

\$25 billion requested by the President for a reserve for Iraq and Afghanistan and the war on terror. We know if there is a development in Iraq, in particular, which will give rise to a need for money, this bill must become law before we leave for the conventions in August, or really late July, before the August recess.

Some of us in this body have served overseas, particularly in wartime. It was my privilege to do that in World War II. I was thinking just now about what is going on here on the floor, and how I used to feel as a young man when we were told our supplies had not come over the hump into China, that we were going to have to reduce our rations, maybe live a little more on local food than on the food we brought into China from a long distance from our country. I thought about the time Colin Powell, as a young assistant to the then-head of the National Security Council, came before a Senate subcommittee on appropriations, and he told us at the time, when he was a young captain in Cambodia, he had the duty to take out a whole Vietnamese battalion, and the U.S. troops along with him had to go into Cambodia on a drop mission. They parachuted in. They were given a 2-week supply of food. He told us when you get up on that 14th day and open up the last bit of your rations, that is when you start thinking about the people who are in Washington that you trust. That is when you start thinking about whether the people who run the Government know what they are doing when they send you into foreign countries, like Cambodia, in wartime.

As I speak now, there are men and women in the armed services in our U.S. uniform in 120 countries. Managing the Department of Defense is an overwhelming job right now. The money we are spending is enormous, but the cause we are on is just. Whether you feel it is just or not, the problem is, we now know that when we leave for the conventions, there is a great possibility the Department of Defense and Commander in Chief will have to have more money available than is currently available in fiscal year 2004. Our committee, the Defense Appropriations Subcommittee, and the Appropriations Committee, has worked long hours to bring this bill before the Senate so we can pass it before we leave on this recess for the Fourth of July, and be able to come back and be ready to conference it, because staff conferences during the recess, and bring it back to the floor so both the House and the Senate can pass the bill and get it to the President and have it become law before we leave before the end of July.

I hear a lot of comments from people about the problem of the debt ceiling. I have checked and, in all probability, we will reach the debt ceiling in August. There is a debate on how to handle that. The House has decided to put it in the Appropriations bill, and I have

been asked, as manager of the bill, to commit that I will not bring this bill back from conference with a debt ceiling in it. I can make no such commitment. Neither the Senator from Hawaii nor I can make that commitment. We are committed to doing our job as Senators, carrying out our oath to support and defend the Constitution and the people who support the Constitution.

I, for one, am getting a little impatient about getting this bill done. The current bill, I was told, would be done last night, and we would be on our bill now. We are not on the Defense bill now. We should be on the Defense appropriations bill now.

I hope and pray every Senator in this body will search his soul about delaying this bill, because I mean what I say: there is no possibility of getting this bill to the President, in my judgment, in a matter of 10 days after we get back unless we pass it now, and the President has time to go through the bill to determine if he is going to sign it.

I implore the Senate to finish this bill. Either the Senator from Hawaii or I have been chairman of the Defense Subcommittee since 1981. We have never found a situation where we would even consider cloture on the Defense appropriations bill.

I cannot imagine a Member of this Senate voting against cloture on an appropriations bill for defense when there is a war going on.

I say to the Senate, it is time to come to our senses and get this authorization bill done tonight so we can get on the appropriations bill tonight and finish it tomorrow or, at the latest, Friday morning. If we can get this bill through the subcommittee in 17 minutes and 25 minutes in the full committee, this Senate can get through this bill in 36 hours.

I guarantee, if there is any thought of delay, we will stay in session 36 hours because I am going to see to it this bill is passed and goes to the President this week. Some people say it is not going to happen, but if I have to embarrass every Member of the Senate to get it done, I am going to do it. This bill must be passed. We are at war. We are at war.

I yield the floor.

Mr. SESSIONS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum all be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, S. 2507.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2507) to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to reauthorize child nutrition programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. COCHRAN. Mr. President, I am pleased to present to the Senate S. 2507, legislation to reauthorize the child nutrition programs administered by the U.S. Department of Agriculture for the next 5 years. Over the past year and a half, the Committee on Agriculture, Nutrition, and Forestry has held hearings and received suggestions from a wide range of interests for improvements in the programs that are authorized in this bill. The committee worked diligently to draft a consensus bill that will ensure the continuation of proven Federal Government support for meeting the nutritional needs of school children and others who will benefit from these programs. I would like to thank especially the distinguished ranking member of the committee, the Senator from Iowa, Mr. HARKIN, for his assistance and for continuing the longstanding tradition of a bipartisan approach to the development of child nutrition bills in our committee.

The committee met on May 19, 2004, and reported the bill unanimously. This bill reflects the commitment of the committee to ensure that our Nation's children have access to the nutrition they need to lead a healthy life. All of the worthwhile and important initiatives contained in this bill will play a significant part in ensuring that our children have access to good nutrition.

The programs authorized in this bill touch the lives of one out of every five people in this country, including over 37 million children and nearly 2 million lower income pregnant and postpartum women. According to the Congressional Research Service, total fiscal year 2004 spending for these programs will be an estimated \$16.4 billion, and the administration's fiscal year 2005 budget anticipates spending \$16.85 billion. The Budget Committees of both the Senate and House have seen fit to include new mandatory money that will enable us to continue otherwise expiring provisions contained in current law. Even though we had no money for new initiatives, we believe the committee has put together an overall package that improves these programs while protecting the interests of the participants.

Important components of the bill are: Protection of the integrity of school meal program benefits, participation of for-profit child care centers in the Child and Adult Care Food Program,

protection of school meal benefits for military families, expansion of the Summer Food Service Program Lugar Pilots, expansion of the Fruit and Vegetable Pilot Program, and improvements to the WIC Program.

I would also like to clarify section 203(e)(10) of the bill, which is designed to contain costs in the WIC program in order to ensure that all eligible participants can receive benefits through the program. Given the new provisions in the law, it is important that States publish their allowable reimbursement levels for WIC program vouchers. Also, because of changes contained in the bill, it would be important for USDA to review and modify risk profiles used when examining retail food stores for compliance with program rules. There is a related provision in our bill that prohibits certain vendors from providing incentive items to entice program participants to come to their stores unless the free merchandise is food or of nominal value. The Secretary is given the authority to define merchandise of nominal value. A reasonable interpretation of this provision would permit the Secretary to prohibit stores from giving away lottery tickets. Given the extremely small chance of winning a large amount of money as advertised by the lottery, the actual ticket is probably of very little value. However, some observers' perceived value of a ticket is greater than the actual value. A reasonable interpretation of this provision would give the Secretary the authority to prohibit lottery tickets under this provision.

We have worked hard to craft a bipartisan, consensus-based bill, as evidenced by the letters of support we have received from organizations including the American Dietetic Association, the American School Food Service Association, America's Second Harvest, the Food Research and Action Center, National Council of La Raza, Bread for the World, the National Milk Producers Federation, the International Dairy Foods Association, and the National Food Processors Association. I urge my colleagues to support the bill.

#### ADDITION OF NEW STATES TO THE FRUIT AND VEGETABLE PROGRAM

Mr. HARKIN. Mr. President, I hope to clarify our intent on one provision of the Child Nutrition and WIC Reauthorization Act of 2004—the provision pertaining to the Fruit and Vegetable Program.

When the Fruit and Vegetable Program was first enacted as part of the 2002 farm bill, the legislative language did not specify which States were to be participants in the program, but the States were specified in the conference report. The Department of Agriculture followed the conference recommendations.

Because we are passing this bill with a somewhat unusual process that will not involve a conference report, I would like to clarify which States are intended to be added to the program.

Committee staff discussions have intended that the additional States to participate in the Fruit and Vegetable Program are Mississippi, North Dakota, and South Dakota, and this was our understanding as we finalized this bill. I am in agreement with these discussions, and it is on this basis that we are completing this bill.

Mr. COCHRAN. I do not disagree with the Senator from Iowa.

#### INCENTIVE CRITERIA FOR REDUCTION OF NONRESPONSE RATES AND SUBSTITUTION

Mr. HARKIN. Mr. President, I hope to clarify the operation of certain provisions in the bill. As the chairman knows, the section of the bill titled, "Household Applications," provides school districts with an incentive to reduce the nonresponse rate during the income verification process. I would like to offer an example of the operation of 10-percent improvement criteria in nonresponse rates, so that the committee's intent is not misinterpreted. A district with a non-response rate of 40 percent, for example, would have to reduce its nonresponse rate to 36 percent, in order to meet the 10-percent improvement criteria and be entitled to maintain existing verification procedures under current law.

Mr. COCHRAN. The Senator is, indeed, correct in his calculations. The provision calling for a 10-percent improvement in S. 2507 would operate in precisely the manner that the Senator from Iowa described.

Mr. HARKIN. I thank the chairman. I would also like to discuss the new substitution provision in the bill. In some school districts in my State and across the country, there are children whose household income is extremely difficult to verify, no matter how vigorous the effort put forth by school officials. The applications I am referring to are for children whose parents regularly do not respond to other school communications or are from a community that is suspicious of questions from governmental entities, including school districts. The families of these children may no longer be residing at the address of record, are not reachable by phone, or may exhibit other such barriers to verification. Am I correct that these are the type of applications envisioned in the bill's subparagraph titled "Individual Review"?

Mr. COCHRAN. The Senator is once again correct. This bill recognizes that there are certain situations when it may be nearly impossible for a school district to get in touch with the families of children who are eligible for this program. In situations such as those the Senator described, and other similar ones, the school district may decline to verify up to 5 percent of the approved applications selected for verification and replace those applications with other approved applications.

Mr. HARKIN. I thank the chairman.

#### IMPORTANCE OF BREAKFAST

Mr. CHAMBLISS. Mr. President, I appreciate the chairman giving me this opportunity to emphasize the impor-

tance of breakfast and the positive effects breakfast has on student performance and behavior. Research shows that children who eat breakfast perform better on standardized achievement tests and have fewer behavior problems in school. Breakfast improves a child's physical endurance and motor performance. It has been found that children have more energy to get through the school day.

The Department of Agriculture's Center for Nutrition Policy and Promotion has shown that children who eat breakfast have more healthy overall diets. Given the Nation's attention to childhood obesity, breakfast can also play a positive role in ensuring that our children are healthy. Not only is eating breakfast important for student performance, breakfast is also an effective tool to manage and control weight. Breakfast consumption can play a key role in maintaining healthy eating habits and weight loss while Congress looks at ways to combat childhood obesity.

