

Public Law 111-296
111th Congress

An Act

To reauthorize child nutrition programs, and for other purposes.

Dec. 13, 2010
[S. 3307]

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

Healthy, Hunger-Free Kids Act of 2010.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 1751
note.

(a) **SHORT TITLE.**—This Act may be cited as the “Healthy, Hunger-Free Kids Act of 2010”.

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

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

TITLE I—A PATH TO END CHILDHOOD HUNGER

Subtitle A—National School Lunch Program

Sec. 101. Improving direct certification.
Sec. 102. Categorical eligibility of foster children.
Sec. 103. Direct certification for children receiving Medicaid benefits.
Sec. 104. Eliminating individual applications through community eligibility.
Sec. 105. Grants for expansion of school breakfast programs.

Subtitle B—Summer Food Service Program

Sec. 111. Alignment of eligibility rules for public and private sponsors.
Sec. 112. Outreach to eligible families.
Sec. 113. Summer food service support grants.

Subtitle C—Child and Adult Care Food Program

Sec. 121. Simplifying area eligibility determinations in the child and adult care food program.
Sec. 122. Expansion of afterschool meals for at-risk children.

Subtitle D—Special Supplemental Nutrition Program for Women, Infants, and Children

Sec. 131. Certification periods.

Subtitle E—Miscellaneous

Sec. 141. Childhood hunger research.
Sec. 142. State childhood hunger challenge grants.
Sec. 143. Review of local policies on meal charges and provision of alternate meals.

TITLE II—REDUCING CHILDHOOD OBESITY AND IMPROVING THE DIETS OF CHILDREN

Subtitle A—National School Lunch Program

Sec. 201. Performance-based reimbursement rate increases for new meal patterns.
Sec. 202. Nutrition requirements for fluid milk.
Sec. 203. Water.
Sec. 204. Local school wellness policy implementation.
Sec. 205. Equity in school lunch pricing.
Sec. 206. Revenue from nonprogram foods sold in schools.

- Sec. 207. Reporting and notification of school performance.
- Sec. 208. Nutrition standards for all foods sold in school.
- Sec. 209. Information for the public on the school nutrition environment.
- Sec. 210. Organic food pilot program.

Subtitle B—Child and Adult Care Food Program

- Sec. 221. Nutrition and wellness goals for meals served through the child and adult care food program.
- Sec. 222. Interagency coordination to promote health and wellness in child care licensing.
- Sec. 223. Study on nutrition and wellness quality of child care settings.

Subtitle C—Special Supplemental Nutrition Program for Women, Infants, and Children

- Sec. 231. Support for breastfeeding in the WIC Program.
- Sec. 232. Review of available supplemental foods.

Subtitle D—Miscellaneous

- Sec. 241. Nutrition education and obesity prevention grant program.
- Sec. 242. Procurement and processing of food service products and commodities.
- Sec. 243. Access to Local Foods: Farm to School Program.
- Sec. 244. Research on strategies to promote the selection and consumption of healthy foods.

TITLE III—IMPROVING THE MANAGEMENT AND INTEGRITY OF CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Program

- Sec. 301. Privacy protection.
- Sec. 302. Applicability of food safety program on entire school campus.
- Sec. 303. Fines for violating program requirements.
- Sec. 304. Independent review of applications.
- Sec. 305. Program evaluation.
- Sec. 306. Professional standards for school food service.
- Sec. 307. Indirect costs.
- Sec. 308. Ensuring safety of school meals.

Subtitle B—Summer Food Service Program

- Sec. 321. Summer food service program permanent operating agreements.
- Sec. 322. Summer food service program disqualification.

Subtitle C—Child and Adult Care Food Program

- Sec. 331. Renewal of application materials and permanent operating agreements.
- Sec. 332. State liability for payments to aggrieved child care institutions.
- Sec. 333. Transmission of income information by sponsored family or group day care homes.
- Sec. 334. Simplifying and enhancing administrative payments to sponsoring organizations.
- Sec. 335. Child and adult care food program audit funding.
- Sec. 336. Reducing paperwork and improving program administration.
- Sec. 337. Study relating to the child and adult care food program.

Subtitle D—Special Supplemental Nutrition Program for Women, Infants, and Children

- Sec. 351. Sharing of materials with other programs.
- Sec. 352. WIC program management.

Subtitle E—Miscellaneous

- Sec. 361. Full use of Federal funds.
- Sec. 362. Disqualified schools, institutions, and individuals.

TITLE IV—MISCELLANEOUS

Subtitle A—Reauthorization of Expiring Provisions

PART I—RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

- Sec. 401. Commodity support.
- Sec. 402. Food safety audits and reports by States.
- Sec. 403. Procurement training.

- Sec. 404. Authorization of the summer food service program for children.
- Sec. 405. Year-round services for eligible entities.
- Sec. 406. Training, technical assistance, and food service management institute.
- Sec. 407. Federal administrative support.
- Sec. 408. Compliance and accountability.
- Sec. 409. Information clearinghouse.

PART II—CHILD NUTRITION ACT OF 1966

- Sec. 421. Technology infrastructure improvement.
- Sec. 422. State administrative expenses.
- Sec. 423. Special supplemental nutrition program for women, infants, and children.
- Sec. 424. Farmers market nutrition program.

Subtitle B—Technical Amendments

- Sec. 441. Technical amendments.
- Sec. 442. Use of unspent future funds from the American Recovery and Reinvestment Act of 2009.
- Sec. 443. Equipment assistance technical correction.
- Sec. 444. Budgetary effects.
- Sec. 445. Effective date.

SEC. 2. DEFINITION OF SECRETARY.

7 USC 3179 note.

In this Act, the term “Secretary” means the Secretary of Agriculture.

TITLE I—A PATH TO END CHILDHOOD HUNGER

Subtitle A—National School Lunch Program

SEC. 101. IMPROVING DIRECT CERTIFICATION.

(a) PERFORMANCE AWARDS.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) is amended—

(1) in the paragraph heading, by striking “FOOD STAMP” and inserting “SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM”; and

(2) by adding at the end the following:

“(E) PERFORMANCE AWARDS.—

“(i) IN GENERAL.—Effective for each of the school years beginning July 1, 2011, July 1, 2012, and July 1, 2013, the Secretary shall offer performance awards to States to encourage the States to ensure that all children eligible for direct certification under this paragraph are certified in accordance with this paragraph.

Effective dates.

“(ii) REQUIREMENTS.—For each school year described in clause (i), the Secretary shall—

“(I) consider State data from the prior school year, including estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a); and

“(II) make performance awards to not more than 15 States that demonstrate, as determined by the Secretary—

“(aa) outstanding performance; and

“(bb) substantial improvement.

“(iii) USE OF FUNDS.—A State agency that receives a performance award under clause (i)—

“(I) shall treat the funds as program income; and

“(II) may transfer the funds to school food authorities for use in carrying out the program.

“(iv) FUNDING.—

Effective dates.

“(I) IN GENERAL.—On October 1, 2011, and each subsequent October 1 through October 1, 2013, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary—

“(aa) \$2,000,000 to carry out clause

(ii)(II)(aa); and

“(bb) \$2,000,000 to carry out clause

(ii)(II)(bb).

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

“(v) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—

A determination by the Secretary whether, and in what amount, to make a performance award under this subparagraph shall not be subject to administrative or judicial review.”.

(b) CONTINUOUS IMPROVEMENT PLANS.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) (as amended by subsection (a)) is amended by adding at the end the following:

“(F) CONTINUOUS IMPROVEMENT PLANS.—

“(i) DEFINITION OF REQUIRED PERCENTAGE.—In this subparagraph, the term ‘required percentage’ means—

“(I) for the school year beginning July 1, 2011, 80 percent;

“(II) for the school year beginning July 1, 2012, 90 percent; and

“(III) for the school year beginning July 1, 2013, and each school year thereafter, 95 percent.

“(ii) REQUIREMENTS.—Each school year, the Secretary shall—

“(I) identify, using data from the prior year, including estimates contained in the report required under section 4301 of the Food, Conservation, and Energy Act of 2008 (42 U.S.C. 1758a), States that directly certify less than the required percentage of the total number of children in the State who are eligible for direct certification under this paragraph;

“(II) require the States identified under subparagraph (I) to implement a continuous improvement plan to fully meet the requirements of this paragraph, which shall include a plan to improve direct certification for the following school year; and

“(III) assist the States identified under subparagraph (I) to develop and implement a continuous improvement plan in accordance with subparagraph (II).

“(iii) FAILURE TO MEET PERFORMANCE STANDARD.—

“(I) IN GENERAL.—A State that is required to develop and implement a continuous improvement plan under clause (ii)(II) shall be required to submit the continuous improvement plan to the Secretary, for the approval of the Secretary.

“(II) REQUIREMENTS.—At a minimum, a continuous improvement plan under subclause (I) shall include—

“(aa) specific measures that the State will use to identify more children who are eligible for direct certification, including improvements or modifications to technology, information systems, or databases;

“(bb) a timeline for the State to implement those measures; and

“(cc) goals for the State to improve direct certification results.”.

(c) WITHOUT FURTHER APPLICATION.—Section 9(b)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(4)) (as amended by subsection (b)) is amended by adding at the end the following:

“(G) WITHOUT FURTHER APPLICATION.—

“(i) IN GENERAL.—In this paragraph, the term ‘without further application’ means that no action is required by the household of the child.

Definition.

“(ii) CLARIFICATION.—A requirement that a household return a letter notifying the household of eligibility for direct certification or eligibility for free school meals does not meet the requirements of clause (i).”.

SEC. 102. CATEGORICAL ELIGIBILITY OF FOSTER CHILDREN.

(a) DISCRETIONARY CERTIFICATION.—Section 9(b)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(5)) is amended—

(1) in subparagraph (C), by striking “or” at the end;

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

(3) by adding at the end the following:

“(E)(i) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

“(ii) a foster child who a court has placed with a caretaker household.”.

(b) CATEGORICAL ELIGIBILITY.—Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(12)(A)) is amended—

(1) in clause (iv), by adding “)” before the semicolon at the end;

(2) in clause (v), by striking “or” at the end;

(3) in clause (vi), by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following:

“(vii)(I) a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

“(II) a foster child who a court has placed with a caretaker household.”

(c) 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 (D), by striking “or” at the end;

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

(3) by adding at the end the following:

“(F)(i) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child whose care and placement is the responsibility of an agency that administers a State plan under part B or E of title IV of the Social Security Act (42 U.S.C. 621 et seq.); or

“(ii) documentation has been provided to the appropriate local educational agency showing the status of the child as a foster child who a court has placed with a caretaker household.”.

SEC. 103. DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS.

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

“(15) DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) ELIGIBLE CHILD.—The term ‘eligible child’ means a child—

“(I)(aa) who is eligible for and receiving medical assistance under the Medicaid program; and

“(bb) who is a member of a family with an income as measured by the Medicaid program before the application of any expense, block, or other income disregard, that does not exceed 133 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section)) applicable to a family of the size used for purposes of determining eligibility for the Medicaid program; or

“(II) who is a member of a household (as that term is defined in section 245.2 of title 7, Code of Federal Regulations (or successor regulations) with a child described in subclause (I).

