools to serve free meals to all students. Committee Democrats unanimously supported this amendment, but it was also defeated.

H.R. 5003 THREATENS ACCESS TO SCHOOLS MEALS

Community eligibility provision

H.R. 5003 proposes drastic changes to a successful provision in the 2010 reauthorization that provides access to free, nutritious meals to millions of students from low-income families. In the 2015–2016 school year, the Community Eligibility Provision (CEP) allowed more than 18,000 schools across the country to serve free, universal, healthy school meals to 8.5 million children without the stigma or burden of paperwork.[9] Now in just its third year of nationwide availability, CEP has proven to be a powerful tool that allows school districts to provide easier access to nutritious meals for children in high-poverty schools and high-poverty areas. It simplifies the meal program eligibility for schools and administrators by allowing schools to offer breakfast and lunch at no charge to all students while eliminating applications and tracking eligibility in the lunch line. Additionally, CEP simplifies the process for students and families by alleviating the burden of filling out a school meals application that is often redundant for families who are receiving benefits from a similar income-based program.

Under federal law, certain students are automatically enrolled for free meals without an application because they are at special risk for food insecurity and other consequences of living in poverty, such as children living in households receiving SNAP benefits or children who are homeless. These especially vulnerable students are referred to as "identified students" because they have been identified by other programs as especially vulnerable. Schools in which 40 percent or more of the students are identified students can adopt community eligibility. But identified students are only a subset of those who would qualify for free or reduced-price meals if the school collected school meal applications. Schools in which 40

[9] Food Research Action Council & Center on Budget and Policy Priorities. *Community Eligibility Adoption Rises for the 2015–2016 School Year, Increasing Access to School Meals,* (May 13, 2016) available at: *http://frac.org/pdf/take-up-of-cep-report.pdf.*

to 60 percent of students are identified as automatically eligible for free meals typically have 64 to 96 percent of their students approved for free or reduced-price meals.[10] This difference occurs because some children, for example, do not participate in one of the programs that confer automatic eligibility. H.R. 5003 would increase this threshold to 60 percent, potentially affecting the eligibility of thousands of schools and taking away free, healthy meals from millions of children.[11]

Committee Republicans argued that the CEP threshold change in the bill is needed to better target resources to those students most in need. However, this belief is misguided. Committee Democrats recognize that the program, as designed, *already* targets vulnerable students and schools most in need. CEP has become a vital part of the nutrition safety net in the fight to reduce food insecurity and improve access to healthy meals. The change proposed in the legislation would severely damage the progress made in reducing stigma, paperwork burden, and other obstacles to school meal access. Children's HealthWatch asserts that raising the threshold for the Community Eligibility Provision would likely increase—rather than decrease—the risk of food insecurity among these students and their families.[12] The nonpartisan Congressional Budget Office confirmed that the CEP change in the bill would threaten participation in the school meals program for many students currently receiving free school meals.[13]

Committee Democrats offered a series of amendments that sought to preserve access to healthy meals for low-income families and school districts through CEP. Subcommittee Ranking Member Fudge offered an amendment to strike the CEP threshold change and offered an amendment to prohibit the implementation of the legislation should it make it more difficult for schools to provide free meals. Ranking Member Scott offered an amendment that called for a study on the efficacy of providing universal free meals to all students nationwide.

Unfortunately, each of these amendments offered to protect current access to school meals programs through CEP was defeated.

Outreach restrictions and increased verification

Committee Democrats strongly believe that the integrity of federal child nutrition programs is critically important and must be protected. The Republican proposal to increase the verification requirements in school meal programs as a response to reports of error rates in the program however is misguided. In addition to restricting community eligibility, the bill dramatically increases verification requirements for school meal applications in ways that could cause eligible students to lose access to the free or reduced-price school meals to which they are eligible. Under the proposal,

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[10] Center on Budget and Policy Priorities. *House Bill Restricting Free School Meals Option Could Increase Food Insecurity in High-poverty Neighborhoods*, (May 20, 2016) available at: *http://www.cbpp.org/research/food-assistance/house-bill-restricting-free-school-meals-option-could-increase-food.*