In a major study, regular breakfast consumption was associated with the ability to maintain a significant weight loss. One study showed that out of 2,900 individuals that had maintained a 30-percent weight loss for at least a year, 78 percent reported eating breakfast everyday. Breakfast skipping has been reported to be more prevalent in obese children and is particularly high in obese girls. More than a dozen studies from around the world have reported that eating a ready-to-eat, RTE, breakfast cereal provides many nutritional benefits, including consumption of less total fat, less saturated fat, less cholesterol, more dietary fiber, and more vitamins and minerals. This result is independent of age and geography as studies have been conducted in children, adults and the elderly in over six different countries.

This compromise bill contains provisions which will, hopefully, result in more children eating more breakfast. The Child Nutrition and WIC Reauthorization Act of 2004 includes three provisions that the committee hopes will result in more children eating breakfast. First, it provides increased assistance to schools with a high proportion of poor children. Second, it expands the eligibility for schools that need additional assistance—severe need assistance—for breakfast programs. In relation to these provisions a Review of Best Practices in the Breakfast Program, also contained in this bill, will allow for a study of State and local barriers that keep more schools from offering breakfast. The Secretary will make recommendations and describe model breakfast programs that will help schools to overcome these obstacles and disseminate the results of this study to school districts, to the Senate Committee on Agriculture, and to the House Committee on Education and the Workforce. As a result, schools will be encouraged to develop innovative strategies to make time for student

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

Mr. President, I ask the chairman if he agrees with my statements?

Mr. COCHRAN. Mr. President, I agree with the distinguished Senator from Georgia on the importance of breakfast to our children's education.

Mr. CHAMBLISS. Mr. President, I thank the chairman for his comments.

#### WOMEN, INFANTS, AND CHILDREN PROGRAM

Ms. MURKOWSKI. Mr. President, I wish to address a provision that Senator COCHRAN has added to the Child Nutrition and WIC reauthorization bill on my behalf.

Mr. COCHRAN. Mr. President, this provision is being added as a part of the floor consideration of this legislation. Therefore, there is no accompanying report language which explains its effect. We appreciate the contribution the Senator from Alaska has made to the Senate's consideration of this legislation. Will the Senator please share her views on this provision?

Ms. MURKOWSKI. Mr. President, the provision in question requires the Secretary of Agriculture to conduct a periodic scientific review of the supplemental foods available in the Women, Infants, and Children Program, which is also known as the WIC Program. The Secretary shall undertake such a review as frequently as necessary to reflect the most recent scientific knowledge. Following such a review, the Secretary shall amend the list of supplemental foods in order to reflect nutrition, science, public health concerns, and cultural eating patterns.

Mr. COCHRAN. Mr. President, I would like Senator MURKOWSKI to explain her rationale for offering this provision.

Ms. MURKOWSKI. In October 2000, the American Heart Association, AHA, published updated guidelines for reducing the risk of heart disease. These guidelines noted that fatty fish, such as salmon, are high in omega-3 fatty acids. Such acids help in the prevention of heart disease in a variety of ways. The acids diminish the likelihood of sudden death, as well as abnormal heart rhythms that play a role in sudden death. The oils of fatty fish also decrease blood triglycerides, as well as blood clotting.

The Food and Drug Administration has also previously suggested that there are health benefits to regularly consuming up to 3 grams of omega-3 fatty acids per day. To illustrate a practical example, a piece of salmon that is a little over 3 ounces in weight includes about 1 gram of such fatty acids. Therefore, it would be very easy to comply with this suggestion. I un-

derstand that later this year, the Food and Drug Administration is likely to make an official determination that the consumption of omega-3 fatty acids will reduce the risk of coronary heart disease. The provision in the WIC reauthorization bill will require the Secretary to conduct a periodic review of the list of supplemental foods and take into account the most recent scientific knowledge, such as the expected FDA determination regarding omega-3 fatty acids, when recommending any additions to the list of supplemental foods. Should salmon be included in the list of supplemental foods, it would then allow all States to include salmon as an acceptable food for their respective WIC recipients.

Mr. COCHRAN. Mr. President, I appreciate the Senator's explanation.

Ms. MURKOWSKI. Mr. President, I thank Senator COCHRAN for including this provision in this important bill.

#### MEDICAID DIRECT VERIFICATION AUTHORITIES

Mr. HARKIN. Mr. President, The Child Nutrition and WIC Reauthorization Act of 2004 includes several provisions intended to improve program integrity and to provide local educational agencies with new tools with which to improve the administration of the school lunch and school breakfast programs. One of the steps that we have taken in this bill is to allow various Federal programs to share information that they may have about a child's income or participation status with local educational agencies so as to enable the local educational agency, using that information, to verify a child's eligibility status for free or reduced-price school lunches or school breakfasts.

In most cases, this bill has not amended any laws outside of the jurisdiction of the Senate Committee on Agriculture, Nutrition, and Forestry in order to accomplish this goal—with one exception. The bill does amend section 1902(a)(7) of the Social Security Act, a section pertaining to the Medicaid program. This change to Medicaid law allows, at the option of a State, the sharing of Medicaid information with local educational agencies for the purpose of verifying the certification of children for free or reduced price lunches or breakfasts under Federal child nutrition programs.

The Senate Finance Committee, which has jurisdiction over the Social Security Act and Medicaid law, has very graciously allowed us to make this change for the purposes of this bill. I thank the Finance Committee for working with our committee to strengthen Federal child nutrition programs.

It is my understanding that Medicaid eligibility can be based on a number of factors, some of which may be related to disability or other matters that have nothing to do with verifying income in the School Lunch Program. I want to clarify that the intent of the amendment to Medicaid law contained within the Child Nutrition and WIC Re-

authorization Act of 2004 is solely for the purpose of verifying income and participation information for School Lunch and Breakfast Programs. It is not the intent of this legislation to allow any other information to be shared.

I do not believe that the amendment can be interpreted to allow the sharing of Medicaid information that goes beyond the scope of verifying eligibility for school lunch or school breakfast benefits, but in the interest of being completely crystal clear, I would like to state that, under the amendment to section 1902(a)(7) of the Social Security Act contained in the Child Nutrition and WIC Reauthorization Act of 2004, no Medicaid information, except that which is necessary to verify income and eligibility for school lunch or school breakfast participation, may be shared by a State with a local educational agency.

Mr. COCHRAN. The explanation that Senator HARKIN has offered with regard to this provision of the Child Nutrition and WIC Reauthorization Act of 2004 is absolutely correct and is consistent with the committee's intent. In including the amendment to Medicaid law, it was certainly not our goal or intent to allow all Medicaid information to be shared with local educational agencies. We intended to allow States to share only such limited Medicaid information that was necessary to verify eligibility in the School Lunch or School Breakfast Programs. Any interpretation to the contrary is inconsistent with the intent of the Senate Committee on Agriculture, Nutrition, and Forestry.

Mr. BAUCUS. As a member of the Senate Committee on Agriculture, Nutrition, and Forestry, but also as the ranking Democrat on the Senate Finance Committee, I would like to thank Agriculture Committee Chairman COCHRAN and Ranking Member HARKIN for their clarification on this point.

The Senate Finance Committee has long grappled with the challenges of allowing sensitive program information to be shared. While there are many cases where it is in the public good to share limited amounts of information, such as in this case, it is important that we take such steps carefully and that we not inadvertently or unintentionally allow more information to be shared than is absolutely necessary to accomplish our goals.

The amendment to the Social Security Act that is under consideration ensures that only certain Medicaid information can be shared with local educational authorities for the purpose of verifying eligibility and income with respect to the School Lunch and School Breakfast Programs. Information about a child's health or disability status or medical expenses would not be relevant to verifying eligibility for school breakfast and lunch programs, which is based only on the child's family income. Accordingly, information

about a child's health or disability status or medical expenses could not be shared with local educational agencies under the authority of this Medicaid amendment. I thank the chairman and the ranking member for clarifying the narrow goals of the amendment and look forward to its implementation in a manner that is consistent with the committee intent.

Mr. GRASSLEY. I appreciate that my colleagues on the Senate Agriculture Committee have worked collaboratively on the Medicaid provision, which is under the jurisdiction of the Senate Finance Committee. I am pleased that we were able to work out a provision which may help more children who are eligible receive free or reduced price breakfasts and lunches. I commend my colleagues for their good work on this important legislation.

I agree with my colleagues, Senators COCHRAN, HARKIN, and BAUCUS, that this Medicaid amendment will not authorize States to share Medicaid information other than that which is necessary to verify a child's participation in Medicaid or his or her family income.

USDA INTERPRETATION OF SECTION 32 FUNDING  
IN THE 2002 FARM BILL

Ms. STABENOW. Mr. President I rise to clarify an important issue with the distinguished chairman of the Agriculture Committee.

First, I thank the chairman for his leadership in getting this child nutrition bill to the floor. He has worked hard and has produced a good, bipartisan bill which I supported in the Committee.

For over 2 years, a bipartisan group of Senators and I have been concerned about USDA disregarding language included in the 2002 farm bill. The 2002 farm bill, section 10603, states that at least \$200 million must be spent annually on the purchase of specialty crops. However additional language included in the 2002 farm bill conference report states:

[t]he Managers intend that the funds made available under this section are to be used for additional purchases of fruits and vegetables, over and above the purchases made under current law or that might otherwise be made without this authority. The Managers expect the \$200 million to be a minimum amount for fruit and vegetable purchases under section 32 funds; it is not intended to interfere with or decrease from Agricultural Marketing Service's historical purchases of fruit and vegetables [e.g. \$243 million in 2001; \$232 million in 2000] or to decrease or displace other commodity purchases.

Does the chairman agree that this language is clear and that the intent of Congress is \$200 million in new purchases on top of existing commodity purchases?

Mr. COCHRAN. I agree that the Senator from Michigan has correctly cited the conference report of the 2002 farm bill, and I appreciate all of her hard work on this issue.

Ms. STABENOW. This was a great victory for our children because they

need more and more fruits and vegetables in their school lunches. We all know about the problem we have with kids eating too much junk food for lunch and this program would have put more nutritious foods on our children's lunch trays. Instead of eating candy, they could be eating nutritious foods like apples, pears and carrots.