“(ii) MEDICAID PROGRAM.—The term ‘Medicaid program’ means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

“(B) DEMONSTRATION PROJECT.—

“(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service and in cooperation with selected State agencies, shall conduct a demonstration project in selected local educational agencies to determine whether direct certification of eligible children is an effective method of certifying children for free lunches and breakfasts

under section 9(b)(1)(A) of this Act and section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)).

“(ii) SCOPE OF PROJECT.—The Secretary shall carry out the demonstration project under this subparagraph—

“(I) for the school year beginning July 1, 2012, in selected local educational agencies that collectively serve 2.5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data;

“(II) for the school year beginning July 1, 2013, in selected local educational agencies that collectively serve 5 percent of students certified for free and reduced price meals nationwide, based on the most recent available data; and

“(III) for the school year beginning July 1, 2014, and each subsequent school year, in selected local educational agencies that collectively serve 10 percent of students certified for free and reduced price meals nationwide, based on the most recent available data.

“(iii) PURPOSES OF THE PROJECT.—At a minimum, the purposes of the demonstration project shall be—

“(I) to determine the potential of direct certification with the Medicaid program to reach children who are eligible for free meals but not certified to receive the meals;

“(II) to determine the potential of direct certification with the Medicaid program to directly certify children who are enrolled for free meals based on a household application; and

“(III) to provide an estimate of the effect on Federal costs and on participation in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) of direct certification with the Medicaid program.

“(iv) COST ESTIMATE.—For each of 2 school years of the demonstration project, the Secretary shall estimate the cost of the direct certification of eligible children for free school meals through data derived from—

“(I) the school meal programs authorized under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(II) the Medicaid program; and

“(III) interviews with a statistically representative sample of households.

“(C) AGREEMENT.—

“(i) IN GENERAL.—Not later than July 1 of the first school year during which a State agency will participate in the demonstration project, the State agency shall enter into an agreement with the 1 or more State agencies conducting eligibility determinations for the Medicaid program. Deadline.

Procedures.

“(ii) WITHOUT FURTHER APPLICATION.—Subject to paragraph (6), the agreement described in subparagraph (D) shall establish procedures under which an eligible child shall be certified for free lunches under this Act and free breakfasts under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), without further application (as defined in paragraph (4)(G)).

Effective date.

“(D) CERTIFICATION.—For the school year beginning on July 1, 2012, and each subsequent school year, subject to paragraph (6), the local educational agencies participating in the demonstration project shall certify an eligible child as eligible for free lunches under this Act and free breakfasts under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), without further application (as defined in paragraph (4)(G)).

“(E) SITE SELECTION.—

“(i) IN GENERAL.—To be eligible to participate in the demonstration project under this subsection, a State agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(ii) CONSIDERATIONS.—In selecting States and local educational agencies for participation in the demonstration project, the Secretary may take into consideration such factors as the Secretary considers to be appropriate, which may include—

“(I) the rate of direct certification;

“(II) the share of individuals who are eligible for benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) who participate in the program, as determined by the Secretary;

“(III) the income eligibility limit for the Medicaid program;

“(IV) the feasibility of matching data between local educational agencies and the Medicaid program;

“(V) the socioeconomic profile of the State or local educational agencies; and

“(VI) the willingness of the State and local educational agencies to comply with the requirements of the demonstration project.

“(F) ACCESS TO DATA.—For purposes of conducting the demonstration project under this paragraph, the Secretary shall have access to—

“(i) educational and other records of State and local educational and other agencies and institutions receiving funding or providing benefits for 1 or more programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

“(ii) income and program participation information from public agencies administering the Medicaid program.

“(G) REPORT TO CONGRESS.—

“(i) IN GENERAL.—Not later than October 1, 2014, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, an interim report that describes the results of the demonstration project required under this paragraph.

“(ii) FINAL REPORT.—Not later than October 1, 2015, the Secretary shall submit a final report to the committees described in clause (i).

“(H) FUNDING.—

“(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subparagraph (G) \$5,000,000, to remain available until expended.

Effective date.

“(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subparagraph (G) the funds transferred under clause (i), without further appropriation.”.

(b) DOCUMENTATION.—Section 9(d)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(d)(2)) (as amended by section 102(c)) is amended—

- (1) in subparagraph (E), by striking “or” at the end;
- (2) in subparagraph (F)(ii), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end the following:

“(G) documentation has been provided to the appropriate local educational agency showing the status of the child as an eligible child (as defined in subsection (b)(15)(A)).”.

(c) AGREEMENT FOR DIRECT CERTIFICATION AND COOPERATION BY STATE MEDICAID AGENCIES.—

(1) IN GENERAL.—Section 1902(a)(7) of the Social Security Act (42 U.S.C. 1396a(a)(7)) is amended to read as follows:

“(7) provide—

“(A) safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with—

“(i) the administration of the plan; and

“(ii) the exchange of information necessary to certify or 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; and

“(B) that, notwithstanding the Express Lane option under subsection (e)(13), the State may enter into an agreement with the State agency administering the school lunch program established under the Richard B. Russell National School Lunch Act under which the State shall establish procedures to ensure that—

“(i) a child receiving medical assistance under the State plan under this title whose family income does not exceed 133 percent of the poverty line (as defined

in section 673(2) of the Community Services Block Grant Act, including any revision required by such section), as determined without regard to any expense, block, or other income disregard, applicable to a family of the size involved, may be certified as eligible for free lunches under the Richard B. Russell National School Lunch Act and free breakfasts under the Child Nutrition Act of 1966 without further application; and

“(ii) the State agencies responsible for administering the State plan under this title, and for carrying out the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), cooperate in carrying out paragraphs (3)(F) and (15) of section 9(b) of that Act.”

42 USC 1396a
note.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of the amendments made by this section solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(d) CONFORMING AMENDMENTS.—Section 444(b)(1) of the General Education Provisions Act (20 U.S.C. 1232g(b)(1)) is amended—

(1) in subparagraph (I), by striking “and” at the end;

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

(3) by adding at the end the following:

“(K) the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of State and local educational and other agencies and institutions receiving funding or providing benefits of 1 or more programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that—

“(i) any data collected under this subparagraph shall be protected in a manner that will not permit the personal

Confidentiality.

identification of students and their parents by other than the authorized representatives of the Secretary; and

“(ii) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.”.

SEC. 104. ELIMINATING INDIVIDUAL APPLICATIONS THROUGH COMMUNITY ELIGIBILITY.

(a) UNIVERSAL MEAL SERVICE IN HIGH POVERTY AREAS.—

(1) **ELIGIBILITY.**—Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended by adding at the end the following:

“(F) **UNIVERSAL MEAL SERVICE IN HIGH POVERTY AREAS.**—

“(i) **DEFINITION OF IDENTIFIED STUDENTS.**—The term ‘identified students’ means students certified based on documentation of benefit receipt or categorical eligibility as described in section 245.6a(c)(2) of title 7, Code of Federal Regulations (or successor regulations).

“(ii) **ELECTION OF SPECIAL ASSISTANCE PAYMENTS.**—

“(I) **IN GENERAL.**—A local educational agency may, for all schools in the district or on behalf of certain schools in the district, elect to receive special assistance payments under this subparagraph in lieu of special assistance payments otherwise made available under this paragraph based on applications for free and reduced price lunches if—

“(aa) during a period of 4 successive school years, the local educational agency elects to serve all children in the applicable schools free lunches and breakfasts under the school lunch program under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

“(bb) the local educational agency pays, from sources other than Federal funds, the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(cc) the local educational agency is not a residential child care institution (as that term is used in section 210.2 of title 7, Code of Federal Regulations (or successor regulations)); and

“(dd) during the school year prior to the first year of the period for which the local educational agency elects to receive special assistance payments under this subparagraph, the local educational agency or school had a percentage of enrolled students who were identified students that meets or exceeds the threshold described in clause (viii).

Notification.
Deadline.

“(II) ELECTION TO STOP RECEIVING PAYMENTS.—A local educational agency may, for all schools in the district or on behalf of certain schools in the district, elect to stop receiving special assistance payments under this subparagraph for the following school year by notifying the State agency not later than June 30 of the current school year of the intention to stop receiving special assistance payments under this subparagraph.

“(iii) FIRST YEAR OF OPTION.—

“(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the first school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

“(aa) the multiplier described in clause (vii); by

“(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

“(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 4.

“(iv) SECOND, THIRD, OR FOURTH YEAR OF OPTION.—

“(I) SPECIAL ASSISTANCE PAYMENT.—For each month of the second, third, or fourth school year of the 4-year period during which a school or local educational agency elects to receive payments under this subparagraph, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

“(aa) the multiplier described in clause (vii); by

“(bb) the higher of the percentage of identified students at the school or local educational agency as of April 1 of the prior school year or the percentage of identified students at the school or local educational agency as of April 1 of the school year prior to the first year that the school or local educational agency elected to receive special assistance payments under this subparagraph, up to a maximum of 100 percent.

“(II) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 4.

“(v) GRACE YEAR.—

“(I) IN GENERAL.—If, not later than April 1 of the fourth year of a 4-year period described in clause (ii)(I), a school or local educational agency has a percentage of enrolled students who are identified students that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii), the school or local educational agency may elect to receive special assistance payments under subclause (II) for an additional grace year. Deadline.

“(II) SPECIAL ASSISTANCE PAYMENT.—For each month of a grace year, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal to the product obtained by multiplying—

“(aa) the multiplier described in clause (vii); by

“(bb) the percentage of identified students at the school or local educational agency as of April 1 of the prior school year, up to a maximum of 100 percent.

“(III) PAYMENT FOR OTHER MEALS.—The percentage of meals served that is not described in subclause (II) shall be reimbursed at the rate provided under section 4.

“(vi) APPLICATIONS.—A school or local educational agency that receives special assistance payments under this subparagraph may not be required to collect applications for free and reduced price lunches.

“(vii) MULTIPLIER.—

“(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the multiplier shall be 1.6.

“(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use, as determined by the Secretary—

“(aa) a multiplier between 1.3 and 1.6; and

“(bb) subject to item (aa), a different multiplier for different schools or local educational agencies.

“(viii) THRESHOLD.—

“(I) PHASE-IN.—For each school year beginning on or before July 1, 2013, the threshold shall be 40 percent.

“(II) FULL IMPLEMENTATION.—For each school year beginning on or after July 1, 2014, the Secretary may use a threshold that is less than 40 percent.

“(ix) PHASE-IN.—

“(I) IN GENERAL.—In selecting States for participation during the phase-in period, the Secretary shall select States with an adequate number and variety of schools and local educational agencies that could benefit from the option under this subparagraph, as determined by the Secretary.

“(II) LIMITATION.—The Secretary may not approve additional schools and local educational agencies to receive special assistance payments under this subparagraph after the Secretary has approved schools and local educational agencies in—

“(aa) for the school year beginning on July 1, 2011, 3 States; and

“(bb) for each of the school years beginning July 1, 2012 and July 1, 2013, an additional 4 States per school year.

“(x) ELECTION OF OPTION.—

“(I) IN GENERAL.—For each school year beginning on or after July 1, 2014, any local educational agency eligible to make the election described in clause (ii) for all schools in the district or on behalf of certain schools in the district may elect to receive special assistance payments under clause (iii) for the next school year if, not later than June 30 of the current school year, the local educational agency submits to the State agency the percentage of identified students at the school or local educational agency.