[11] *Id.*

[12] Children's HealthWatch. *Treatment Plan for Hunger*, (September 2016) available at: *http://childrenshealthwatch.org/wp-content/uploads/FINA-Treatment-Plan-for-Hunger-for-web.pdf.*

[13] Congressional Budget Office. *Cost Estimate H.R. 5003: Improving Child Nutrition and Education Act of 2016*, (June 30, 2016) available at: *https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/hr5003.pdf.*

many school districts would be required to verify significantly more applications, creating burdens for schools and families. The most troublesome element of the increased verification requirement is that, coupled with the loss of community eligibility, the two provisions would work in concert to impact a disproportionate number of the most vulnerable families, such as those who are homeless, migrant, immigrant or have limited English proficiency. Children in these families are the most likely to fall through the cracks and lose access to these school meals even though they are eligible. To mitigate the harm caused by this proposal. Mr. Polis offered an amendment to protect free and reduced-price eligibility in households where the language accessibility requirement was not met. That amendment was not adopted. Further, Mr. Takano offered an amendment to maintain the current verification procedures, which was also defeated.

H.R. 5003 also interferes with school districts' ability to conduct effective outreach to enroll families eligible for free and reduced-price meals. The bill prohibits school districts from including the eligibility requirements for school meals on the school meal applications and places an arbitrary cap on the number of times that schools can ask families to fill out applications. This proposal would reduce the number of eligible children applying for school meals and particularly impact the many working poor families who become eligible during the school year due to fluctuations in income. Ms. Davis offered an amendment to remove the senseless cap on outreach that school districts can conduct. That amendment was not adopted.

H.R. 5003 ERODES THE FEDERAL ROLE IN ENSURING ACCESS TO HEALTHY, NUTRITIOUS MEALS

H.R. 5003 takes direct aim at the federal role in child nutrition programs by weakening federal nutrition standards, limiting Secretarial authority to administer the programs, and introducing a three-state pilot block grant program that is devoid of any meaningful federal oversight.

Section 115 of the legislation would prohibit the Secretary of the Department of Agriculture from issuing or establishing, "any regulations or requirements not explicitly authorized" by the Act. This policy would not only challenge the authorities granted to the Executive Branch under Article II of the Constitution but also prevent a necessary response by the federal government, even in an emergency situation. For example, should food contamination or a public health crisis in a school or schools occur, the Secretary could not issue guidance to assist states and school districts in their response to such crisis. Ranking Member Scott offered an amendment to strike this limitation on the Secretary's authority. This amendment was supported unanimously by Committee Democrats, but was still defeated.

The three-state block grant proposal in the bill represents an even more egregious challenge to the federal role in school meals programs. This proposal coincides with the broader Republican effort to give states blank checks of federal taxpayer money under the guise of flexibility. The block grant would allow three states nearly unfettered access to federal money for the purpose of imple-

menting child nutrition programs. Under this pilot program, states would only be required to provide an "assurance" that they provide access to at least one affordable and healthy meal paid for out of one general fund provided to the state, rather than reimbursed on a per meal basis. The terms "healthy" and "affordable" are not defined, so there are virtually no guarantees that children would actually receive affordable and healthy meals.

Block grants are capped funding streams that cannot respond to either increases or decreases in demand. Therefore, during a recession the block grant would be unable to absorb the increased demand and serve more needy children. The current structure ensures that every eligible child gets a meal reimbursed in full or in part by the USDA. Further, block grants tend to dramatically lose value over time because they are not adjusted for inflation. As a result, the vast majority of major block grant programs have actually shrunk in inflation-adjusted terms since their inception. For example, inflation-adjusted funding for the Temporary Assistance for Needy Families (TANF) program has decreased 32 percent and the Maternal and Child Health Block Grant has decreased 29 percent.[14] Therefore, it is deeply concerning that capping the school meals funding could result in fewer children having access to school meals through the loss of funding alone. Coupled with the fact that the pilot program would only require a loose assurance that children are actually fed healthy meals, the block grant pilot erodes the very intention of school-based feeding programs.