Unfortunately, the USDA is not complying with this provision. Instead of adding the \$200 million on top of baseline spending, USDA has eliminated the baseline spending, so there is no guarantee that there will be any new spending on fruits and vegetables for our children. In fact in 2002, USDA did not even meet the minimum purchase requirement. In 2002, only \$181 million in fresh fruits and vegetables were purchased under section 32.

Does the chairman agree that the USDA is misinterpreting the farm bill with regards to section 32, fresh fruit and vegetable purchases?

Mr. COCHRAN. I agree that the USDA has not followed the language from the 2002 farm bill conference report. I suggest that the Senator from Michigan and I work with USDA to try to facilitate greater purchases of fruits and vegetables in the nutrition programs.

Mr. HARKIN. I am proud of our bipartisan work on the Child Nutrition and WIC Reauthorization Act of 2004 and want to thank the chairman for his efforts and leadership. This is a bill that deserves to pass overwhelmingly with tremendous bipartisan support, as it did in the Senate Committee on Agriculture, Nutrition, and Forestry. That it can gain the unanimous support of the entire Senate, as I believe that it will, is to me, a hopeful sign of broad support for initiatives in the interest of our Nation's children.

In addition to Chairman COCHRAN, I thank the staff who have worked on this bill. They may never receive the full credit that they truly deserve, but without them this bill would not have come to fruition. On Senator COCHRAN's staff, I would like to thank Hunt Shipman, Eric Steiner, Graham Harper, and especially Dave Johnson, who has been with the Senate Committee on Agriculture, Nutrition, and Forestry for fifteen years. During that time, he has played a key role in strengthening our country's child nutrition and food assistance programs. On my own staff, I would like to single out for thanks the great work of Derek Miller and Susan Keith as well as the Democratic Staff Director, Mark Halverson, who has served me ably for many years.

Given the budget constraints that our committee faced in crafting the legislation, I believe that this bill is a very positive step forward in allocating resources wisely.

In the United States, we face an unfortunate paradox. On the one hand, the specter of malnutrition and hunger continues to haunt millions of Americans, especially children. At the same

time, we are confronted with a grave public health threat in the form of obesity and overweight which are quickly becoming a major threat not just to individuals but to our Nation as a whole. The reauthorization of child nutrition programs affords us an opportunity to tackle both of these issues. This bill does so, although not always to the full extent that I would have preferred.

This bill makes many positive changes to fight childhood hunger and deliver federal child nutrition benefits to more children.

First, this bill ensures that children who are receiving food stamps will automatically receive school lunches and breakfasts as well. Though States and schools already have the authority and discretion to do this now, not all of them take advantage of this option. The bill before us today clearly makes those children eligible for free school meals—a step that, according to USDA, will help 200,000 additional children have healthy school meals by 2009 and which will also reduce paperwork in local schools and improve program integrity.

Parents of preschool-age children face a big challenge of finding safe, affordable day care. This is especially so for low-income families. This bill extends and makes permanent meal assistance to day care centers in which at least 25 percent of enrolled children are low-income. USDA estimates that on an average day approximately 90,000 children will benefit from this meal assistance.

The bill also includes a number of important changes in the process to certify students as eligible for free or reduced-price school meals and to verify the accuracy of a small percentage of the applications for free and reduced-price school meals. These changes are designed to make sure that more certifications are completed correctly at the start of the school year. Improving program integrity has always been a duty that this committee has carried out on a bipartisan basis. Maintaining and improving program integrity is critical both to ensuring sound stewardship of taxpayer dollars and to guaranteeing that children who most need child nutrition benefits actually receive them.

One of the bill's program integrity measures allows schools to strengthen and simplify the verification process under which the income level of a sample of households must be documented. For example, for the first time, school districts will be able to use Medicaid data to verify household income so school districts won't have to duplicate verification efforts already undertaken in the Medicaid program, and families won't have to document income multiple times. I urge the Secretary, State agencies, and local educational agencies to take full advantage of this new option.

In addition, once a student is certified for free or reduced-price meals, that certification will be effective for a

full year. Those families that are selected for verification will be able to provide documentation for any point in time between the month prior to application and the time the income documentation is provided. Though the bill itself does not specify an exact time, the Secretary should not narrow the period and should issue guidance instructing local educational authorities to accept as income verification documentation any information pertaining to any point in time within the interval between the month prior to when the school meals application was completed and when the income documentation is provided.

The supplemental nutrition program for Women, Infants and Children, WIC, provides vouchers to eligible low-income families for specified food items. Recipients redeem these vouchers at local vendors. In recent years, a specialized type of vendor, known as WIC-only stores or supplemental foods vendors, has developed that accepts only WIC vouchers. These vendors do not compete for business on the basis of price, but rather on the service they provide their WIC clientele. This bill includes several important measures designed to contain WIC food costs. The committee report on this bill contains a good deal of information on WIC-only stores and on the provisions intended to address them. However, the bill language on WIC-only cost containment has changed somewhat, and additional clarification may be helpful here.

Although the legislative language offers States latitude to design vendor peer groups, competitive price criteria, and maximum reimbursement levels, each State must meet two important cost-containment goals unless exempted by the Secretary. First, each State must ensure that its aggregate WIC food costs are no higher if WIC participants choose to shop at WIC-only stores than if they shop at regular competitive stores. Second, each State must ensure that average prices, referred to as "average payments per voucher", in WIC-only stores are no higher than average prices in comparable competitive stores.

The bill allows the Secretary to exempt a State from carrying out requirements regarding the peer groups, competitive price criteria, and maximum reimbursement levels if the State does not authorize WIC-only stores or if the WIC-only stores in the State account for less than 5 percent of the State's total WIC food sales. If a State is exempt because the WIC-only stores in the State account for less than 5 percent of the State's total WIC food sales, the State is nonetheless required to ensure that its aggregate food costs are no higher if WIC participants choose to shop at WIC-only stores rather than at regular competitive stores.

Because WIC-only stores do not market items outside of the WIC program, the stores' earnings necessarily flow

from the WIC program. To ensure that WIC dollars are not spent on non-WIC items, the bill prohibits giveaways of incentive items or other free merchandise by WIC-only stores unless the store can demonstrate that the items or merchandise were obtained at no cost. Although an exemption for food or merchandise of nominal value has been added since the committee approved this bill, the intent of the bill remains to ban giveaways of the kind of items that are currently given away, such as diapers, strollers, bicycles, small kitchen appliances, other household products, and two-for-one offers on WIC food items. Food or merchandise of nominal value is meant to include items of lesser value than these items. In issuing guidance or regulations on this matter, the Secretary must ensure that even offering items of nominal value does not unnecessarily drive up costs in the WIC program.

This bill also includes important provisions on infant formula cost containment competitive bidding which will, I believe, ensure that the WIC program continues to benefit from the strength of the competitive marketplace and the infant formula rebates that enable so many children to participate in the WIC program.

I am pleased that this bill takes positive steps to enhance child nutrition and to address the epidemic of overweight and obesity in this country as well. Let there be no mistake, poor nutrition early in life lays the foundation for chronic disease and premature death later in life. According to the CDC, poor diet and physical inactivity will soon overtake smoking as the Nation's leading cause of death. In 2000, 400,000 deaths were associated with poor diet and physical inactivity.

This fiscal year the Federal Government will invest over \$8.3 billion in the school lunch and school breakfast programs, and this bill is a 5-year extension of this investment. The food served in these Federal school food programs meets Federal guidelines and provides balanced nutrition for the children who eat school meals. But in a majority of high schools and middle schools and an alarming number of elementary schools these school food programs and our taxpayer investment in them are undermined by an array of less nutritious food choices.

These foods that are sold in competition with the school meals are often high in fat, sugar and sodium. When kids choose these foods, they choose not to eat taxpayer supported, nutritionally balanced meals provided through the School Lunch and School Breakfast Programs. Not surprisingly, studies show that when kids get their lunches through vending machines at school their diets aren't nearly as healthy as when they obtain their meals through the school meal programs. In fact, among school-aged children only 2 percent meet the dietary recommendations for all food groups.

Research shows that a la carte items and vending machines displace student

consumption of more nutritious foods. In one study, students from schools that did not offer a la carte foods consumed half a serving more of fruit and a whole serving more of vegetables per day than did children in schools that did have a la carte programs. In another study, when kids gained access to foods other than through the School Lunch Program, they consumed 33 percent less fruit, 42 percent less vegetables, and 35 percent less milk.

Not surprisingly, poor diets contribute to childhood obesity and overweight children, with significant negative effects. Compared to regular-weight children, overweight children are more likely to have high levels of cholesterol, high blood pressure, high levels of insulin, and exhibit generally higher numbers of risk factors for cardiovascular disease. Between 50 and 80 percent of diabetes cases are associated with diet and sedentary lifestyles.

And it is not just about obesity. The lack of fruits, vegetables, and milk in our children's diets has tremendous ramifications for the health of kids and adults. Poor eating habits early in life lay the foundation for chronic disease and premature death at a later age. Cancer, heart disease, and osteoporosis are just a few of the many diseases associated with poor diet.

Because schools receive substantial revenue from the sale of junk food at school, some folks are concerned that schools will suffer financially if they replace junk food with healthier choices. I understand this concern, but I disagree with the premise. Many schools have stocked their vending machines and snack bars with healthy food, with no negative impact on revenue. Wide-open sales of unhealthy foods in schools hasn't always been the norm. Back in the 1970s, Congress gave the Secretary of Agriculture the authority to set nutrition guidelines to make sure our child nutrition programs work. Congress intended for that authority to extend to all food sales throughout the school and for the entire school day. And this is what the regulations put forth by USDA did.

However, the courts subsequently struck that authority down—wrongly, in my opinion. As a result, USDA regulations only apply to foods sold in the school cafeteria and during mealtime rather than to the entire school and school day. This has left us with this crazy situation in which, rather than getting a decent meal in the school cafeteria at lunch, kids can instead just go to the vending machines in the hall for a soft drink and junk food.

I believe that Congress should reinstate the Secretary of Agriculture's authority to set nutritional standards for foods available anywhere on school grounds at any time of the day. The Secretary would then determine, after public comment, how to use that authority.

This bill takes a different approach, but one that I believe holds great promise for improving the dietary

quality of foods sold in our Nation's schools.