“(II) STATE AGENCY NOTIFICATION.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with schools or local educational agencies that may be eligible to elect to receive special assistance payments under this subparagraph shall notify—

“(aa) each local educational agency that meets or exceeds the threshold described in clause (viii) that the local educational agency is eligible to elect to receive special assistance payments under clause (iii) for the next 4 school years, of the blended reimbursement rate the local educational agency would receive under clause (iii), and of the procedures for the local educational agency to make the election;

“(bb) each local educational agency that receives special assistance payments under clause (iii) of the blended reimbursement rate the local educational agency would receive under clause (iv);

“(cc) each local educational agency in the fourth year of electing to receive special assistance payments under this subparagraph that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that receives special assistance payments under clause (iv), that the local educational agency may continue to receive such payments for the next school year, of the blended reimbursement rate the local educational agency would receive under clause (v), and of the procedures for the local educational agency to make the election; and

Deadline.

“(dd) each local educational agency that meets or exceeds a percentage that is 10 percentage points lower than the threshold described in clause (viii) that the local educational agency may be eligible to elect to receive special assistance payments under clause (iii) if the threshold described in clause (viii) is met by April 1 of the school year or if the threshold is met for a subsequent school year.

“(III) PUBLIC NOTIFICATION OF LOCAL EDUCATIONAL AGENCIES.—Not later than May 1 of each school year beginning on or after July 1, 2011, each State agency with 1 or more schools or local educational agencies eligible to elect to receive special assistance payments under clause (iii) shall submit to the Secretary, and the Secretary shall publish, lists of the local educational agencies receiving notices under subclause (II).

“(IV) PUBLIC NOTIFICATION OF SCHOOLS.—Not later than May 1 of each school year beginning on or after July 1, 2011, each local educational agency in a State with 1 or more schools eligible to elect to receive special assistance payments under clause (iii) shall submit to the State agency, and the State agency shall publish—

“(aa) a list of the schools that meet or exceed the threshold described in clause (viii);

“(bb) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii) and that are in the fourth year of receiving special assistance payments under clause (iv); and

“(cc) a list of the schools that meet or exceed a percentage that is 10 percentage points lower than the threshold described in clause (viii).

“(xi) IMPLEMENTATION.—

“(I) GUIDANCE.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall issue guidance to implement this subparagraph.

Deadline.

“(II) REGULATIONS.—Not later than December 31, 2013, the Secretary shall promulgate regulations that establish procedures for State agencies, local educational agencies, and schools to meet the requirements of this subparagraph, including exercising the option described in this subparagraph.

Deadline.

“(III) PUBLICATION.—If the Secretary uses the authority provided in clause (vii)(II)(bb) to use a different multiplier for different schools or local educational agencies, for each school year beginning on or after July 1, 2014, not later than April 1, 2014, the Secretary shall publish on the website of the Secretary a table that indicates—

Deadline.
Web site.

Publication.

“(aa) each local educational agency that may elect to receive special assistance payments under clause (ii);

“(bb) the blended reimbursement rate that each local educational agency would receive; and

“(cc) an explanation of the methodology used to calculate the multiplier or threshold for each school or local educational agency.

“(xii) REPORT.—Not later than December 31, 2013, the Secretary shall publish a report that describes—

“(I) an estimate of the number of schools and local educational agencies eligible to elect to receive special assistance payments under this subparagraph that do not elect to receive the payments;

“(II) for schools and local educational agencies described in subclause (I)—

“(aa) barriers to participation in the special assistance option under this subparagraph, as described by the nonparticipating schools and local educational agencies; and

“(bb) changes to the special assistance option under this subparagraph that would make eligible schools and local educational agencies more likely to elect to receive special assistance payments;

“(III) for schools and local educational agencies that elect to receive special assistance payments under this subparagraph—

“(aa) the number of schools and local educational agencies;

“(bb) an estimate of the percentage of identified students and the percentage of enrolled students who were certified to receive free or reduced price meals in the school year prior to the election to receive special assistance payments under this subparagraph, and a description of how the ratio between those percentages compares to 1.6;

“(cc) an estimate of the number and share of schools and local educational agencies in which more than 80 percent of students are certified for free or reduced price meals that elect to receive special assistance payments under that clause; and

“(dd) whether any of the schools or local educational agencies stopped electing to receive special assistance payments under this subparagraph;

“(IV) the impact of electing to receive special assistance payments under this subparagraph on—

“(aa) program integrity;

“(bb) whether a breakfast program is offered;

“(cc) the type of breakfast program offered;

“(dd) the nutritional quality of school meals; and

“(ee) program participation; and

“(V) the multiplier and threshold, as described in clauses (vii) and (viii) respectively, that the Secretary will use for each school year beginning on or after July 1, 2014 and the rationale for any change in the multiplier or threshold.

“(xiii) FUNDING.—

“(I) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out clause (xii) \$5,000,000, to remain available until September 30, 2014.

Effective date.

“(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out clause (xii) the funds transferred under subclause (I), without further appropriation.”.

(2) CONFORMING AMENDMENTS.—Section 11(a)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(B)) is amended by striking “or (E)” and inserting “(E), or (F)”.

(b) UNIVERSAL MEAL SERVICE THROUGH CENSUS DATA.—Section 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a) is amended by adding at the end the following:

“(g) UNIVERSAL MEAL SERVICE THROUGH CENSUS DATA.—

“(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall identify alternatives to—

“(A) the daily counting by category of meals provided by school lunch programs under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(B) the use of annual applications as the basis for eligibility to receive free meals or reduced price meals under this Act.

“(2) RECOMMENDATIONS.—

“(A) CONSIDERATIONS.—

“(i) IN GENERAL.—In identifying alternatives under paragraph (1), the Secretary shall consider the recommendations of the Committee on National Statistics of the National Academy of Sciences relating to use of the American Community Survey of the Bureau of the Census and other data sources.

“(ii) SOCIOECONOMIC SURVEY.—The Secretary shall consider use of a periodic socioeconomic survey of households of children attending school in the school food authority in not more than 3 school food authorities participating in the school lunch program under this Act.

“(iii) SURVEY PARAMETERS.—The Secretary shall establish requirements for the use of a socioeconomic survey under clause (ii), which shall—

“(I) include criteria for survey design, sample frame validity, minimum level of statistical precision, minimum survey response rates, frequency

of data collection, and other criteria as determined by the Secretary;

“(II) be consistent with the Standards and Guidelines for Statistical Surveys, as published by the Office of Management and Budget;

“(III) be consistent with standards and requirements that ensure proper use of Federal funds; and

“(IV) specify that the socioeconomic survey be conducted at least once every 4 years.

“(B) USE OF ALTERNATIVES.—Alternatives described in subparagraph (A) that provide accurate and effective means of providing meal reimbursement consistent with the eligibility status of students may be—

“(i) implemented for use in schools or by school food authorities that agree—

“(I) to serve all breakfasts and lunches to students at no cost in accordance with regulations issued by the Secretary; and

“(II) to pay, from sources other than Federal funds, the costs of serving any lunches and breakfasts that are in excess of the value of assistance received under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches and breakfasts served during the applicable period; or

“(ii) further tested through demonstration projects carried out by the Secretary in accordance with subparagraph (C).

“(C) DEMONSTRATION PROJECTS.—

“(i) IN GENERAL.—For the purpose of carrying out demonstration projects described in subparagraph (B), the Secretary may waive any requirement of this Act relating to—

“(I) counting of meals provided by school lunch or breakfast programs;

“(II) applications for eligibility for free or reduced priced meals; or

“(III) required direct certification under section 9(b)(4).

“(ii) NUMBER OF PROJECTS.—The Secretary shall carry out demonstration projects under this paragraph in not more than 5 local educational agencies for each alternative model that is being tested.

“(iii) LIMITATION.—A demonstration project carried out under this paragraph shall have a duration of not more than 3 years.

“(iv) EVALUATION.—The Secretary shall evaluate each demonstration project carried out under this paragraph in accordance with procedures established by the Secretary.

“(v) REQUIREMENT.—In carrying out evaluations under clause (iv), the Secretary shall evaluate, using comparisons with local educational agencies with similar demographic characteristics—

“(I) the accuracy of the 1 or more methodologies adopted as compared to the daily counting

by category of meals provided by school meal programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and the use of annual applications as the basis for eligibility to receive free or reduced price meals under those Acts;

“(II) the effect of the 1 or more methodologies adopted on participation in programs under those Acts;

“(III) the effect of the 1 or more methodologies adopted on administration of programs under those Acts; and

“(IV) such other matters as the Secretary determines to be appropriate.”.

SEC. 105. GRANTS FOR EXPANSION OF SCHOOL BREAKFAST PROGRAMS.

The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by adding at the end the following:

“SEC. 23. GRANTS FOR EXPANSION OF SCHOOL BREAKFAST PROGRAMS.

42 USC 1793.

“(a) DEFINITION OF QUALIFYING SCHOOL.—In this section, the term ‘qualifying school’ means a school in severe need, as described in section 4(d)(1).

“(b) ESTABLISHMENT.—Subject to the availability of appropriations provided in advance in an appropriations Act specifically for the purpose of carrying out this section, the Secretary shall establish a program under which the Secretary shall provide grants, on a competitive basis, to State educational agencies for the purpose of providing subgrants to local educational agencies for qualifying schools to establish, maintain, or expand the school breakfast program in accordance with this section.

“(c) GRANTS TO STATE EDUCATIONAL AGENCIES.—

“(1) APPLICATION.—To be eligible to receive a grant under this section, a State educational agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(2) ADMINISTRATION.—In carrying out this section, the Secretary shall—

“(A) develop an appropriate competitive application process; and

“(B) make information available to State educational agencies concerning the availability of funds under this section.

“(3) ALLOCATION.—The amount of grants provided by the Secretary to State educational agencies for a fiscal year under this section shall not exceed the lesser of—

“(A) the product obtained by multiplying—

“(i) the number of qualifying schools receiving subgrants or other benefits under subsection (d) for the fiscal year; and

“(ii) the maximum amount of a subgrant provided to a qualifying school under subsection (d)(4)(B); or

“(B) \$2,000,000.

“(d) SUBGRANTS TO QUALIFYING SCHOOLS.—

“(1) IN GENERAL.—A State educational agency receiving a grant under this section shall use funds made available

under the grant to award subgrants to local educational agencies for a qualifying school or groups of qualifying schools to carry out activities in accordance with this section.

“(2) PRIORITY.—In awarding subgrants under this subsection, a State educational agency shall give priority to local educational agencies with qualifying schools in which at least 75 percent of the students are eligible for free or reduced price school lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

“(3) STATE AND DISTRICT TRAINING AND TECHNICAL SUPPORT.—A local educational agency or State educational agency may allocate a portion of each subgrant to provide training and technical assistance to the staff of qualifying schools to carry out the purposes of this section.

“(4) AMOUNT; TERM.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, a subgrant provided by a State educational agency to a local educational agency or qualifying school under this section shall be in such amount, and shall be provided for such term, as the State educational agency determines appropriate.

“(B) MAXIMUM AMOUNT.—The amount of a subgrant provided by a State educational agency to a local educational agency for a qualifying school or a group of qualifying schools under this subsection shall not exceed \$10,000 for each school year.