The inclusion of the three state block grant pilot in the bill serves as the first step in moving to block grant school meal programs across all fifty states, as evidenced by a Republican amendment offered to do just that, earning the support of nearly half of Committee Republicans. The intent of the block grant pilot is clear—to limit the number of children served by federal nutrition programs and limit the federal investment in these programs. Committee Democrats are steadfast in unanimous rejection of any efforts to turn child nutrition programs into a block grant. The amendment offered by Ranking Member Scott to strike the block grant pilot was rejected on a party line vote.

H.R. 5003 FAILS TO ADEQUATELY IMPROVE FOODS SERVED OUTSIDE OF SCHOOL MEALS

The summer months bring with them reduced access to school meal programs provided during the school year for millions of children; they are periods of increased risk for food insecurity and consumption of excessive unhealthy foods. Millions of children lose access to school breakfast, lunch, and afterschool meals that are available during the regular school year. The Summer Food Service Program (SFSP) fills this gap by providing free and nutritious meals and snacks to low-income children when school is not in session.

H.R. 5003 made various changes to SFSP. The legislation included certain provisions to streamline provider eligibility, a con-

[14] Center on Budget and Policy Priorities. *Funding for Housing, Health, and Social Services Block Grants Has Fallen Markedly Over Time*, (March 24, 2016) available at: *http://www.cbpp.org/research/federal-budget/funding-for-housing-health-and-social-services-block-grants-has-fallen.*

cept widely supported by both Democrats and Republicans. However, the legislation failed to make investments necessary for successful implementation of this provision. In order to build on the underlying provisions in H.R. 5003, Democrats offered amendments to expand the range of the SFSP allowing more low-income children to be served. Specifically, Ms. Adams offered an amendment to modernize the area eligibility test to allow community-based organizations to participate if 40 percent of the children in the area are eligible for free or reduced-price meals. Currently, the 50 percent area qualification is inconsistent with other federally funded programs that support services for low-income children and require 40 percent, such as the 21st Century Community Learning Center program and Title I–A of the ESEA, which require at least 40 percent. The amendment offered by Ms. Adams to use a 40 percent standard was not adopted.

The Summer Electronic Benefit Transfer for Children (Summer EBT) program is also an important tool in combatting summer hunger and enjoys widespread bipartisan support. The Summer EBT program began as a demonstration program and studies have shown success in reducing the most severe forms of food insecurity and enabling participating families to procure and eat more fruits, vegetables, dairy, and whole grains.[15] In fact, a Summer EBT benefit of $60 per month per child has been shown to reduce the most severe category of food insecurity among children during the summer by one-third.[16] In April, the program received nearly $27 million in grants to expand these benefits to new rural areas, Tribal Nations, and areas of extreme need, including Flint, Michigan. While H.R. 5003 continues the authorization of this important program, the annual investment in the Summer EBT program is reduced by over fifty percent from the FY 2016 appropriated amount, therefore limiting the reach and the success of the Summer EBT program. An amendment, introduced by Ms. Davis and co-sponsored by Ms. Bonamici, sought to go beyond maintenance of current funding levels and increase funding to expand the program nationwide. Despite the successes of the program, the amendment was voted down along partisan lines.

Outside of SFSP, the Child and Adult Care Food Program (CACFP) also provides healthy foods outside the school day by providing nutritious meals and snacks to children in day care or afterschool. But many sites participating in either the SFSP or the CACFP program also provide full-day educational and enrichment activities. These programs provide a dual benefit, providing both healthy foods and educational support to children when not in school. For example, summer education programs are valuable in addressing the academic slide that can occur over the summer. As effective as these programs can be, most are unable to provide a third meal to all-day participants, despite the need for this additional meal among many in the communities these sites serve.

Recognizing the essential role of SFSP and CACFP sites that provide all-day enrichment activities to participants, Committee

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[15] USDA. *Summer Electronic Benefit Transfer for Children (SEBTC) Demonstration: Summary Report,* (May 2016) available at: *http://www.fns.usda.gov/sites/default/files/ops/sebtcfinalreport.pdf.*

[16] *Id.*

Democrats sought to expand these providers' ability to nourish those participants throughout the day. Amendments proposed by Ranking Member Scott and Ms. Bonamici would allow the provision of a third meal in the Summer Food Service Program and the Child and Adult Care Food Program, respectively. These amendments, despite their merits, unanimous Democratic support, and even bipartisan support for similar legislation introduced in this Congress, failed to gain more than a handful of Committee Republican votes.