First, it extends and expands the Fresh Fruit and Vegetable Program. Two years ago in the farm bill, we created a pilot program to provide free fresh and dried fruits and vegetables to children. The pilot covered 25 schools in each of 4 states and 7 schools on an Indian reservation. This program has been remarkably popular with the schools, but more importantly, with the students.

In a world in which grocery clerks may not know a radish from a rutabaga, it is encouraging to see elementary, middle school and high school students eating fruits and vegetables that they have never seen before and loving them.

This bill continues the fruit and vegetable program in the current states and expands it to 4 additional states and additional schools on Indian reservations. I would like to do more, but this is strong progress toward getting more fruits and vegetables in all schools across the Nation.

This bill also requires schools that participate in the National School Lunch or School Breakfast Programs to craft, with broad input from parents and others, plans that include goals for nutrition education, physical activity, and other activities to promote student wellness. The plans must also include nutrition guidelines for all foods sold in school.

This is not an attack on any particular type of food. Rather, school wellness policies, as required by this bill, pertain to healthy lifestyles more broadly and look at all foods in school, not just those in vending machines and snack bars. It does not mandate what foods can be offered or stipulate their content, but it does ask local schools to set standards that they believe are appropriate.

The bill also provides USDA with mandatory funds to help schools to establish their own local wellness policies. I wish that it provided more or this technical assistance, but it is a positive first step.

In my mind, these local wellness policies are a potentially revolutionary step towards improving our children's health. They provide real empowerment at the local school level. I look forward to seeing how schools endeavor to craft these policies and the effect that they have on school nutrition environments and children's health.

I also hope that, as schools work to craft their own wellness policies, they provide fertile ground for innovation and creative thinking. It is past time that all sectors of our society focus less on treating sickness, and focus more on promoting health and preventing obesity and chronic disease. This bill, in several ways, moves toward that goal and harnesses a potent force, our schools, in the efforts to be healthier as a country.

I thank my colleagues for their assistance and input on this important bill as well as for their support.

Mr. CRAPO. Mr. President, I ask unanimous consent that the Cochran amendment which is at the desk be agreed to, that the bill, as amended, be read a third time and passed, that the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3474) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 2507) was read the third time and passed, as follows:

S. 2507

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Act of 2004".

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

Sec. 1. Short title; Table of contents.

#### TITLE I—AMENDMENTS TO RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

Sec. 101. Nutrition promotion.

Sec. 102. Nutrition requirements.

Sec. 103. Provision of information.

Sec. 104. Direct certification.

Sec. 105. Household applications.

Sec. 106. Duration of eligibility for free or reduced price meals.

Sec. 107. Runaway, homeless, and migrant youth.

Sec. 108. Certification by local educational agencies.

Sec. 109. Exclusion of military housing allowances.

Sec. 110. Waiver of requirement for weighted averages for nutrient analysis.

Sec. 111. Food safety.

Sec. 112. Purchases of locally produced foods.

Sec. 113. Special assistance.

Sec. 114. Food and nutrition projects integrated with elementary school curricula.

Sec. 115. Procurement training.

Sec. 116. Summer food service program for children.

Sec. 117. Commodity distribution program.

Sec. 118. Notice of irradiated food products.

Sec. 119. Child and adult care food program.

Sec. 120. Fresh fruit and vegetable program.

Sec. 121. Summer food service residential camp eligibility.

Sec. 122. Access to local foods and school gardens.

Sec. 123. Year-round services for eligible entities.

Sec. 124. Free lunch and breakfast eligibility.

Sec. 125. Training, technical assistance, and food service management institute.

Sec. 126. Administrative error reduction.

Sec. 127. Compliance and accountability.

Sec. 128. Information clearinghouse.

Sec. 129. Program evaluation.

#### TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

Sec. 201. Severe need assistance.

Sec. 202. State administrative expenses.

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

Sec. 204. Local wellness policy.

Sec. 205. Team nutrition network.

Sec. 206. Review of best practices in the breakfast program.

#### TITLE III—COMMODITY DISTRIBUTION PROGRAMS

Sec. 301. Commodity distribution programs.

#### TITLE IV—MISCELLANEOUS

Sec. 401. Sense of Congress regarding efforts to prevent and reduce childhood obesity.

#### TITLE V—IMPLEMENTATION

Sec. 501. Guidance and regulations.

Sec. 502. Effective dates.

#### TITLE I—AMENDMENTS TO RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

##### SEC. 101. NUTRITION PROMOTION.

The Richard B. Russell National School Lunch Act is amended by inserting after section 4 (42 U.S.C. 1753) the following:

##### "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.”.

#### SEC. 102. NUTRITION REQUIREMENTS.

Section 9(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)) is amended by striking paragraph (2) and inserting the following:

“(2) FLUID MILK.—

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

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

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

“(iii) shall provide a substitute for fluid milk for students whose disability restricts their diet, 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 subparagraph (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.”.

#### SEC. 103. PROVISION OF INFORMATION.

Section 9(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)) is amended by adding at the end the following:

“(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.).”.

#### SEC. 104. DIRECT CERTIFICATION.

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

(1) by redesignating paragraphs (3) through (7) as paragraphs (9) through (13), respectively; and

(2) in paragraph (2)—

(A) in subparagraph (B)—

(i) by striking “(B) Applications” and inserting the following:

“(B) APPLICATIONS AND DESCRIPTIVE MATERIAL.—

“(i) IN GENERAL.—Applications”;

(ii) in the second sentence, by striking “Such forms and descriptive material” and inserting the following:

“(ii) INCOME ELIGIBILITY GUIDELINES.—Forms and descriptive material distributed in accordance with clause (i)”; and

(iii) by adding at the end the following:

“(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.

“(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 food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

“(cc) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (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.).”;

(B) by striking “(C)(i)” and inserting “(3)”; and

(C) by striking clause (ii) of subparagraph (C) (as it existed before the amendment made by subparagraph (B)) and all that follows through the end of subparagraph (D) and inserting the following:

“(4) DIRECT CERTIFICATION FOR CHILDREN IN FOOD STAMP 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 food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

“(B) PROCEDURES.—Subject to paragraph (6), the agreement shall establish procedures under which a child who is a member of a household receiving assistance under the food stamp 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 food stamp 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.”.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as amended by subsection (a)) is amended by inserting after paragraph (4) the following:

“(5) DISCRETIONARY CERTIFICATION.—

“(A) IN GENERAL.—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—

“(i) 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;

“(ii) 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)));

“(iii) served by the runaway and homeless youth grant program established under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); or

“(iv) a migratory child (as defined in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399)).”.

“(B) CHILDREN OF HOUSEHOLDS RECEIVING FOOD STAMPS.—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 member of a household that is receiving food stamps under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

“(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 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.”

(2) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

“(u) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION.—

“(1) IN GENERAL.—Each State agency shall enter into an agreement with the State agency administering the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

“(2) CONTENTS.—The agreement shall establish procedures that ensure that—

“(A) any child receiving benefits under this Act shall be certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application; and

“(B) each State agency shall cooperate in carrying out paragraphs (3)(F) and (4) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)).”

(c) FUNDING.—

(1) IN GENERAL.—On October 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 assist States in carrying out the amendments contained in this section and the provisions of section 9(b)(3) of the Richard B. Russell National School Lunch Act (as amended by section 105(a)) \$9,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to assist States in carrying out the amendments made by this section and the provisions of section 9(b)(3) of the Richard B. Russell National School Lunch Act (as amended by section 105(a)) the funds transferred under paragraph (1), without further appropriation.

(d) CONFORMING AMENDMENTS.—

(1) Effective July 1, 2008, paragraph (5) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as added by subsection (b)(1)) is amended—

(A) by striking subparagraph (B);

(B) by striking “CERTIFICATION.—” and all that follows through “IN GENERAL.—” and inserting “CERTIFICATION.—”; and

(C) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively, and indenting appropriately.

(2) Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) (as amended by subsection (a)(1)) is amended—

(A) in subsection (b)(12)(B), by striking “paragraph (2)(C)” and inserting “this subsection”; and

(B) in the second sentence of subsection (d)(1), by striking “subsection (b)(2)(C)” and inserting “subsection (b)(3)(G)”.

(3) Section 11(e) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(e)) is amended in the first sentence by striking “section 9(b)(3)” and inserting “section 9(b)(9)”.

#### SEC. 105. HOUSEHOLD APPLICATIONS.

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as amended by section 104(a)(2)(B)) is amended by striking paragraph (3) and inserting the following:

“(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 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 food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

“(BB) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (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.

“(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 (in accordance with criteria established by the Secretary) first obtain and use income and program participation information from a public agency administering—

“(I) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

“(II) the food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977 (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(1)(2)(C) of that Act (42 U.S.C. 1396a(1)(2)(C)) is not more than 133 percent of the official poverty line described in section 1902(1)(2)(A) of that Act (42 U.S.C. 1396a(1)(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(1)(2)(A) of that Act (42 U.S.C. 1396a(1)(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(1)(2)(C) of that Act (42 U.S.C. 1396a(1)(2)(C)) is not more than 185 percent of the official poverty line described in section 1902(1)(2)(A) of that Act (42 U.S.C. 1396a(1)(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(1)(2)(A) of that Act (42 U.S.C. 1396a(1)(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.

“(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 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).

“(H) VERIFICATION DEADLINE.—

“(i) GENERAL DEADLINE.—

“(I) IN GENERAL.—Subject to subclause (II), not later than November 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 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) 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.”.

(b) CONFORMING AMENDMENTS.—Section 1902(a)(7) of the Social Security Act (42 U.S.C. 1396a(a)(7)) is amended—

(1) by striking “connected with the” and inserting “connected with—

“(A) the”;

(2) by adding “and” after the semicolon; and

(3) by adding at the end the following:

“(B) at State option, the exchange of information necessary to verify the certification of eligibility of children for free or reduced price breakfasts under the Child Nutrition Act of 1966 and free or reduced price lunches under the Richard B. Russell National School Lunch Act, in accordance with section 9(b) of that Act, using data standards and formats established by the State agency”.