“(C) MAXIMUM GRANT TERM.—A local educational agency or State educational agency shall not provide subgrants to a qualifying school under this subsection for more than 2 fiscal years.

“(e) BEST PRACTICES.—

“(1) IN GENERAL.—Prior to awarding grants under this section, the Secretary shall make available to State educational agencies information regarding the most effective mechanisms by which to increase school breakfast participation among eligible children at qualifying schools.

“(2) PREFERENCE.—In awarding subgrants under this section, a State educational agency shall give preference to local educational agencies for qualifying schools or groups of qualifying schools that have adopted, or provide assurances that the subgrant funds will be used to adopt, the most effective mechanisms identified by the Secretary under paragraph (1).

“(f) USE OF FUNDS.—

“(1) IN GENERAL.—A qualifying school may use a grant provided under this section—

“(A) to establish, promote, or expand a school breakfast program of the qualifying school under this section, which shall include a nutritional education component;

“(B) to extend the period during which school breakfast is available at the qualifying school;

“(C) to provide school breakfast to students of the qualifying school during the school day; or

“(D) for other appropriate purposes, as determined by the Secretary.

“(2) REQUIREMENT.—Each activity of a qualifying school under this subsection shall be carried out in accordance with

applicable nutritional guidelines and regulations issued by the Secretary.

“(g) MAINTENANCE OF EFFORT.—Grants made available under this section shall not diminish or otherwise affect the expenditure of funds from State and local sources for the maintenance of the school breakfast program.

“(h) REPORTS.—Not later than 18 months following the end of a school year during which subgrants are awarded under this section, the Secretary shall submit to Congress a report describing the activities of the qualifying schools awarded subgrants.

“(i) EVALUATION.—Not later than 180 days before the end of a grant term under this section, a local educational agency that receives a subgrant under this section shall—

Deadline.

“(1) evaluate whether electing to provide universal free breakfasts under the school breakfast program in accordance with Provision 2 as established under subsections (b) through (k) of section 245.9 of title 7, Code of Federal Regulations (or successor regulations), would be cost-effective for the qualified schools based on estimated administrative savings and economies of scale; and

“(2) submit the results of the evaluation to the State educational agency.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2010 through 2015.”.

Subtitle B—Summer Food Service Program

SEC. 111. ALIGNMENT OF ELIGIBILITY RULES FOR PUBLIC AND PRIVATE SPONSORS.

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

“(7) PRIVATE NONPROFIT ORGANIZATIONS.—

“(A) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—In this paragraph, the term ‘private nonprofit organization’ means an organization that—

“(i) exercises full control and authority over the operation of the program at all sites under the sponsorship of the organization;

“(ii) provides ongoing year-round activities for children or families;

“(iii) demonstrates that the organization has adequate management and the fiscal capacity to operate a program under this section;

“(iv) is an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code; and

“(v) meets applicable State and local health, safety, and sanitation standards.

“(B) ELIGIBILITY.—Private nonprofit organizations (other than organizations eligible under paragraph (1)) shall be eligible for the program under the same terms and conditions as other service institutions.”.

SEC. 112. OUTREACH TO ELIGIBLE FAMILIES.

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:

“(11) OUTREACH TO ELIGIBLE FAMILIES.—

“(A) IN GENERAL.—The Secretary shall require each State agency that administers the national school lunch program under this Act to ensure that, to the maximum extent practicable, school food authorities participating in the school lunch program under this Act cooperate with participating service institutions to distribute materials to inform families of—

“(i) the availability and location of summer food service program meals; and

“(ii) the availability of reimbursable breakfasts served under the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

“(B) INCLUSIONS.—Informational activities carried out under subparagraph (A) may include—

“(i) the development or dissemination of printed materials, to be distributed to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals;

“(ii) the development or dissemination of materials, to be distributed using electronic means to all school children or the families of school children prior to the end of the school year, that inform families of the availability and location of summer food service program meals; and

“(iii) such other activities as are approved by the applicable State agency to promote the availability and location of summer food service program meals to school children and the families of school children.

“(C) MULTIPLE STATE AGENCIES.—If the State agency administering the program under this section is not the same State agency that administers the school lunch program under this Act, the 2 State agencies shall work cooperatively to implement this paragraph.”.

SEC. 113. SUMMER FOOD SERVICE SUPPORT GRANTS.

Section 13(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)) (as amended by section 112) is amended by adding at the end the following:

“(12) SUMMER FOOD SERVICE SUPPORT GRANTS.—

“(A) IN GENERAL.—The Secretary shall use funds made available to carry out this paragraph to award grants on a competitive basis to State agencies to provide to eligible service institutions—

“(i) technical assistance;

“(ii) assistance with site improvement costs; or

“(iii) other innovative activities that improve and encourage sponsor retention.

“(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph, a State agency shall submit an application to the Secretary in such manner, at such time,

and containing such information as the Secretary may require.

“(C) PRIORITY.—In making grants under this paragraph, the Secretary shall give priority to—

“(i) applications from States with significant low-income child populations; and

“(ii) State plans that demonstrate innovative approaches to retain and support summer food service programs after the expiration of the start-up funding grants.

“(D) USE OF FUNDS.—A State and eligible service institution may use funds made available under this paragraph to pay for such costs as the Secretary determines are necessary to establish and maintain summer food service programs.

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

“(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$20,000,000 for fiscal years 2011 through 2015.”.

Subtitle C—Child and Adult Care Food Program

SEC. 121. SIMPLIFYING AREA ELIGIBILITY DETERMINATIONS IN THE CHILD AND ADULT CARE FOOD PROGRAM.

Section 17(f)(3)(A)(ii)(I)(bb) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(ii)(I)(bb)) is amended by striking “elementary”.

SEC. 122. EXPANSION OF AFTERSCHOOL MEALS FOR AT-RISK CHILDREN.

Section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)) is amended by striking paragraph (5) and inserting the following:

“(5) LIMITATION.—An institution participating in the program under this subsection may not claim reimbursement for meals and snacks that are served under section 18(h) on the same day.

“(6) HANDBOOK.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary shall—

“(i) issue guidelines for afterschool meals for at-risk school children; and

“(ii) publish a handbook reflecting those guidelines.

“(B) REVIEW.—Each year after the issuance of guidelines under subparagraph (A), the Secretary shall—

“(i) review the guidelines; and

“(ii) issue a revised handbook reflecting changes made to the guidelines.”.

Subtitle D—Special Supplemental Nutrition Program for Women, Infants, and Children

SEC. 131. CERTIFICATION PERIODS.

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

“(iii) CHILDREN.—A State may elect to certify participant children for a period of up to 1 year, if the State electing the option provided under this clause ensures that participant children receive required health and nutrition assessments.”.

Subtitle E—Miscellaneous

SEC. 141. CHILDHOOD HUNGER RESEARCH.

The Richard B. Russell National School Lunch Act is amended by inserting after section 22 (42 U.S.C. 1769c) the following:

42 USC 1769d.

“SEC. 23. CHILDHOOD HUNGER RESEARCH.

“(a) RESEARCH ON CAUSES AND CONSEQUENCES OF CHILDHOOD HUNGER.—

“(1) IN GENERAL.—The Secretary shall conduct research on—

“(A) the causes of childhood hunger and food insecurity;
“(B) the characteristics of households with childhood hunger and food insecurity; and
“(C) the consequences of childhood hunger and food insecurity.

“(2) AUTHORITY.—In carrying out research under paragraph (1), the Secretary may—

“(A) enter into competitively awarded contracts or cooperative agreements; or

“(B) provide grants to States or public or private agencies or organizations, as determined by the Secretary.

“(3) APPLICATION.—To be eligible to enter into a contract or cooperative agreement or receive a grant under this subsection, a State or public or private agency or organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require.

“(4) AREAS OF INQUIRY.—The Secretary shall design the research program to advance knowledge and understanding of information on the issues described in paragraph (1), such as—

“(A) economic, health, social, cultural, demographic, and other factors that contribute to childhood hunger or food insecurity;

“(B) the geographic distribution of childhood hunger and food insecurity;

“(C) the extent to which—

“(i) existing Federal assistance programs, including the Internal Revenue Code of 1986, reduce childhood hunger and food insecurity; and

“(ii) childhood hunger and food insecurity persist due to—

“(I) gaps in program coverage;

“(II) the inability of potential participants to access programs; or

“(III) the insufficiency of program benefits or services;

“(D) the public health and medical costs of childhood hunger and food insecurity;

“(E) an estimate of the degree to which the Census Bureau measure of food insecurity underestimates childhood hunger and food insecurity because the Census Bureau excludes certain households, such as homeless, or other factors;

“(F) the effects of childhood hunger on child development, well-being, and educational attainment; and

“(G) such other critical outcomes as are determined by the Secretary.

“(5) FUNDING.—

“(A) IN GENERAL.—On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$10,000,000, to remain available until expended.

Effective date.

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

“(b) DEMONSTRATION PROJECTS TO END CHILDHOOD HUNGER.—

“(1) DEFINITIONS.—In this subsection:

“(A) CHILD.—The term ‘child’ means a person under the age of 18.

“(B) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—The term ‘supplemental nutrition assistance program’ means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

“(2) PURPOSE.—Under such terms and conditions as are established by the Secretary, the Secretary shall carry out demonstration projects that test innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger and food insecurity.

“(3) PROJECTS.—Demonstration projects carried out under this subsection may include projects that—

“(A) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

“(B) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

“(C) target Federal, State, or local assistance, including emergency housing or family preservation services, at households with children who are experiencing hunger or food insecurity, to the extent permitted by the legal

authority establishing those assistance programs and services.

“(4) GRANTS.—

“(A) DEMONSTRATION PROJECTS.—

“(i) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as determined by the Secretary), for use in accordance with demonstration projects that meet the purposes of this subsection.

“(ii) REQUIREMENT.—At least 1 demonstration project funded under this subsection shall be carried out on an Indian reservation in a rural area with a service population with a prevalence of diabetes that exceeds 15 percent, as determined by the Director of the Indian Health Service.

“(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this subsection, an organization or agency shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(C) SELECTION CRITERIA.—Demonstration projects shall be selected based on publicly disseminated criteria that may include—

“(i) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

“(ii) a commitment to a demonstration project that allows for a rigorous outcome evaluation as described in paragraph (6);

“(iii) a focus on innovative strategies to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

“(iv) such other criteria as are determined by the Secretary.

“(5) CONSULTATION.—In determining the range of projects and defining selection criteria under this subsection, the Secretary shall consult with—

“(A) the Secretary of Health and Human Services;

“(B) the Secretary of Labor; and

“(C) the Secretary of Housing and Urban Development.

“(6) EVALUATION AND REPORTING.—

“(A) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of each demonstration project carried out under this subsection that—

“(i) measures the impact of each demonstration project on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

“(ii) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective in reducing the prevalence or preventing the

incidence of food insecurity and hunger in the community, especially among children.

“(B) REPORTING.—Not later than December 31, 2013 and each December 31 thereafter until the date on which the last evaluation under subparagraph (A) is completed, the Secretary shall—

“(i) submit to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

“(I) the status of each demonstration project; and

“(II) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

“(ii) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

“(7) FUNDING.—

“(A) IN GENERAL.—On October 1, 2012, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$40,000,000, to remain available until September 30, 2017.