H.R. 5003 IGNORES THE PUBLIC HEALTH NEEDS OF THE NATION'S CHILDREN

No amount of lead is a safe amount of lead. Yet children in Flint, Michigan were exposed to astronomical levels of lead in their drinking water. The seepage of lead into the drinking water in Flint generated a public health crisis and prompted President Obama to declare a federal state of emergency. The research is clear on the impact of exposure to lead on young children. The adverse effects of lead exposure range from decreased academic attainment, damage to the brain and nervous system, slowed growth and development, learning and behavior problems, such as juvenile delinquency and criminal behavior, and hearing and speech problems.[17] These effects can result in a significant decline in earnings for those impacted, loss of tax revenues, additional burdens to the criminal justice system and special education system, and increased stress on the health care system.

The tragedy in Flint resulted from irresponsible local and state decisions made in an effort to cut costs, sacrificing the health of a community in the process. The poisoning of Flint residents, especially all of its 29,000 children, should serve as catalyst for legislators to take action to both respond to the families and children affected in Flint, and to also take steps to prevent other children from lead exposure. Unfortunately, Flint is not the only community suffering from lead contamination in its water; other communities across the country are also facing extremely elevated lead levels in drinking water.

Federal nutrition programs are a powerful tool in responding to the crisis in Flint, since the programs provide the healthy foods with the vitamins and nutrients necessary to help mitigate the effects of lead poisoning, such as vitamin C, iron, and calcium.[18] In its federal response to Flint, the USDA provided: summertime nutrition assistance through the Summer EBT program to the more than 39,000 children who live or attend schools in the area affected by lead-contaminated water, an additional $62,700 for the Fresh Fruit and Vegetable Program to help schools purchase fruit and vegetable snacks, and leveraged the WIC program to provide blood lead testing at clinics for WIC participants and allowed WIC bene-

[17] Centers for Disease Control. *Childhood Lead Poisoning Data, Statistics, and Surveillance,* (September 1, 2016) available at: *http://www.cdc.gov/nceh/lead/data/index.htm.*

[18] Academy of Nutrition and Dietetics. *How to Fight Lead Exposure with Nutrition,* (February 12, 2016) available at: *http://www.eatright.org/resource/health/wellness/preventing-illness/how-to-fight-lead-exposure-with-nutrition.*

fits to include ready-to-feed infant formula.[19] The approximately 7,600 Flint residents participating in the WIC program (including around 1,500 women, 1,800 infants, and 4,300 children) were also offered supportive services as well as nutrition education on mitigating lead absorption through dietary changes.[20]

Committee Democrats recognize the importance of federal nutrition programs in responding to a crisis, such as the one residents of Flint experienced, as well as responding to the everyday needs of our nation's mothers and children. Therefore, in the wake of Flint, it is even more important that Congress does not cut corners in federal nutrition programs. These programs are relied upon every day, but even more so when a situation like the water contamination in Flint emerges.

To prevent similar disasters, Democrats believe that any reauthorization must address the immediate risk to mental and physical health from contaminated water by ensuring that all schools and CACFP providers have potable drinking water, as required by current law. To that end, Democrats offered two amendments related to water testing and safety. An amendment offered by Ranking Member Scott provided funding for nationwide water testing in schools and child care settings. Committee Democrats recognize that addressing the prevalence of lead in drinking water will require an upfront investment, but firmly believe that this investment is both cost-effective and a moral imperative. Research has shown that for every dollar spent on controlling lead hazards, $17 to $221 would be returned on that investment through health benefits, increased IQ, higher lifetime earnings, tax revenue, reduced spending on special education, and reduced criminal activity.[21] Mr. DeSaulnier also offered a water safety amendment requiring the USDA to set up a process to ensure state compliance with potable water requirements. This no-cost, commonsense amendment would have been the first step in ensuring kids across the country are not exposed to unsafe drinking water. Unfortunately, these amendments failed to garner the support of Committee Republicans and neither of these amendments was adopted by the Committee.