(c) EVALUATION FUNDING.—

(1) IN GENERAL.—On October 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 conduct the evaluation required by section 9(b)(3)(F)(iv) of the Richard B. Russell National School Lunch Act (as amended by subsection (a)) \$2,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary of Agriculture shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

#### SEC. 106. DURATION OF ELIGIBILITY FOR FREE OR REDUCED PRICE MEALS.

Paragraph (9) of section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as redesignated by section 104(a)(1)) is amended—

(1) by striking “(9) Any” and inserting the following:

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

“(A) FREE LUNCHES.—Any”;

(2) by striking “Any” in the second sentence and inserting the following:

“(B) REDUCED PRICE LUNCHES.—

“(i) IN GENERAL.—Any”;

(3) by striking “The” in the last sentence and inserting the following:

“(ii) MAXIMUM PRICE.—The”;

(4) by adding at the end the following:

“(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.”.

#### SEC. 107. RUNAWAY, HOMELESS, AND MIGRANT YOUTH.

(a) CATEGORICAL ELIGIBILITY FOR FREE LUNCHES AND BREAKFASTS.—Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (as redesignated by section 104(a)(1) of this Act) is amended—

(1) in clause (ii), by striking “or” at the end;

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

(3) by adding at the end the following:

“(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.); or

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

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

(1) in subparagraph (B), by striking “or”;

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

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

“(D) documentation has been provided to the appropriate local educational agency showing that the child meets the criteria specified in clauses (iv) or (v) of subsection (b)(12)(A); or

“(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)).”.

#### SEC. 108. CERTIFICATION BY LOCAL EDUCATIONAL AGENCIES.

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

(1) in the second sentence of subsection (b)(11) (as redesignated by section 104(a)(1)), by striking “Local school authorities” and inserting “Local educational agencies”; and

(2) in subsection (d)(2)—

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

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

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

(1) by redesignating paragraph (8) as paragraph (3) and moving the paragraph to appear after paragraph (2);

(2) by redesignating paragraphs (3) through (7) (as those paragraphs existed before the amendment made by paragraph (1)) as paragraphs (5) through (9), respectively; and

(3) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

“(4) LOCAL EDUCATIONAL AGENCY.—

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

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

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

#### SEC. 109. EXCLUSION OF MILITARY HOUSING ALLOWANCES.

Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) (as amended by section 104(a)(1)) is amended in paragraph (13) by striking “For each of fiscal years 2002 and 2003 and through June 30, 2004, the” and inserting “The”.

#### SEC. 110. WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.

Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)) is amended by striking “September 30, 2003” and inserting “September 30, 2009”.

**SEC. 111. FOOD SAFETY.**

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

(1) in the subsection heading, by striking “INSPECTIONS”;

(2) in paragraph (1)—

(A) by striking “Except as provided in paragraph (2), a” and inserting “A”;

(B) by striking “shall, at least once” and inserting: “shall—

“(A) at least twice”;

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

(D) by adding at the end the following:

“(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.”; and

(3) by striking paragraph (2) and inserting the following:

“(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 2006 through 2009, 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 2006 through 2009, the Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3).

“(5) SCHOOL FOOD SAFETY PROGRAM.—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.”.

**SEC. 112. PURCHASES OF LOCALLY PRODUCED FOODS.**

Section 9(j)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)(2)(A)) is amended by striking “2007” and inserting “2009”.

**SEC. 113. SPECIAL ASSISTANCE.**

Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended by inserting “or school district” after “school” each place it appears in subparagraphs (C) through (E) (other than as part of “school year”, “school years”, “school lunch”, “school breakfast”, and “4-school-year period”).

**SEC. 114. FOOD AND NUTRITION PROJECTS INTEGRATED WITH ELEMENTARY SCHOOL CURRICULA.**

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (m).

**SEC. 115. PROCUREMENT TRAINING.**

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) (as amended by section 114) is amended by inserting after subsection (l) the following:

“(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 2005 through 2009, to remain available until expended.”.

**SEC. 116. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.**

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

“(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.).”.

(b) SEAMLESS SUMMER REIMBURSEMENTS.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by adding at the end the following:

“(D) 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), (B), and (C) 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.”.

(c) SUMMER FOOD SERVICE ELIGIBILITY CRITERIA.—Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)) (as amended by subsection (a)) is amended by adding at the end the following—

“(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.”.

(d) SUMMER FOOD SERVICE RURAL TRANSPORTATION.—Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)) (as amended by subsection (c)) is amended by adding at the end the following:

“(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 2005.

“(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, 2007, 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, 2008, 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.”.

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

"June 30, 2004" and inserting "September 30, 2009".

(f) SIMPLIFIED SUMMER FOOD PROGRAMS.—

(1) DEFINITION OF ELIGIBLE STATE.—Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) is amended by striking paragraph (1) and inserting the following:

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means—

"(A) a State participating in the program under this subsection as of May 1, 2004; and

"(B) a State in which (based on data available in April 2004)—

"(i) the percentage obtained by dividing—

"(I) the sum of—

"(aa) the average daily number of children attending the summer food service program in the State in July 2003; and

"(bb) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in July 2003; by

"(II) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in March 2003; is less than

"(ii) 66.67 percent of the percentage obtained by dividing—

"(I) the sum of—

"(aa) the average daily number of children attending the summer food service program in all States in July 2003; and

"(bb) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 2003; by

"(II) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in March 2003.".

(2) DURATION.—Section 18(f)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(2)) is amended by striking "During the period beginning October 1, 2000, and ending June 30, 2004, the" and inserting "The".

(3) PRIVATE NONPROFIT ORGANIZATIONS.—Section 18(f)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(3)) is amended in subparagraphs (A) and (B) by striking "(other than a service institution described in section 13(a)(7))" both places it appears.

(4) REPORT.—Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) is amended by striking paragraph (6) and inserting the following:

"(6) REPORT.—Not later than April 30, 2007, 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 includes—

"(A) the evaluations completed by the Secretary under paragraph (5); and

"(B) any recommendations of the Secretary concerning the programs."

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

(A) by striking the subsection heading and inserting the following:

"(f) SIMPLIFIED SUMMER FOOD PROGRAMS.—";

(B) in paragraph (2)—

(i) by striking the paragraph heading and inserting the following:

"(2) PROGRAMS.—"; and

(ii) by striking "pilot project" and inserting "program";

(C) in subparagraph (A) and (B) of paragraph (3), by striking "pilot project" both places it appears and inserting "program"; and

(D) in paragraph (5)—

(i) in the paragraph heading by striking "PILOT PROJECTS" and inserting "PROGRAMS"; and

(ii) by striking "pilot project" each place it appears and inserting "program".

**SEC. 117. COMMODITY DISTRIBUTION PROGRAM.**

Section 14(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking "during the period beginning July 1, 1974, and ending June 30, 2004,".

**SEC. 118. NOTICE OF IRRADIATED FOOD PRODUCTS.**

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

"(h) NOTICE OF IRRADIATED FOOD 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 comingling 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."

**SEC. 119. CHILD AND ADULT CARE FOOD PROGRAM.**

(a) DEFINITION OF INSTITUTION.—

(1) IN GENERAL.—Section 17(a)(2)(B)(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)(B)(i)) is amended by striking "during" and all that follows through "2004,".

(2) CONFORMING AMENDMENT.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) is amended by striking subsection (p).

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

(c) AUDITS.—Section 17(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(i)) is amended by striking "(i) The" and inserting the following:

"(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.—The".

(d) DURATION OF AGREEMENTS.—Section 17(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(j)) is amended—

(1) by striking "(j) The" and inserting the following:

"(j) AGREEMENTS.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

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

(e) RURAL AREA ELIGIBILITY DETERMINATION FOR DAY CARE HOMES.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) (as amended by subsection (a)(2)) is amended by inserting after subsection (o) the following:

"(p) RURAL AREA ELIGIBILITY DETERMINATION FOR DAY CARE HOMES.—

"(1) DEFINITION OF SELECTED TIER I FAMILY OR GROUP DAY CARE HOME.—In this subsection, the term 'selected tier I family or group day care home' means a family or group day home that meets the definition of tier I family or group day care home under subclause (I) of subsection (f)(3)(A)(ii) except that items (aa) and (bb) of that subclause shall be applied by substituting '40 percent' for '50 percent'.

"(2) ELIGIBILITY.—For each of fiscal years 2006 and 2007, in rural areas of the State of Nebraska (as determined by the Secretary), the Secretary shall provide reimbursement to selected tier I family or group day care homes (as defined in paragraph (1)) under subsection (f)(3) in the same manner as tier I family or group day care homes (as defined in subsection (f)(3)(A)(ii)(I)).

"(3) EVALUATION.—

"(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in paragraph (2) as compared to the eligibility criteria described in subsection (f)(3)(A)(ii)(I).

"(B) IMPACT.—The evaluation shall assess the impact of the change in eligibility requirements on—

"(i) the number of family or group day care homes offering meals under this section;

"(ii) the number of family or group day care homes offering meals under this section that are defined as tier I family or group day care homes as a result of paragraph (1) that otherwise would be defined as tier II family or group day care homes under subsection (f)(3)(A)(iii);

"(iii) the geographic location of the family or group day care homes;

"(iv) services provided to eligible children; and

"(v) other factors determined by the Secretary.

“(C) REPORT.—Not later than March 31, 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 subsection.

“(D) FUNDING.—

“(i) IN GENERAL.—On October 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 paragraph \$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 paragraph the funds transferred under clause (i), without further appropriation.”

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

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

(1) in subclause (I)—

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

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

(2) by striking subclause (II); and

(3) by redesignating subclause (III) as subclause (II).

(h) TECHNICAL AMENDMENTS.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subsection (a)(6)(B), by inserting “and adult” after “child”; and

(2) in subsection (t)(3), by striking “subsection (a)(1)” and inserting “subsection (a)(5)”.

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

(j) EARLY CHILD NUTRITION EDUCATION.—

(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (6), for a period of 4 successive years, the Secretary of Agriculture shall award to 1 or more entities with expertise in designing and implementing health education programs for limited-English-proficient individuals 1 or more grants to enhance obesity prevention activities for child care centers and sponsoring organizations providing services to limited-English-proficient individuals through the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) in each of 4 States selected by the Secretary in accordance with paragraph (2).

(2) STATES.—The Secretary shall provide grants under this subsection in States that have experienced a growth in the limited-English-proficient population of the States of at least 100 percent between the years 1990 and 2000, as measured by the census.

(3) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

(A) developing an interactive and comprehensive tool kit for use by lay health educators and training activities;

(B) conducting training and providing ongoing technical assistance for lay health educators; and

(C) establishing collaborations with child care centers and sponsoring organizations

participating 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) to—

(i) identify limited-English-proficient children and families; and

(ii) enhance the capacity of the child care centers and sponsoring organizations to use appropriate obesity prevention strategies.