Effective date.

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

“(C) USE OF FUNDS.—

“(i) IN GENERAL.—Funds made available under subparagraph (A) may be used to carry out this subsection, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this subsection.

“(ii) INDIAN RESERVATIONS.—Of amounts made available under subparagraph (A), the Secretary shall use a portion of the amounts to carry out research relating to hunger, obesity and type 2 diabetes on Indian reservations, including research to determine the manner in which Federal nutrition programs can help to overcome those problems.

“(iii) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

“(I) describes the manner in which Federal nutrition programs can help to overcome child hunger nutrition problems on Indian reservations; and

“(II) contains proposed administrative and legislative recommendations to strengthen and streamline all relevant Department of Agriculture

nutrition programs to reduce childhood hunger, obesity, and type 2 diabetes on Indian reservations.

“(D) LIMITATIONS.—

“(i) DURATION.—No project may be funded under this subsection for more than 5 years.

“(ii) PROJECT REQUIREMENTS.—No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this subsection unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

“(iii) HUNGER-FREE COMMUNITIES.—No project may be funded under this subsection that receives funding under section 4405 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7517).

“(iv) OTHER BENEFITS.—Funds made available under this subsection may not be used for any project in a manner that is inconsistent with—

“(I) this Act;

“(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(III) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

“(IV) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).”.

SEC. 142. STATE CHILDHOOD HUNGER CHALLENGE GRANTS.

The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting after section 23 (as added by section 141) the following:

42 USC 1769e.

“SEC. 24. STATE CHILDHOOD HUNGER CHALLENGE GRANTS.

“(a) DEFINITIONS.—In this section:

“(1) CHILD.—The term ‘child’ means a person under the age of 18.

“(2) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—The term ‘supplemental nutrition assistance program’ means the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

“(b) PURPOSE.—Under such terms and conditions as are established by the Secretary, funds made available under this section may be used to competitively award grants to or enter into cooperative agreements with Governors to carry out comprehensive and innovative strategies to end childhood hunger, including alternative models for service delivery and benefit levels that promote the reduction or elimination of childhood hunger by 2015.

“(c) PROJECTS.—State demonstration projects carried out under this section may include projects that—

“(1) enhance benefits provided under the supplemental nutrition assistance program for eligible households with children;

“(2) enhance benefits or provide for innovative program delivery models in the school meals, afterschool snack, and child and adult care food programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(3) target Federal, State, or local assistance, including emergency housing, family preservation services, child care,

or temporary assistance at households with children who are experiencing hunger or food insecurity, to the extent permitted by the legal authority establishing those assistance programs and services;

“(4) enhance outreach to increase access and participation in Federal nutrition assistance programs; and

“(5) improve the coordination of Federal, State, and community resources and services aimed at preventing food insecurity and hunger, including through the establishment and expansion of State food policy councils.

“(d) GRANTS.—

“(1) IN GENERAL.—In carrying out this section, the Secretary may competitively award grants or enter into competitively awarded cooperative agreements with Governors for use in accordance with demonstration projects that meet the purposes of this section.

“(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under this section, a Governor shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(3) SELECTION CRITERIA.—The Secretary shall evaluate proposals based on publicly disseminated criteria that may include—

“(A) an identification of a low-income target group that reflects individuals experiencing hunger or food insecurity;

“(B) a commitment to approaches that allow for a rigorous outcome evaluation as described in subsection (f);

“(C) a comprehensive and innovative strategy to reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children; and

“(D) such other criteria as are determined by the Secretary.

“(4) REQUIREMENTS.—Any project funded under this section shall provide for—

“(A) a baseline assessment, and subsequent annual assessments, of the prevalence and severity of very low food security among children in the State, based on a methodology prescribed by the Secretary;

“(B) a collaborative planning process including key stakeholders in the State that results in a comprehensive agenda to eliminate childhood hunger that is—

“(i) described in a detailed project plan; and

“(ii) provided to the Secretary for approval;

“(C) an annual budget;

“(D) specific performance goals, including the goal to sharply reduce or eliminate food insecurity among children in the State by 2015, as determined through a methodology prescribed by the Secretary and carried out by the Governor; and

“(E) an independent outcome evaluation of not less than 1 major strategy of the project that measures—

“(i) the specific impact of the strategy on food insecurity among children in the State; and

“(ii) if applicable, the nutrition assistance participation rate among children in the State.

“(e) CONSULTATION.—In determining the range of projects and defining selection criteria under this section, the Secretary shall consult with—

“(1) the Secretary of Health and Human Services;

“(2) the Secretary of Labor;

“(3) the Secretary of Education; and

“(4) the Secretary of Housing and Urban Development.

“(f) EVALUATION AND REPORTING.—

“(1) GENERAL PERFORMANCE ASSESSMENT.—Each project authorized under this section shall require an independent assessment that—

“(A) measures the impact of any activities carried out under the project on the level of food insecurity in the State that—

“(i) focuses particularly on the level of food insecurity among children in the State; and

“(ii) includes a preimplementation baseline and annual measurements taken during the project of the level of food insecurity in the State; and

“(B) is carried out using a methodology prescribed by the Secretary.

“(2) INDEPENDENT EVALUATION.—Each project authorized under this section shall provide for an independent evaluation of not less than 1 major strategy that—

“(A) measures the impact of the strategy on appropriate participation, food security, nutrition, and associated behavioral outcomes among participating households; and

“(B) uses rigorous experimental designs and methodologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective in reducing the prevalence or preventing the incidence of food insecurity and hunger in the community, especially among children.

“(3) REPORTING.—Not later than December 31, 2011 and each December 31 thereafter until the date on which the last evaluation under paragraph (1) is completed, the Secretary shall—

“(A) submit to the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

“(i) the status of each State demonstration project; and

“(ii) the results of any evaluations of the demonstration projects completed during the previous fiscal year; and

“(B) ensure that the evaluation results are shared broadly to inform policy makers, service providers, other partners, and the public in order to promote the wide use of successful strategies.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary for each

of fiscal years 2011 through 2014, to remain available until expended.

“(2) USE OF FUNDS.—Funds made available under paragraph (1) may be used to carry out this section, including to pay Federal costs associated with developing, soliciting, awarding, monitoring, evaluating, and disseminating the results of each demonstration project under this section.

“(3) LIMITATIONS.—

“(A) DURATION.—No project may be funded under this section for more than 5 years.

“(B) PERFORMANCE BASIS.—Funds provided under this section shall be made available to each Governor on an annual basis, with the amount of funds provided for each year contingent on the satisfactory implementation of the project plan and progress towards the performance goals defined in the project year plan.

“(C) ALTERING NUTRITION ASSISTANCE PROGRAM REQUIREMENTS.—No project that makes use of, alters, or coordinates with the supplemental nutrition assistance program may be funded under this section unless the project is fully consistent with the project requirements described in section 17(b)(1)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)).

“(D) OTHER BENEFITS.—Funds made available under this section may not be used for any project in a manner that is inconsistent with—

“(i) this Act;

“(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(iii) the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

“(iv) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).”.

SEC. 143. REVIEW OF LOCAL POLICIES ON MEAL CHARGES AND PROVISION OF ALTERNATE MEALS.

42 USC 1758
note.

(a) IN GENERAL.—

(1) REVIEW.—The Secretary, in conjunction with States and participating local educational agencies, shall examine the current policies and practices of States and local educational agencies regarding extending credit to children to pay the cost to the children of reimbursable school lunches and breakfasts.

(2) SCOPE.—The examination under paragraph (1) shall include the policies and practices in effect as of the date of enactment of this Act relating to providing to children who are without funds a meal other than the reimbursable meals.

(3) FEASIBILITY.—In carrying out the examination under paragraph (1), the Secretary shall—

(A) prepare a report on the feasibility of establishing national standards for meal charges and the provision of alternate meals; and

(B) provide recommendations for implementing those standards.

Reports.

Recommendations.

(b) FOLLOWUP ACTIONS.—

(1) IN GENERAL.—Based on the findings and recommendations under subsection (a), the Secretary may—

(A) implement standards described in paragraph (3) of that subsection through regulation;

(B) test recommendations through demonstration projects; or

(C) study further the feasibility of recommendations.

(2) FACTORS FOR CONSIDERATION.—In determining how best to implement recommendations described in subsection (a)(3), the Secretary shall consider such factors as—

(A) the impact of overt identification on children;

(B) the manner in which the affected households will be provided with assistance in establishing eligibility for free or reduced price school meals; and

(C) the potential financial impact on local educational agencies.

TITLE II—REDUCING CHILDHOOD OBESITY AND IMPROVING THE DIETS OF CHILDREN

Subtitle A—National School Lunch Program

SEC. 201. PERFORMANCE-BASED REIMBURSEMENT RATE INCREASES FOR NEW MEAL PATTERNS.

Section 4(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753(b)) is amended by adding at the end the following:

Deadlines.

“(3) ADDITIONAL REIMBURSEMENT.—

“(A) REGULATIONS.—

“(i) PROPOSED REGULATIONS.—Notwithstanding section 9(f), not later than 18 months after the date of enactment of this paragraph, the Secretary shall promulgate proposed regulations to update the meal patterns and nutrition standards for the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) based on recommendations made by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

“(ii) INTERIM OR FINAL REGULATIONS.—

“(I) IN GENERAL.—Not later than 18 months after promulgation of the proposed regulations under clause (i), the Secretary shall promulgate interim or final regulations.

“(II) DATE OF REQUIRED COMPLIANCE.—The Secretary shall establish in the interim or final regulations a date by which all school food authorities participating in the school lunch program authorized under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) are required to comply with the meal pattern and nutrition

standards established in the interim or final regulations.

“(iii) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this paragraph, and each 90 days thereafter until the Secretary has promulgated interim or final regulations under clause (ii), the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a quarterly report on progress made toward promulgation of the regulations described in this subparagraph.

“(B) PERFORMANCE-BASED REIMBURSEMENT RATE INCREASE.—Beginning on the later of the date of promulgation of the implementing regulations described in subparagraph (A)(ii), the date of enactment of this paragraph, or October 1, 2012, the Secretary shall provide additional reimbursement for each lunch served in school food authorities determined to be eligible under subparagraph (D).

Effective date.

“(C) ADDITIONAL REIMBURSEMENT.—

“(i) IN GENERAL.—Each lunch served in school food authorities determined to be eligible under subparagraph (D) shall receive an additional 6 cents, adjusted in accordance with section 11(a)(3), to the national lunch average payment for each lunch served.

“(ii) DISBURSEMENT.—The State agency shall disburse funds made available under this paragraph to school food authorities eligible to receive additional reimbursement.

“(D) ELIGIBLE SCHOOL FOOD AUTHORITY.—To be eligible to receive an additional reimbursement described in this paragraph, a school food authority shall be certified by the State to be in compliance with the interim or final regulations described in subparagraph (A)(ii).

“(E) FAILURE TO COMPLY.—Beginning on the later of the date described in subparagraph (A)(ii)(II), the date of enactment of this paragraph, or October 1, 2012, school food authorities found to be out of compliance with the meal patterns or nutrition standards established by the implementing regulations shall not receive the additional reimbursement for each lunch served described in this paragraph.