STAKEHOLDERS AND ADVOCACY GROUPS OPPOSE H.R. 5003

A broad coalition of hundreds of nutrition, medical, hunger, child welfare, education, and religious organizations joined in opposition to H.R. 5003. The organizations opposed to H.R. 5003 include, but are not limited to: *9to5, National Association of Working Women, Academy of Nutrition and Dietetics, Action for Healthy Kids, Afterschool Alliance, Alliance for Strong Families and Communities, American Cancer Society Cancer Action Network, American College of Preventive Medicine, American Diabetes Association; American Public Health Association, Bread for the World, Center for Law and Social Policy (CLASP), Center for Science in the Public Interest, Child Welfare League of America, Children's Defense Fund, Chil-*

[19] USDA. *Fact Sheet: USDA Assistance to Residents Affected by the Water Emergency in Flint, Michigan,* (August 16, 2016) available at: *http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=2016/02/0038.xml*.

[20] *Id.*

[21] E. Gould. *Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control,* (March 31, 2009) available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2717145/*.

dren's HealthWatch, Children's Law Center, Coalition on Human Needs, Consumer Federation of America, Evangelical Lutheran Church in America, First Focus Campaign for Children, Food Policy Action, Hunger Free America, Islamic Relief USA, MAZON: A Jewish Response to Hunger, Migrant Legal Action Program, MomsRising, National Advocacy Center of the Sisters of the Good, National Association of School Nurses, National Association of Secondary School Principals, National Association of Social Workers, National Black Nurses Association, National Council of La Raza (NCLR), National Farm to School Network, National Farmers, National Immigration Law Center, National Urban League, National WIC Association, National Women's Law Center, NETWORK, A National Catholic Social Justice Lobby, Presbyterian Church (U.S.A.), RESULTS, School Social Work Association of America, Service Employees International Union (SEIU), The Jewish Federations of North America, The National CACFP Forum, The Pew Charitable Trusts, The Salvation Army, Trust for America's Health, Union of Concerned Scientists, United Fresh Produce Association, Witnesses to Hunger Philadelphia, National Education Association (NEA), National PTA, American Federation of State, County, and Municipal Employees (AFSCME), American Academy of Pediatrics (AAP), American Diabetes Association, Common Sense Kids Action, Feeding America, The National Association for Family Child Care (NAFCC), and Food Research & Action Center (FRAC).

ROLL CALL VOTE TO REPORT H.R. 5003

H.R. 5003 was reported by a vote of 20 yeas and 14 nays. No Democratic Committee Members voted in favor of the bill.

CONCLUSION

Regrettably, H.R. 5003 represents a missed opportunity to make continued improvements in the health and wellbeing of our country. H.R. 5003 threatens the long-established federal role in school meals programs, weakens nutrition standards, and makes it more difficult for schools to provide students with access to free, healthy meals. These policies put at risk the progress made by the last reauthorization in improving both the nutritional quality of, and access to meals served, in federal nutrition programs for millions of students and their families.

Rather than proposing policies that would introduce unhealthy foods in schools, burdensome paperwork requirements, and troubling limits on federal oversight, the Education and the Workforce Committee should bolster and expand programs and policies supported by stakeholders and advocacy groups that provide needed support for the populations they serve. We, as a nation, have the resources to ensure all children, especially those in need, are able to access regular and healthy meals. But we, as a Committee, must find the will to come together to achieve that goal.

Despite opposition to the majority of amendments offered by Democrats during mark-up, Committee Democrats will continue to push for a comprehensive reauthorization that makes it easier for schools to provide meals without unnecessary burden or stigma, strengthens the nutrition safety net both inside and outside of schools, and puts first the future health of our country.

For these reasons, among others, Committee Democrats stand in strong opposition to H.R. 5003, and respectfully ask the full House of Representatives to oppose this bill.

ROBERT C. "BOBBY" SCOTT,
Ranking Member.
SUSAN A. DAVIS.
JOE COURTNEY.
JARED POLIS.
FREDERICA S. WILSON.
MARK POCAN.
HAKEEM S. JEFFRIES.
ALMA S. ADAMS.
RUBÉN HINOJOSA.
RAÚL M. GRIJALVA.
MARCIA L. FUDGE.
GREGORIO KILILI CAMACHO SABLAN.
SUZANNE BONAMICI.
MARK TAKANO.
KATHERINE M. CLARK.
MARK DESAULNIER.

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