(4) EVALUATION.—Each grant recipient shall identify an institution of higher education to conduct an independent evaluation of the effectiveness of the grant.

(5) REPORT.—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 and the Committee on Health, Education, Labor, and Pensions, of the Senate a report that includes—

(A) the evaluation completed by the institution of higher education under paragraph (4);

(B) the effectiveness of lay health educators in reducing childhood obesity; and

(C) any recommendations of the Secretary concerning the grants.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$250,000 for each of fiscal years 2005 through 2009.

#### SEC. 120. FRESH FRUIT AND VEGETABLE PROGRAM.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (g) and inserting the following:

“(g) FRESH FRUIT AND VEGETABLE PROGRAM.—

“(1) IN GENERAL.—For the school year beginning July 2004 and each subsequent school year, the Secretary shall carry out a program to make free fresh fruits and vegetables available, to the maximum extent practicable, to—

“(A) 25 elementary or secondary schools in each of the 4 States authorized to participate in the program under this subsection on May 1, 2004;

“(B) 25 elementary or secondary schools (as selected by the Secretary in accordance with paragraph (3)) in each of 4 States (including a State for which funds were allocated under the program described in paragraph (3)(B)(ii)) that are not participating in the program under this subsection on May 1, 2004; and

“(C) 25 elementary or secondary schools operated on 3 Indian reservations (including the reservation authorized to participate in the program under this subsection on May 1, 2004), as selected by the Secretary.

“(2) PROGRAM.—A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day in 1 or more areas designated by the school.

“(3) SELECTION OF SCHOOLS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in selecting additional schools to participate in the program under paragraph (1)(B), the Secretary shall—

“(i) to the maximum extent practicable, ensure that the majority of schools selected are those in which not less than 50 percent of students are eligible for free or reduced price meals under this Act;

“(ii) 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); and

“(III) such other information as may be requested by the Secretary;

“(iii) for each application received, determine whether the application is from a school in which not less than 50 percent of students are eligible for free or reduced price meals under this Act; and

“(iv) give priority to schools that submit a plan for implementation of the program that includes a partnership with 1 or more entities that provide non-Federal resources (including entities representing the fruit and vegetable industry) for—

“(I) the acquisition, handling, promotion, or distribution of fresh and dried fruits and fresh vegetables; or

“(II) other support that contributes to the purposes of the program.

“(B) NONAPPLICABILITY TO EXISTING PARTICIPANTS.—Subparagraph (A) shall not apply to a school, State, or Indian reservation authorized—

“(i) to participate in the program on May 1, 2004; or

“(ii) to receive funding for free fruits and vegetables under funds provided for public health improvement under the heading ‘DISEASE CONTROL, RESEARCH, AND TRAINING’ under the heading ‘CENTERS FOR DISEASE CONTROL AND PREVENTION’ in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004 (Division E of Public Law 108-199; 118 Stat. 238).

“(4) NOTICE OF AVAILABILITY.—To be eligible to participate in the program under this subsection, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

“(5) REPORTS.—

“(A) INTERIM REPORTS.—Not later than September 30 of each of fiscal years 2005 through 2008, the Secretary, acting through the Administrator of the Food and Nutrition Service, 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 an interim report that describes the activities carried out under this subsection during the fiscal year covered by the report.

“(B) FINAL REPORT.—Not later than December 31, 2008, the Secretary, acting through the Administrator of the Food and Nutrition Service, 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 final report that describes the results of the program under this subsection.

“(6) FUNDING.—

“(A) EXISTING FUNDS.—The Secretary shall use to carry out this subsection any funds that remain under this subsection on the day before the date of enactment of this subparagraph.

“(B) MANDATORY FUNDS.—

“(i) 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 \$9,000,000, 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 made available under this subparagraph, without further appropriation.

“(C) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts made available under subparagraphs (A) and (B), there are authorized to be appropriated such sums as

are necessary to expand the program carried out under this subsection.

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

#### SEC. 121. SUMMER FOOD SERVICE RESIDENTIAL CAMP ELIGIBILITY.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following:

“(h) SUMMER FOOD SERVICE RESIDENTIAL CAMP ELIGIBILITY.—

“(1) IN GENERAL.—During the month after the date of enactment of this subsection through September, 2004, and the months of May through September, 2005, the Secretary shall modify eligibility criteria, at not more than 1 private nonprofit residential camp in each of not more than 2 States, as determined by the Secretary, for the purpose of identifying and evaluating alternative methods of determining the eligibility of residential private nonprofit camps to participate in the summer food service program for children established under section 13.

“(2) ELIGIBILITY.—To be eligible for the criteria modified under paragraph (1), a residential camp—

“(A) shall be a service institution (as defined in section 13(a)(1));

“(B) may not charge a fee to any child in residence at the camp; and

“(C) shall serve children who reside in an area in which poor economic conditions exist (as defined in section 13(a)(1)).

“(3) PAYMENTS.—

“(A) IN GENERAL.—Under this subsection, the Secretary shall provide reimbursement for meals served to all children at a residential camp at the payment rates specified in section 13(b)(1).

“(B) REIMBURSABLE MEALS.—A residential camp selected by the Secretary may receive reimbursement for not more than 3 meals, or 2 meals and 1 supplement, during each day of operation.

“(4) EVALUATION.—

“(A) INFORMATION FROM RESIDENTIAL CAMPS.—Not later than December 31, 2005, a residential camp selected under paragraph (1) shall report to the Secretary such information as is required by the Secretary concerning the requirements of this subsection.

“(B) REPORT TO CONGRESS.—Not later than March 31, 2006, 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 evaluates the effect of this subsection on program participation and other factors, as determined by the Secretary.”.

#### SEC. 122. ACCESS TO LOCAL FOODS AND SCHOOL GARDENS.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) (as amended by section 121) is amended by adding at the end the following:

“(i) ACCESS TO LOCAL FOODS AND SCHOOL GARDENS.—

“(1) IN GENERAL.—The Secretary may provide assistance, through competitive matching grants and technical assistance, to schools and nonprofit entities for projects that—

“(A) improve access to local foods in schools and institutions participating in programs under this Act and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) through farm-to-cafeteria activities, including school gardens, that may include the acquisition of food and appropriate equipment and the provision of training and education;

“(B) are, at a minimum, designed to—

“(i) procure local foods from small- and medium-sized farms for school meals; and

“(ii) support school garden programs;

“(C) support nutrition education activities or curriculum planning that incorporates the participation of school children in farm-based agricultural education activities, that may include school gardens;

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

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

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

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

“(H) cooperate in an evaluation 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 2009.”.

#### SEC. 123. YEAR-ROUND SERVICES FOR ELIGIBLE ENTITIES.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) (as amended by section 122) is amended by adding at the end the following:

“(j) 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 2005 through 2009.”.

#### SEC. 124. FREE LUNCH AND BREAKFAST ELIGIBILITY.

Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) (as amended by section 123) is amended by adding at the end the following:

“(k) FREE LUNCH AND BREAKFAST ELIGIBILITY.—

“(1) IN GENERAL.—Subject to the availability of funds under paragraph (4), the Sec-

retary 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.”.

#### SEC. 125. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

(a) IN GENERAL.—Section 21(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(a)(1)) is amended by striking “activities and” and all that follows and inserting “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”.

(b) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—Section 21(c)(2)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(c)(2)(B)) is amended—

(1) by striking clauses (vi) and (vii) and inserting the following:

“(vi) safety, including food handling, hazard analysis and critical control point plan implementation, emergency readiness, responding to a food recall, and food biosecurity training;”; and

(2) by redesignating clauses (viii) through (x) as clauses (vii) through (ix), respectively.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—Section 21(e)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(e)(1)) is amended by striking “2003” and inserting “2009”.

(2) FOOD SERVICE MANAGEMENT INSTITUTE.—Section 21(e)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(e)(2)(A)) is amended in the first sentence—

(A) by striking “provide to the Secretary” and all that follows through “1998, and” and inserting “provide to the Secretary”; and

(B) by striking “1999 and” and inserting “2004 and \$4,000,000 for fiscal year 2005”.

#### SEC. 126. ADMINISTRATIVE ERROR REDUCTION.

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

“(f) ADMINISTRATIVE TRAINING AND TECHNICAL ASSISTANCE MATERIAL.—In collaboration with State educational 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; and

“(ii) on October 1, 2006, October 1, 2007, and October 1, 2008, \$2,000,000.

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

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

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

“(A) to provide training and technical assistance and material related to improving program integrity and administrative accuracy in school meals programs; and

“(B) to assist State educational agencies in reviewing the administrative practices of local educational agencies, to the extent determined by the Secretary.”.

(b) SELECTED ADMINISTRATIVE REVIEWS.—

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

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

“(A) DEFINITION OF SELECTED LOCAL EDUCATIONAL 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.

“(4) 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 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 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 of the local educational agency under this section, the date that is 90 days after the beginning of the period under clause (i).

“(5) USE OF RETAINED FUNDS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds retained under paragraph (4) 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 and, to the extent determined by the Secretary, to local educational agencies and school food authorities;

“(II) to assist State educational 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 may retain not more than 25 percent of an amount recovered under paragraph (4), 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 shall—

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

“(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.”.

(2) INTERPRETATION.—Nothing in the amendment made by paragraph (1) affects the requirements for fiscal actions as described in the regulations issued pursuant to

section 22(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(a)).

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

(1) in subsection (e)—

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

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

“(1) **IN GENERAL.**—Each”; and

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

“(2) **UPDATES AND INFORMATION MANAGEMENT SYSTEMS.**—

“(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.”;

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

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

“(g) **STATE TRAINING.**—

“(1) **IN GENERAL.**—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to local educational agency and school food authority administrative personnel and other appropriate personnel, with emphasis on the requirements established by the Child Nutrition and WIC Reauthorization Act of 2004 and the amendments made by that Act.

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

“(A) provide training and technical assistance to a State; or

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

“(3) **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 paragraph (1) receives training at least annually, unless determined otherwise by the Secretary.

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

“(1) **FUNDING.**—

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

“(B) **RECEIPT AND ACCEPTANCE.**—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this sub-

section 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.”.

**SEC. 127. COMPLIANCE AND ACCOUNTABILITY.**

Section 22(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “\$3,000,000 for each of the fiscal years 1994 through 2003” and inserting “\$6,000,000 for each of fiscal years 2004 through 2009”.