Effective date.

“(F) ADMINISTRATIVE COSTS.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Secretary shall make funds available to States for State activities related to training, technical assistance, certification, and oversight activities of this paragraph.

“(ii) PROVISION OF FUNDS.—The Secretary shall provide funds described in clause (i) to States administering a school lunch program in a manner proportional to the administrative expense allocation of each State during the preceding fiscal year.

“(iii) FUNDING.—

“(I) IN GENERAL.—In the later of the fiscal year in which the implementing regulations described in subparagraph (A)(ii) are promulgated

or the fiscal year in which this paragraph is enacted, and in the subsequent fiscal year, the Secretary shall use not more than \$50,000,000 of funds made available under section 3 to make payments to States described in clause (i).

“(II) RESERVATION.—In providing funds to States under clause (i), the Secretary may reserve not more than \$3,000,000 per fiscal year to support Federal administrative activities to carry out this paragraph.”.

SEC. 202. NUTRITION REQUIREMENTS FOR FLUID MILK.

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

“(i) shall offer students a variety of fluid milk. Such milk shall be consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);”.

SEC. 203. WATER.

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:

“(5) WATER.—Schools participating in the school lunch program under this Act shall make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service.”.

SEC. 204. LOCAL SCHOOL WELLNESS POLICY IMPLEMENTATION.

(a) IN GENERAL.—The Richard B. Russell National School Lunch Act is amended by inserting after section 9 (42 U.S.C. 1758) the following:

42 USC 1758b.

“SEC. 9A. LOCAL SCHOOL WELLNESS POLICY.

“(a) IN GENERAL.—Each local educational agency participating in a program authorized by this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall establish a local school wellness policy for all schools under the jurisdiction of the local educational agency.

Regulations.

“(b) GUIDELINES.—The Secretary shall promulgate regulations that provide the framework and guidelines for local educational agencies to establish local school wellness policies, including, at a minimum,—

“(1) goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness;

“(2) for all foods available on each school campus under the jurisdiction of the local educational agency during the school day, nutrition guidelines that—

“(A) are consistent with sections 9 and 17 of this Act, and sections 4 and 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1773, 1779); and

“(B) promote student health and reduce childhood obesity;

“(3) a requirement that the local educational agency permit parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the general public to participate in the development, implementation, and periodic review and update of the local school wellness policy;

“(4) a requirement that the local educational agency inform and update the public (including parents, students, and others in the community) about the content and implementation of the local school wellness policy; and

“(5) a requirement that the local educational agency—

“(A) periodically measure and make available to the public an assessment on the implementation of the local school wellness policy, including—

“(i) the extent to which schools under the jurisdiction of the local educational agency are in compliance with the local school wellness policy;

“(ii) the extent to which the local school wellness policy of the local educational agency compares to model local school wellness policies; and

“(iii) a description of the progress made in attaining the goals of the local school wellness policy; and

“(B) designate 1 or more local educational agency officials or school officials, as appropriate, to ensure that each school complies with the local school wellness policy.

“(c) LOCAL DISCRETION.—The local educational agency shall use the guidelines promulgated by the Secretary under subsection (b) to determine specific policies appropriate for the schools under the jurisdiction of the local educational agency.

“(d) TECHNICAL ASSISTANCE AND BEST PRACTICES.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, acting through the Centers for Disease Control and Prevention, shall provide information and technical assistance to local educational agencies, school food authorities, and State educational agencies for use in establishing healthy school environments that are intended to promote student health and wellness.

“(2) CONTENT.—The Secretary shall provide technical assistance that—

“(A) includes resources and training on designing, implementing, promoting, disseminating, and evaluating local school wellness policies and overcoming barriers to the adoption of local school wellness policies;

“(B) includes model local school wellness policies and best practices recommended by Federal agencies, State agencies, and nongovernmental organizations;

“(C) includes such other technical assistance as is required to promote sound nutrition and establish healthy school nutrition environments; and

“(D) is consistent with the specific needs and requirements of local educational agencies.

“(3) STUDY AND REPORT.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary, in conjunction with the Director of the Centers for Disease Control and Prevention, shall

prepare a report on the implementation, strength, and effectiveness of the local school wellness policies carried out in accordance with this section.

“(B) STUDY OF LOCAL SCHOOL WELLNESS POLICIES.—The study described in subparagraph (A) shall include—

“(i) an analysis of the strength and weaknesses of local school wellness policies and how the policies compare with model local wellness policies recommended under paragraph (2)(B); and

“(ii) an assessment of the impact of the local school wellness policies in addressing the requirements of subsection (b).

“(C) REPORT.—Not later than January 1, 2014, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings of the study.

“(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$3,000,000 for fiscal year 2011, to remain available until expended.”.

(b) REPEAL.—Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1751 note; Public Law 108-265) is repealed.

SEC. 205. EQUITY IN SCHOOL LUNCH PRICING.

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

“(p) PRICE FOR A PAID LUNCH.—

“(1) DEFINITION OF PAID LUNCH.—In this subsection, the term ‘paid lunch’ means a reimbursable lunch served to students who are not certified to receive free or reduced price meals.

“(2) REQUIREMENT.—

“(A) IN GENERAL.—For each school year beginning July 1, 2011, each school food authority shall establish a price for paid lunches in accordance with this subsection.

“(B) LOWER PRICE.—

“(i) IN GENERAL.—In the case of a school food authority that established a price for a paid lunch in the previous school year that was less than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than the price charged in the previous school year, as adjusted by a percentage equal to the sum obtained by adding—

“(I) 2 percent; and

“(II) the percentage change in the Consumer Price Index for All Urban Consumers (food away from home index) used to increase the Federal reimbursement rate under section 11 for the most recent school year for which data are available, as published in the Federal Register.

Effective date.

“(ii) ROUNDING.—A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

“(iii) MAXIMUM REQUIRED PRICE INCREASE.—

“(I) IN GENERAL.—The maximum annual average price increase required to meet the requirements of this subparagraph shall not exceed 10 cents for any school food authority.

“(II) DISCRETIONARY INCREASE.—A school food authority may increase the average price for a paid lunch for a school year by more than 10 cents.

“(C) EQUAL OR GREATER PRICE.—

“(i) IN GENERAL.—In the case of a school food authority that established an average price for a paid lunch in the previous school year that was equal to or greater than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch, the school food authority shall establish an average price for a paid lunch that is not less than the difference between the total Federal reimbursement for a free lunch and the total Federal reimbursement for a paid lunch.

“(ii) ROUNDING.—A school food authority may round the adjusted price for a paid lunch under clause (i) down to the nearest 5 cents.

“(3) EXCEPTIONS.—

“(A) REDUCTION IN PRICE.—A school food authority may reduce the average price of a paid lunch established under this subsection if the State agency ensures that funding from non-Federal sources (other than in-kind contributions) is added to the nonprofit school food service account of the school food authority in an amount estimated to be equal to at least the difference between—

“(i) the average price required of the school food authority for the paid lunches under paragraph (2); and

“(ii) the average price charged by the school food authority for the paid lunches.

“(B) NON-FEDERAL SOURCES.—For the purposes of subparagraph (A), non-Federal sources does not include revenue from the sale of foods sold in competition with meals served under the school lunch program authorized under this Act or the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

“(C) OTHER PROGRAMS.—This subsection shall not apply to lunches provided under section 17 of this Act.

“(4) REGULATIONS.—The Secretary shall establish procedures to carry out this subsection, including collecting and publishing the prices that school food authorities charge for paid meals on an annual basis and procedures that allow school food authorities to average the pricing of paid lunches at schools throughout the jurisdiction of the school food authority.”.

Procedures.

SEC. 206. REVENUE FROM NONPROGRAM FOODS SOLD IN SCHOOLS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) (as amended by section 205) is amended by adding at the end the following:

“(q) NONPROGRAM FOOD SALES.—

“(1) DEFINITION OF NONPROGRAM FOOD.—In this subsection:

“(A) IN GENERAL.—The term ‘nonprogram food’ means food that is—

“(i) sold in a participating school other than a reimbursable meal provided under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

“(ii) purchased using funds from the nonprofit school food service account of the school food authority of the school.

“(B) INCLUSION.—The term ‘nonprogram food’ includes food that is sold in competition with a program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(2) REVENUES.—

“(A) IN GENERAL.—The proportion of total school food service revenue provided by the sale of nonprogram foods to the total revenue of the school food service account shall be equal to or greater than the proportion of total food costs associated with obtaining nonprogram foods to the total costs associated with obtaining program and non-program foods from the account.

“(B) ACCRUAL.—All revenue from the sale of nonprogram foods shall accrue to the nonprofit school food service account of a participating school food authority.

“(C) EFFECTIVE DATE.—This subsection shall be effective beginning on July 1, 2011.”

SEC. 207. REPORTING AND NOTIFICATION OF SCHOOL PERFORMANCE.

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

(1) by striking subsection (a) and inserting the following:

“(a) UNIFIED ACCOUNTABILITY SYSTEM.—

“(1) IN GENERAL.—There shall be a unified system prescribed and administered by the Secretary to ensure that local food service authorities participating in the school lunch program established under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) comply with those Acts, including compliance with—

“(A) the nutritional requirements of section 9(f) of this Act for school lunches; and

“(B) as applicable, the nutritional requirements for school breakfasts under section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).”; and

(2) in subsection (b)(1), by striking subparagraphs (A) and (B) and inserting the following:

“(A) require that local food service authorities comply with the nutritional requirements described in subparagraphs (A) and (B) of paragraph (1);

“(B) to the maximum extent practicable, ensure compliance through reasonable audits and supervisory assistance reviews;

“(C) in conducting audits and reviews for the purpose of determining compliance with this Act, including the nutritional requirements of section 9(f)—

“(i) conduct audits and reviews during a 3-year cycle or other period prescribed by the Secretary;

“(ii) select schools for review in each local educational agency using criteria established by the Secretary;

“(iii) report the final results of the reviews to the public in the State in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary; and

“(iv) submit to the Secretary each year a report containing the results of the reviews in accordance with procedures developed by the Secretary; and

“(D) when any local food service authority is reviewed under this section, ensure that the final results of the review by the State educational agency are posted and otherwise made available to the public on request in an accessible, easily understood manner in accordance with guidelines promulgated by the Secretary.”.

SEC. 208. NUTRITION STANDARDS FOR ALL FOODS SOLD IN SCHOOL.

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

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

“SEC. 10. REGULATIONS.

“(a) IN GENERAL.—The Secretary”; and

(2) by striking subsection (b) and inserting the following:

“(b) NATIONAL SCHOOL NUTRITION STANDARDS.—

“(1) PROPOSED REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall—

“(i) establish science-based nutrition standards for foods sold in schools other than foods provided under this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

“(ii) not later than 1 year after the date of enactment of this paragraph, promulgate proposed regulations to carry out clause (i).

Deadline.

“(B) APPLICATION.—The nutrition standards shall apply to all foods sold—

“(i) outside the school meal programs;

“(ii) on the school campus; and

“(iii) at any time during the school day.

“(C) REQUIREMENTS.—In establishing nutrition standards under this paragraph, the Secretary shall—

“(i) establish standards that are consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), including the food groups to encourage and nutrients of concern identified in the Dietary Guidelines; and

“(ii) consider—

“(I) authoritative scientific recommendations for nutrition standards;

“(II) existing school nutrition standards, including voluntary standards for beverages and snack foods and State and local standards;

“(III) the practical application of the nutrition standards; and

“(IV) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

“(D) UPDATING STANDARDS.—As soon as practicable after the date of publication by the Department of Agriculture and the Department of Health and Human Services of a new edition of the Dietary Guidelines for Americans under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), the Secretary shall review and update as necessary the school nutrition standards and requirements established under this subsection.

“(2) IMPLEMENTATION.—

Regulations.

“(A) EFFECTIVE DATE.—The interim or final regulations under this subsection shall take effect at the beginning of the school year that is not earlier than 1 year and not later than 2 years following the date on which the regulations are finalized.

“(B) REPORTING.—The Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representatives a quarterly report that describes progress made toward promulgating final regulations under this subsection.”.

SEC. 209. INFORMATION FOR THE PUBLIC ON THE SCHOOL NUTRITION ENVIRONMENT.

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

“(k) INFORMATION ON THE SCHOOL NUTRITION ENVIRONMENT.—

“(1) IN GENERAL.—The Secretary shall—

“(A) establish requirements for local educational agencies participating in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to report information about the school nutrition environment, for all schools under the jurisdiction of the local educational agencies, to the Secretary and to the public in the State on a periodic basis; and

“(B) provide training and technical assistance to States and local educational agencies on the assessment and reporting of the school nutrition environment, including the use of any assessment materials developed by the Secretary.

“(2) REQUIREMENTS.—In establishing the requirements for reporting on the school nutrition environment under paragraph (1), the Secretary shall—

Requirements.

“(A) include information pertaining to food safety inspections, local wellness policies, meal program participation, the nutritional quality of program meals, and other information as determined by the Secretary; and

“(B) ensure that information is made available to the public by local educational agencies in an accessible, easily understood manner in accordance with guidelines established by the Secretary.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.”.

Public
information.
Guidelines.

SEC. 210. ORGANIC FOOD PILOT PROGRAM.

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:

“(j) ORGANIC FOOD PILOT PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish an organic food pilot program (referred to in this subsection as the ‘pilot program’) under which the Secretary shall provide grants on a competitive basis to school food authorities selected under paragraph (3).

“(2) USE OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall use funds provided under this section—

“(i) to enter into competitively awarded contracts or cooperative agreements with school food authorities selected under paragraph (3); or

“(ii) to make grants to school food authority applicants selected under paragraph (3).

“(B) SCHOOL FOOD AUTHORITY USES OF FUNDS.—A school food authority that receives a grant under this section shall use the grant funds to establish a pilot program that increases the quantity of organic foods provided to schoolchildren under the school lunch program established under this Act.

“(3) APPLICATION.—

“(A) IN GENERAL.—A school food authority seeking a contract, grant, or cooperative agreement under this subsection shall submit to the Secretary an application in such form, containing such information, and at such time as the Secretary shall prescribe.

“(B) CRITERIA.—In selecting contract, grant, or cooperative agreement recipients, the Secretary shall consider—

“(i) the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by that section)) applicable to a family of the size involved of the households in the district served by the school food authority, giving preference to school food authority applicants in which not less than 50 percent of the households in the district are at or below the Federal poverty line;

“(ii) the commitment of each school food authority applicant—

“(I) to improve the nutritional value of school meals;

“(II) to carry out innovative programs that improve the health and wellness of schoolchildren; and

“(III) to evaluate the outcome of the pilot program; and

“(iii) any other criteria the Secretary determines to be appropriate.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$10,000,000 for fiscal years 2011 through 2015.”.

Subtitle B—Child and Adult Care Food Program

SEC. 221. NUTRITION AND WELLNESS GOALS FOR MEALS SERVED THROUGH THE CHILD AND ADULT CARE FOOD PROGRAM.

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

(1) in subsection (a), by striking “(a) GRANT AUTHORITY” and all that follows through the end of paragraph (1) and inserting the following:

“(a) PROGRAM PURPOSE, GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

“(1) IN GENERAL.—

“(A) PROGRAM PURPOSE.—

“(i) FINDINGS.—Congress finds that—

“(I) eating habits and other wellness-related behavior habits are established early in life; and

“(II) good nutrition and wellness are important contributors to the overall health of young children and essential to cognitive development.

“(ii) PURPOSE.—The purpose of the program authorized by this section is to provide aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness, healthy growth, and development of young children, and the health and wellness of older adults and chronically impaired disabled persons.

“(B) GRANT AUTHORITY.—The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate and maintain nonprofit food service programs for children in institutions providing child care.”;

(2) by striking subsection (g) and inserting the following:

“(g) NUTRITIONAL REQUIREMENTS FOR MEALS AND SNACKS SERVED IN INSTITUTIONS AND FAMILY OR GROUP DAY CARE HOMES.—

“(1) DEFINITION OF DIETARY GUIDELINES.—In this subsection, the term ‘Dietary Guidelines’ means the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

“(2) NUTRITIONAL REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), reimbursable meals and snacks served by institutions, family or group day care homes, and sponsored centers

participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research.

“(B) CONFORMITY WITH THE DIETARY GUIDELINES AND AUTHORITATIVE SCIENCE.—

“(i) IN GENERAL.—Not less frequently than once every 10 years, the Secretary shall review and, as appropriate, update requirements for meals served under the program under this section to ensure that the meals—

“(I) are consistent with the goals of the most recent Dietary Guidelines; and

“(II) promote the health of the population served by the program authorized under this section, as indicated by the most recent relevant nutrition science and appropriate authoritative scientific agency and organization recommendations.

“(ii) COST REVIEW.—The review required under clause (i) shall include a review of the cost to child care centers and group or family day care homes resulting from updated requirements for meals and snacks served under the program under this section.

“(iii) REGULATIONS.—Not later than 18 months after the completion of the review of the meal pattern under clause (i), the Secretary shall promulgate proposed regulations to update the meal patterns for meals and snacks served under the program under this section.

“(C) EXCEPTIONS.—

“(i) SPECIAL DIETARY NEEDS.—The minimum nutritional requirements prescribed under subparagraph (A) shall not prohibit institutions, family or group day care homes, and sponsored centers from substituting foods to accommodate the medical or other special dietary needs of individual participants.

“(ii) EXEMPT INSTITUTIONS.—The Secretary may elect to waive all or part of the requirements of this subsection for emergency shelters participating in the program under this section.

“(3) MEAL SERVICE.—Institutions, family or group day care homes, and sponsored centers shall ensure that reimbursable meal service contributes to the development and socialization of enrolled children by providing that food is not used as a punishment or reward.

“(4) FLUID MILK.—

“(A) IN GENERAL.—If an institution, family or group day care home, or sponsored center provides fluid milk as part of a reimbursable meal or supplement, the institution, family or group day care home, or sponsored center shall provide the milk in accordance with the most recent version of the Dietary Guidelines.

“(B) MILK SUBSTITUTES.—In the case of children who cannot consume fluid milk due to medical or other special dietary needs other than a disability, an institution, family or group day care home, or sponsored center may substitute

Deadline.
Review.
Requirements.

Deadline.

Waiver authority.

for the fluid milk required in meals served, a nondairy beverage that—

“(i) is nutritionally equivalent to fluid milk; and

“(ii) meets nutritional standards established by the Secretary, including, among other requirements established by the Secretary, fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow’s milk.

“(C) APPROVAL.—

“(i) IN GENERAL.—A substitution authorized under subparagraph (B) may be made—

“(I) at the discretion of and on approval by the participating day care institution; and

“(II) if the substitution is requested by written statement of a medical authority, or by the parent or legal guardian of the child, that identifies the medical or other special dietary need that restricts the diet of the child.

“(ii) EXCEPTION.—An institution, family or group day care home, or sponsored center that elects to make a substitution authorized under this paragraph shall not be required to provide beverages other than beverages the State has identified as acceptable substitutes.

“(D) EXCESS EXPENSES BORNE BY INSTITUTION.—A participating institution, family or group day care home, or sponsored center shall be responsible for any expenses that—

“(i) are incurred by the institution, family or group day care home, or sponsored center to provide substitutions under this paragraph; and

“(ii) are in excess of expenses covered under reimbursements under this Act.

“(5) NONDISCRIMINATION POLICY.—No physical segregation or other discrimination against any person shall be made because of the inability of the person to pay, nor shall there be any overt identification of any such person by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

“(6) USE OF ABUNDANT AND DONATED FOODS.—To the maximum extent practicable, each institution shall use in its food service foods that are—

“(A) designated from time to time by the Secretary as being in abundance, either nationally or in the food service area; or

“(B) donated by the Secretary.”;

(3) by adding at the end the following:

“(u) PROMOTING HEALTH AND WELLNESS IN CHILD CARE.—

“(1) PHYSICAL ACTIVITY AND ELECTRONIC MEDIA USE.—The Secretary shall encourage participating child care centers and family or group day care homes—

“(A) to provide to all children under the supervision of the participating child care centers and family or group day care homes daily opportunities for structured and unstructured age-appropriate physical activity; and

“(B) to limit among children under the supervision of the participating child care centers and family or group

day care homes the use of electronic media to an appropriate level.

“(2) WATER CONSUMPTION.—Participating child care centers and family or group day care homes shall make available to children, as nutritionally appropriate, potable water as an acceptable fluid for consumption throughout the day, including at meal times.

“(3) TECHNICAL ASSISTANCE AND GUIDANCE.—

“(A) IN GENERAL.—The Secretary shall provide technical assistance to institutions participating in the program under this section to assist participating child care centers and family or group day care homes in complying with the nutritional requirements and wellness recommendations prescribed by the Secretary in accordance with this subsection and subsection (g).

“(B) GUIDANCE.—Not later than January 1, 2012, the Secretary shall issue guidance to States and institutions to encourage participating child care centers and family or group day care homes serving meals and snacks under this section to—

“(i) include foods that are recommended for increased serving consumption in amounts recommended by the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), including fresh, canned, dried, or frozen fruits and vegetables, whole grain products, lean meat products, and low-fat and non-fat dairy products; and

“(ii) reduce sedentary activities and provide opportunities for regular physical activity in quantities recommended by the most recent Dietary Guidelines for Americans described in clause (i).

“(C) NUTRITION.—Technical assistance relating to the nutritional requirements of this subsection and subsection (g) shall include—

“(i) nutrition education, including education that emphasizes the relationship between nutrition, physical activity, and health;

“(ii) menu planning;

“(iii) interpretation of nutrition labels; and

“(iv) food preparation and purchasing guidance to produce meals and snacks that are—

“(I) consistent with the goals of the most recent Dietary Guidelines; and

“(II) promote the health of the population served by the program under this section, as recommended by authoritative scientific organizations.

“(D) PHYSICAL ACTIVITY.—Technical assistance relating to the physical activity requirements of this subsection shall include—

“(i) education on the importance of regular physical activity to overall health and well being; and

“(ii) sharing of best practices for physical activity plans in child care centers and homes as recommended by authoritative scientific organizations.

Deadline.