**SEC. 128. INFORMATION CLEARINGHOUSE.**

Section 26(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence—

(1) by striking “1998, and” and inserting “1998,”; and

(2) by striking “through 2003” and inserting “through 2004, and \$250,000 for each of fiscal years 2005 through 2009”.

**SEC. 129. PROGRAM EVALUATION.**

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

**“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.”.

## TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

### SEC. 201. SEVERE NEED ASSISTANCE.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsection (d) and inserting the following:

“(d) **SEVERE NEED ASSISTANCE.**—

“(1) **IN GENERAL.**—Each State educational agency shall provide additional assistance to schools in severe need, which shall include only those schools (having a breakfast program or desiring to initiate a breakfast program) in which—

“(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).”.

### SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) **MINIMUM STATE ADMINISTRATIVE EXPENSE GRANTS.**—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) by striking the section heading and all that follows through “(a)(1) Each” and inserting the following:

**“SEC. 7. STATE ADMINISTRATIVE EXPENSES.**

**“(a) AMOUNT AND ALLOCATION OF FUNDS.**—

**“(1) AMOUNT AVAILABLE.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), each”;

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after the first sentence the following:

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

(ii) by striking “The Secretary” and inserting the following:

“(C) **ALLOCATION.**—The Secretary”; and

(iii) by striking the last sentence; and

(B) in paragraph (2)—

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

“(2) **EXPENSE GRANTS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the”;

(ii) in the second sentence—

(I) by striking “In no case” and inserting the following:

“(B) MINIMUM AMOUNT.—

“(i) IN GENERAL.—In no case”;

(II) by striking “this subsection” and inserting “this paragraph”; and

(III) by striking “\$100,000” and inserting “\$200,000 (as adjusted under clause (ii))”; and

(iii) by adding at the end the following:

“(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.”.

(b) TECHNOLOGY INFRASTRUCTURE IMPROVEMENT.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended by inserting after subsection (h) (as added by section 126(c)(3)) the following:

“(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.).

“(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.

“(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 2005 through 2009, to remain available until expended.”.

(c) REAUTHORIZATION.—Subsection (j) of section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as redesignated by section 126(c)(2)) is amended by striking “2003” and inserting “2009”.

#### SEC. 203. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) DEFINITIONS.—

(1) NUTRITION EDUCATION.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (7) and inserting the following:

“(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.”.

(2) SUPPLEMENTAL FOODS.—Section 17(b)(14) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(14)) is amended in the first sentence by inserting after “children” the following: “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”.

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

“(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.”.

(b) ELIGIBILITY.—

(1) CERTIFICATION PERIOD.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended—

(A) by striking “(3)(A) Persons” and inserting the following:

“(3) CERTIFICATION.—

“(A) PROCEDURES.—

“(i) IN GENERAL.—Subject to clause (ii), a person”; and

(B) by adding at the end of subparagraph (A) the following:

“(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.”.

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

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

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

(C) by adding at the end the following:

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

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

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

(c) ADMINISTRATION.—

(1) PROCESSING VENDOR APPLICATIONS; PARTICIPANT ACCESS.—Section 17(f)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)) is amended—

(A) in clause (i) by inserting “at any of the authorized retail stores under the program” after “the program”; and

(B) by redesignating clauses (ii) through (x) as clauses (iii) through (xi), respectively; and

(C) by inserting after clause (i) the following:

“(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;”.

(2) ALLOWABLE USE OF FUNDS.—

(A) IN GENERAL.—Section 17(f)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)) is amended—

(i) by striking “(11) The Secretary” and inserting the following:

“(11) SUPPLEMENTAL FOODS.—

“(A) IN GENERAL.—The Secretary”; and

(ii) in the second sentence, by striking “To the degree” and inserting the following:

“(B) APPROPRIATE CONTENT.—To the degree”; and

(iii) by adding at the end the following:

“(C) ALLOWABLE USE OF FUNDS.—Subject to the availability of funds, the Secretary shall award grants to not more than 10 local sites determined by the Secretary to be geographically and culturally representative of State, local, and Indian agencies, to evaluate the feasibility of including fresh, frozen, or canned fruits and vegetables (to be made available through private funds) as an addition to the supplemental foods prescribed under this section.

“(D) REVIEW OF AVAILABLE SUPPLEMENTAL FOODS.—As frequently as determined by the Secretary to be necessary to reflect the most recent scientific knowledge, the Secretary shall—

(i) conduct a scientific review of the supplemental foods available under the program; and

(ii) amend the supplemental foods available, as necessary, to reflect nutrition science, public health concerns, and cultural eating patterns.”.

(B) RULEMAKING.—Not later than 18 months after the date of receiving the review initiated by the National Academy of Sciences, Institute of Medicine in September 2003 of the supplemental foods available for 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), the Secretary shall promulgate a final rule updating the prescribed supplemental foods available through the program.

(3) USE OF CLAIMS FROM LOCAL AGENCIES.—Section 17(f)(21) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(21)) is amended—

(A) in the paragraph heading, by striking “VENDORS” and inserting “LOCAL AGENCIES, VENDORS,”; and

(B) by striking “vendors” and inserting “local agencies, vendors,”.

(4) INFANT FORMULA BENEFITS.—

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

“(25) 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.”.

(B) **APPLICABILITY.**—The amendment made by subparagraph (A) applies to infant formula provided under a contract resulting from a bid solicitation issued on or after October 1, 2004.

(5) **NOTIFICATION OF VIOLATIONS.**—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) (as amended by paragraph (4)) is amended by adding at the end the following:

“(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.”.

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

“(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 2004 through 2009.

“(B) **ADVANCE APPROPRIATIONS; AVAILABILITY.**—As authorized”.

(e) **NUTRITION SERVICES AND ADMINISTRATION FUNDS; COMPETITIVE BIDDING; RETAILERS.**—

(1) **IN GENERAL.**—Section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended by striking “For each of the fiscal years 1995 through 2003, the” and inserting “The”.

(2) **HEALTHY PEOPLE 2010 INITIATIVE.**—Section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended—

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

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

(C) by adding at the end the following:

“(F) 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 2010 initiative.”.

(3) **SIZE OF STATE ALLIANCES.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

“(iv) **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.**—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.”.

(4) **PRIMARY CONTRACT INFANT FORMULA.**—

(A) **IN GENERAL.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) (as amended by paragraph (3)) is amended—

(i) in clause (ii)(I), by striking “contract brand of” and inserting “primary contract”;

(ii) in clause (iii), by inserting “for a specific infant formula for which manufacturers submit a bid” after “lowest net price”; and

(iii) by adding at the end the following:

“(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.”.

(B) **APPLICABILITY.**—The amendments made by subparagraph (A) apply to a contract resulting from a bid solicitation issued on or after October 1, 2004.

(5) **REBATE INVOICES.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) (as amended by paragraph (4)(A)(iii)) is amended by adding at the end the following:

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

(6) **UNCOUPLING MILK AND SOY BIDS.**—

(A) **IN GENERAL.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) (as amended by paragraph (5)) is amended by adding at the end the following:

“(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 require that bids for rebates or discounts are solicited for milk-based and soy-based infant formula separately.”.

(B) **APPLICABILITY.**—The amendment made by this paragraph applies to a bid solicitation issued on or after October 1, 2004.

(7) **CENT-FOR-CENT ADJUSTMENTS.**—

(A) **IN GENERAL.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) (as amended by paragraph (6)(A)) is amended by adding at the end the following:

“(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.”.

(B) **CONFORMING AMENDMENT.**—Section 17(h)(8)(A)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)(ii)) is amended by striking “rise” and inserting “change”.

(C) **APPLICABILITY.**—The amendments made by this paragraph apply to a bid solicitation issued on or after October 1, 2004.

(8) **LIST OF INFANT FORMULA WHOLESALERS, DISTRIBUTORS, RETAILERS, AND MANUFACTURERS.**—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) (as amended by paragraph (7)(A)) is amended by adding at the end the following:

“(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).”.

(9) **FUNDS FOR INFRASTRUCTURE, MANAGEMENT INFORMATION SYSTEMS, AND SPECIAL NUTRITION EDUCATION.**—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by striking paragraph (10) and inserting the following:

“(10) **FUNDS FOR INFRASTRUCTURE, MANAGEMENT INFORMATION SYSTEMS, AND SPECIAL NUTRITION EDUCATION.**—

“(A) **IN GENERAL.**—For each of fiscal years 2006 through 2009, the Secretary shall use for the purposes specified in subparagraph (B), \$64,000,000 or the amount of nutrition services and administration funds and supplemental food funds for the prior fiscal year that have not been obligated, whichever is less.

“(B) **PURPOSES.**—Of the amount made available under subparagraph (A) for a fiscal year, not more than—

“(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) \$30,000,000 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; and

“(iii) \$20,000,000 shall be used for special nutrition education such as breast feeding peer counselors and other related activities.

“(C) **PROPORTIONAL DISTRIBUTION.**—In a case in which less than \$64,000,000 is available to carry out this paragraph, the Secretary shall make a proportional distribution of funds allocated under subparagraph (B).”.

(10) **VENDOR COST CONTAINMENT.**—

(A) Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by striking paragraph (11) and inserting the following:

“(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) 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 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).

“(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.”

(B) CONFORMING AMENDMENT.—Section 17(f)(1)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(i)) is amended by inserting before the semicolon the following: “, 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).”

(11) IMPOSITION OF COSTS ON RETAIL STORES.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by striking paragraph (12) and inserting the following:

“(12) IMPOSITION OF COSTS ON RETAIL STORES.—The Secretary may not impose, or allow a State agency to impose, the costs of any equipment, system, or processing required for electronic benefit transfers on any retail store authorized to transact food instruments, as a condition for authorization or participation in the program.”

(12) UNIVERSAL PRODUCT CODES DATABASE.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) (as amended by paragraph (11)) is amended by adding at the end the following:

“(13) UNIVERSAL PRODUCT CODES DATABASE.—The Secretary shall—

“(A) establish a national universal product code database for use by all State agencies in carrying out the program; and

“(B) make available from appropriated funds such sums as are required for hosting, hardware and software configuration, and support of the database.”

(13) INCENTIVE ITEMS.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) (as amended by paragraph (12)) is amended by adding at the end the following:

“(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.”

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

(g) MIGRANT AND COMMUNITY HEALTH CENTERS INITIATIVE.—Section 17(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(j)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(h) FARMERS’ MARKET NUTRITION PROGRAM.—

(1) ROADSIDE STANDS.—Section 17(m)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(1)) is amended by inserting “and (at the option of a State) roadside stands” after “farmers’ markets”.

(2) MATCHING FUNDS.—Section 17(m)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(3)) is amended by striking “total” both places it appears and inserting “administrative”.

(3) BENEFIT VALUE.—Section 17(m)(5)(C)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(5)(C)(ii)) is amended by striking “\$20” and inserting “\$30”.

(4) REAUTHORIZATION.—Section 17(m)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)) is amended by striking clause (i) and inserting the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2009.”

(i) DEMONSTRATION PROJECT RELATING TO USE OF WIC PROGRAM FOR IDENTIFICATION AND ENROLLMENT OF CHILDREN IN CERTAIN HEALTH PROGRAMS.—

(1) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsection (r).

(2) CONFORMING AMENDMENT.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (p).

#### SEC. 204. LOCAL WELLNESS POLICY.

(a) IN GENERAL.—Not later than the first day of the school year beginning after June 30, 2006, each local educational agency participating in a program authorized by 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.) shall establish a local school wellness policy for schools under the local educational agency that, at a minimum—

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

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

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

(4) establishes a plan for measuring implementation of the local wellness policy, including designation of 1 or more persons within the local educational agency or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and

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

**(b) TECHNICAL ASSISTANCE AND BEST PRACTICES.—**

(1) **IN GENERAL.**—The Secretary, in coordination with the Secretary of Education and in consultation with the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall make available to local educational agencies, school food authorities, and State educational agencies, on request, information and technical assistance for use in—

(A) establishing healthy school nutrition environments;

(B) reducing childhood obesity; and

(C) preventing diet-related chronic diseases.

(2) **CONTENT.**—Technical assistance provided by the Secretary under this subsection shall—

(A) include relevant and applicable examples of schools and local educational agencies that have taken steps to offer healthy options for foods sold or served in schools;

(B) include such other technical assistance as is required to carry out the goals of promoting sound nutrition and establishing healthy school nutrition environments that are consistent with this section;

(C) be provided in such a manner as to be consistent with the specific needs and requirements of local educational agencies; and

(D) be for guidance purposes only and not be construed as binding or as a mandate to schools, local educational agencies, school food authorities, or State educational agencies.

**(3) FUNDING.—**

(A) **IN GENERAL.**—On July 1, 2006, 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 September 30, 2009.

(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.

**SEC. 205. TEAM NUTRITION NETWORK.**

(a) **TEAM NUTRITION NETWORK.**—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended to read as follows:

**“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 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;

“(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

“(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.

“(b) **DEFINITION OF TEAM NUTRITION NETWORK.**—In this section, 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.—**

“(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.

“(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  $\frac{1}{2}$  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) LOCAL NUTRITION 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

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

“(vi) provide nutrient content or nutrition information on meals served through the school lunch 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) 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;

“(viii) offer healthy food choices outside program meals, including by making low-fat and nutrient dense options available in vending machines, school stores, and other venues; and

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

“(j) 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.

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

(b) CONFORMING AMENDMENT.—Section 21(c)(2)(E) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(c)(2)(E)) is amended by striking “, including” and all that follows through “1966”.

## SEC. 206. REVIEW OF BEST PRACTICES IN THE BREAKFAST PROGRAM.

(a) REVIEW.—

(1) IN GENERAL.—Subject to the availability of funds under subsection (c), the Secretary of Agriculture shall enter into an agreement with a research organization to collect and disseminate a review of best practices to assist school food authorities in addressing existing impediments at the State and local level that hinder the growth of the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(2) RECOMMENDATIONS.—The review shall describe model breakfast programs and offer recommendations for schools to overcome obstacles, including—

(A) the length of the school day;

(B) bus schedules; and

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

(b) DISSEMINATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) make the review required under subsection (a) available to school food authorities via the Internet, including recommendations to improve participation in the school breakfast program; and

(2) transmit to Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the review.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

### **TITLE III—COMMODITY DISTRIBUTION PROGRAMS**

#### **SEC. 301. COMMODITY DISTRIBUTION PROGRAMS.**

Section 15 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended by striking subsection (e).

### **TITLE IV—MISCELLANEOUS**

#### **SEC. 401. SENSE OF CONGRESS REGARDING EFFORTS TO PREVENT AND REDUCE CHILDHOOD OBESITY.**

(a) **FINDINGS.**—Congress finds that—

(1) childhood obesity in the United States has reached critical proportions;

(2) childhood obesity is associated with numerous health risks and the incidence of chronic disease later in life;

(3) the prevention of obesity among children yields significant benefits in terms of preventing disease and the health care costs associated with such diseases;

(4) further scientific and medical data on the prevalence of childhood obesity is necessary in order to inform efforts to fight childhood obesity; and

(5) the State of Arkansas—

(A) is the first State in the United States to have a comprehensive statewide initiative to combat and prevent childhood obesity by—

(i) annually measuring the body mass index of public school children in the State from kindergarten through 12th grade; and

(ii) providing that information to the parents of each child with associated information about the health implications of the body mass index of the child;

(B) maintains, analyzes, and reports on annual and longitudinal body mass index data for the public school children in the State; and

(C) develops and implements appropriate interventions at the community and school level to address obesity, the risk of obesity, and the condition of being overweight, including efforts to encourage healthy eating habits and increased physical activity.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the State of Arkansas, in partnership with the University of Arkansas for Medical Sciences and the Arkansas Center for Health Improvement, should be commended for its leadership in combating childhood obesity; and

(2) the efforts of the State of Arkansas to implement a statewide initiative to combat and prevent childhood obesity are exemplary and could serve as a model for States across the United States.

### **TITLE V—IMPLEMENTATION**

#### **SEC. 501. GUIDANCE AND REGULATIONS.**

(a) **GUIDANCE.**—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall issue guidance to implement the amendments made by sections 102, 103, 104, 105, 106, 107, 111, 116, 119(c), 119(g), 120, 126(b), 126(c), 201, 203(a)(3), 203(b), 203(c)(5), 203(e)(3), 203(e)(4), 203(e)(5), 203(e)(6), 203(e)(7), 203(e)(10), and 203(h)(1).

(b) **INTERIM FINAL REGULATIONS.**—The Secretary may promulgate interim final regula-

tions to implement the amendments described in subsection (a).

(c) **REGULATIONS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall promulgate final regulations to implement the amendments described in subsection (a).

#### **SEC. 502. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) **SPECIAL EFFECTIVE DATES.**—

(1) **JULY 1, 2004.**—The amendments made by sections 106, 107, 126(c), and 201 take effect on July 1, 2004.

(2) **OCTOBER 1, 2004.**—The amendments made by sections 119(c), 119(g), 202(a), 203(a), 203(b), 203(c)(1), 203(c)(5), 203(e)(5), 203(e)(8), 203(e)(10), 203(e)(13), 203(f), 203(h)(1), and 203(h)(2) take effect on October 1, 2004.

(3) **JANUARY 1, 2005.**—The amendments made by sections 116(f)(1) and 116(f)(3) take effect on January 1, 2005.

(4) **JULY 1, 2005.**—The amendments made by sections 102, 104, 105, 111, and 126(b) take effect on July 1, 2005.

(5) **OCTOBER 1, 2005.**—The amendments made by sections 116(d) and 203(e)(9) take effect on October 1, 2005.

Mr. CRAPO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### **NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued**

Mr. WARNER. In consultation with the majority leader, the distinguished Democratic leader, and the Democratic whip, Senator LEVIN and I have worked out a series of steps we are going to begin to take in seriatim at this time. The first step is that I yield the floor such that the Chair can recognize the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

#### **AMENDMENT NO. 3400**

Mr. FEINGOLD. I ask for regular order with regard to amendment No. 3400.

The PRESIDING OFFICER. The amendment is now pending.

Mr. FEINGOLD. Mr. President, I understand there will be a second-degree amendment offered to my amendment which is to bring a small measure of relief to military families by allowing the FMLA-eligible family members of deployed personnel to be able to use the FMLA benefits for issues directly related to or resulting from their loved one's deployment. This has been accepted by the body previously and put into other legislation. It was certainly my hope that we would be able to move forward with this. It is something our military families desperately need. However, it is my understanding that this second-degree amendment would require protracted debate. It is in our

interest to move this important Department of Defense authorization bill forward.

Mr. WARNER. If the Senator would withhold.

Mr. FEINGOLD. I yield to the Senator.

#### **AMENDMENT NO. 3475 TO AMENDMENT NO. 3400**

(Purpose: To enable military family members to take time off to attend to deployment-related business, tasks, and other family issues.)

Mr. WARNER. There is at the desk a second-degree amendment which I submit on behalf of Senator GREGG and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GREGG, for himself and Mr. WARNER, proposes an amendment 3475 to amendment 3400.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. GREGG. Mr. President, Senator FEINGOLD has offered an amendment intended to help military families who have a family member activated in support of a contingency operation. First of all, I make it clear that all of us want to assist families placed in the difficult position of operating with one family member called to duty.

That is why the underlying bill contains provisions such as permanently increasing the Family Separation Allowance, FSA, payable to deployed servicemen and women with dependents up to \$250 a month.

But the proposal made by Senator FEINGOLD to expand the Family Medical Leave Act is not the right approach. I rise to offer an alternative proposal as a second-degree amendment. The amendment I am offering today presents military families a much better method for obtaining the flexibility they may need to prepare for activation and to keep the family running while a family member is called to duty.

The Feingold amendment would offer some employees unpaid leave. My amendment will offer paid leave. While the Feingold amendment applies only to those military family members that work for employers with 50 or more employees, and offers no assistance at all to individuals who work for smaller employers, my amendment will apply to all military family employees subject to the Fair Labor Standards Act.

The Feingold amendment will also create uncertainty and animosity in the workplace by giving employees the vaguely defined right to take intermittent leave with minimal notice for any "issue relating to" "the family member's service"—a phrase which can be interpreted to cover just about any activity.

My amendment, on the other hand offers a clear method for earning and using paid leave time.

The Feingold amendment is a mandate in search of a problem—no need has been demonstrated for it and in