“(E) ELECTRONIC MEDIA USE.—Technical assistance relating to the electronic media use requirements of this subsection shall include—

“(i) education on the benefits of limiting exposure to electronic media by children; and

“(ii) sharing of best practices for the development of daily activity plans that limit use of electronic media.

“(F) MINIMUM ASSISTANCE.—At a minimum, the technical assistance required under this paragraph shall include a handbook, developed by the Secretary in coordination with the Secretary for Health and Human Services, that includes recommendations, guidelines, and best practices for participating institutions and family or group day care homes that are consistent with the nutrition, physical activity, and wellness requirements and recommendations of this subsection.

“(G) ADDITIONAL ASSISTANCE.—In addition to the requirements of this paragraph, the Secretary shall develop and provide such appropriate training and education materials, guidance, and technical assistance as the Secretary considers to be necessary to comply with the nutritional and wellness requirements of this subsection and subsection (g).

“(H) FUNDING.—

“(i) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to provide technical assistance under this subsection \$10,000,000, to remain available until expended.

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

Effective date.

42 USC 1766
note.

SEC. 222. INTERAGENCY COORDINATION TO PROMOTE HEALTH AND WELLNESS IN CHILD CARE LICENSING.

The Secretary shall coordinate with the Secretary of Health and Human Services to encourage State licensing agencies to include nutrition and wellness standards within State licensing standards that ensure, to the maximum extent practicable, that licensed child care centers and family or group day care homes—

(1) provide to all children under the supervision of the child care centers and family or group day care homes daily opportunities for age-appropriate physical activity;

(2) limit among children under the supervision of the child care centers and family or group day care homes the use of electronic media and the quantity of time spent in sedentary activity to an appropriate level;

(3) serve meals and snacks that are consistent with the requirements of 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); and

(4) promote such other nutrition and wellness goals as the Secretaries determine to be necessary.

Handbook.

SEC. 223. STUDY ON NUTRITION AND WELLNESS QUALITY OF CHILD CARE SETTINGS.

(a) IN GENERAL.—Not less than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall enter into a contract for the conduct of a nationally representative study of child care centers and family or group day care homes that includes an assessment of—

Deadline.
Contracts.

- (1) the nutritional quality of all foods provided to children in child care settings as compared to the recommendations in 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) the quantity and type of opportunities for physical activity provided to children in child care settings;
- (3) the quantity of time spent by children in child care settings in sedentary activities;
- (4) an assessment of barriers and facilitators to—
 - (A) providing foods to children in child care settings that meet the recommendations of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);
 - (B) providing the appropriate quantity and type of opportunities of physical activity for children in child care settings; and
 - (C) participation by child care centers and family or group day care homes 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); and
- (5) such other assessment measures as the Secretary may determine to be necessary.

(b) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report that includes a detailed description of the results of the study conducted under subsection (a).

(c) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section \$5,000,000, to remain available until expended.

Effective date.

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

Subtitle C—Special Supplemental Nutrition Program for Women, Infants, and Children

SEC. 231. SUPPORT FOR BREASTFEEDING IN THE WIC PROGRAM.

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

- (1) in subsection (a), in the second sentence, by striking “supplemental foods and nutrition education through any eligible local agency” and inserting “supplemental foods and

nutrition education, including breastfeeding promotion and support, through any eligible local agency”;

(2) in subsection (b)(4), by inserting “breastfeeding support and promotion,” after “nutrition education,”;

(3) in subsection (c)(1), in the first sentence, by striking “supplemental foods and nutrition education to” and inserting “supplemental foods, nutrition education, and breastfeeding support and promotion to”;

(4) in subsection (e)(2), in the second sentence, by inserting “, including breastfeeding support and education,” after “nutrition education”;

(5) in subsection (f)(6)(B), in the first sentence, by inserting “and breastfeeding” after “nutrition education”;

(6) in subsection (h)—

(A) in paragraph (4)—

(i) by striking “(4) The Secretary” and all that follows through “(A) in consultation” and inserting the following:

“(4) REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall—

“(i) in consultation”;

(ii) by redesignating subparagraphs (B) through (F) as clauses (ii) through (vi), respectively, and indenting appropriately;

(iii) in clause (v) (as so redesignated), by striking “and” at the end;

(iv) in clause (vi) (as so redesignated), by striking “2010 initiative.” and inserting “initiative; and”; and

(v) by adding at the end the following:

“(vii) annually compile and publish breastfeeding performance measurements based on program participant data on the number of partially and fully breastfed infants, including breastfeeding performance measurements for—

“(I) each State agency; and

“(II) each local agency;

“(viii) in accordance with subparagraph (B), implement a program to recognize exemplary breastfeeding support practices at local agencies or clinics participating in the special supplemental nutrition program established under this section; and

“(ix) in accordance with subparagraph (C), implement a program to provide performance bonuses to State agencies.

“(B) EXEMPLARY BREASTFEEDING SUPPORT PRACTICES.—

“(i) IN GENERAL.—In evaluating exemplary practices under subparagraph (A)(viii), the Secretary shall consider—

“(I) performance measurements of breastfeeding;

“(II) the effectiveness of a peer counselor program;

“(III) the extent to which the agency or clinic has partnered with other entities to build a supportive breastfeeding environment for women participating in the program; and

“(IV) such other criteria as the Secretary considers appropriate after consultation with State and local program agencies.

“(ii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the activities described in clause (viii) of subparagraph (A) such sums as are necessary.

“(C) PERFORMANCE BONUSES.—

“(i) IN GENERAL.—Following the publication of breastfeeding performance measurements under subparagraph (A)(vii), the Secretary shall provide performance bonus payments to not more than 15 State agencies that demonstrate, as compared to other State agencies participating in the program—

“(I) the highest proportion of breast-fed infants; or

“(II) the greatest improvement in proportion of breast-fed infants.

“(ii) CONSIDERATION.—In providing performance bonus payments to State agencies under this subparagraph, the Secretary shall consider the proportion of fully breast-fed infants in the States.

“(iii) USE OF FUNDS.—A State agency that receives a performance bonus under clause (i)—

“(I) shall treat the funds as program income; and

“(II) may transfer the funds to local agencies for use in carrying out the program.

“(iv) IMPLEMENTATION.—The Secretary shall provide the first performance bonuses not later than 1 year after the date of enactment of this clause and may subsequently revise the criteria for awarding performance bonuses; and”; and

(B) 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 2010 through 2015, the Secretary shall use for the purposes specified in subparagraph (B) \$139,000,000 (as adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B)).

“(B) PURPOSES.—Subject to subparagraph (C), of the amount made available under subparagraph (A) for a fiscal year—

“(i) \$14,000,000 shall be used for—

“(I) infrastructure for the program under this section;

“(II) special projects to promote breastfeeding, including projects to assess the effectiveness of particular breastfeeding promotion strategies; and

“(III) special State projects of regional or national significance to improve the services of the program;

Payments.

Deadline.

“(ii) \$35,000,000 shall be used to establish, improve, or administer management information systems for the program, including changes necessary to meet new legislative or regulatory requirements of the program, of which up to \$5,000,000 may be used for Federal administrative costs; and

“(iii) \$90,000,000 shall be used for special nutrition education (such as breastfeeding peer counselors and other related activities), of which not more than \$10,000,000 of any funding provided in excess of \$50,000,000 shall be used to make performance bonus payments under paragraph (4)(C).

“(C) ADJUSTMENT.—Each of the amounts referred to in clauses (i), (ii), and (iii) of subparagraph (B) shall be adjusted annually for inflation by the same factor used to determine the national average per participant grant for nutrition services and administration for the fiscal year under paragraph (1)(B).

“(D) PROPORTIONAL DISTRIBUTION.—The Secretary shall distribute funds made available under subparagraph (A) in accordance with the proportional distribution described in subparagraphs (B) and (C).”; and

(7) in subsection (j), by striking “supplemental foods and nutrition education” each place it appears in paragraphs (1) and (2) and inserting “supplemental foods, nutrition education, and breastfeeding support and promotion”.

SEC. 232. REVIEW OF AVAILABLE SUPPLEMENTAL FOODS.

Section 17(f)(11)(D) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)(D)) is amended in the matter preceding clause (i) by inserting “but not less than every 10 years,” after “scientific knowledge.”.

Subtitle D—Miscellaneous

SEC. 241. NUTRITION EDUCATION AND OBESITY PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

7 USC 2036a.

“SEC. 28. NUTRITION EDUCATION AND OBESITY PREVENTION GRANT PROGRAM.

“(a) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term ‘eligible individual’ means an individual who is eligible to receive benefits under a nutrition education and obesity prevention program under this section as a result of being—

“(1) an individual eligible for benefits under—

“(A) this Act;

“(B) sections 9(b)(1)(A) and 17(c)(4) of the Richard B Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A), 1766(c)(4)); or

“(C) section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A));

“(2) an individual who resides in a community with a significant low-income population, as determined by the Secretary; or

“(3) such other low-income individual as is determined to be eligible by the Secretary.

“(b) PROGRAMS.—Consistent with the terms and conditions of grants awarded under this section, State agencies may implement a nutrition education and obesity prevention program for eligible individuals that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

“(c) DELIVERY OF NUTRITION EDUCATION AND OBESITY PREVENTION SERVICES.—

“(1) IN GENERAL.—State agencies may deliver nutrition education and obesity prevention services under a program described in subsection (b)—

“(A) directly to eligible individuals; or

“(B) through agreements with other State or local agencies or community organizations.

“(2) NUTRITION EDUCATION STATE PLANS.—

“(A) IN GENERAL.—A State agency that elects to provide nutrition education and obesity prevention services under this subsection shall submit to the Secretary for approval a nutrition education State plan.

“(B) REQUIREMENTS.—Except as provided in subparagraph (C), a nutrition education State plan shall—

“(i) identify the uses of the funding for local projects;

“(ii) ensure that the interventions are appropriate for eligible individuals who are members of low-income populations by recognizing the constrained resources, and the potential eligibility for Federal food assistance programs, of members of those populations; and

“(iii) conform to standards established by the Secretary through regulations, guidance, or grant award documents.

“(C) TRANSITION PERIOD.—During each of fiscal years 2011 and 2012, a nutrition education State plan under this section shall be consistent with the requirements of section 11(f) (as that section, other than paragraph (3)(C), existed on the day before the date of enactment of this section).

“(3) USE OF FUNDS.—

“(A) IN GENERAL.—A State agency may use funds provided under this section for any evidence-based allowable use of funds identified by the Administrator of the Food and Nutrition Service of the Department of Agriculture in consultation with the Director of the Centers for Disease Control and Prevention of the Department of Health and Human Services, including—

“(i) individual and group-based nutrition education, health promotion, and intervention strategies;

“(ii) comprehensive, multilevel interventions at multiple complementary organizational and institutional levels; and

“(iii) community and public health approaches to improve nutrition.

“(B) CONSULTATION.—In identifying allowable uses of funds under subparagraph (A) and in seeking to strengthen

delivery, oversight, and evaluation of nutrition education, the Administrator of the Food and Nutrition Service shall consult with the Director of the Centers for Disease Control and Prevention and outside stakeholders and experts, including—

- “(i) representatives of the academic and research communities;
- “(ii) nutrition education practitioners;
- “(iii) representatives of State and local governments; and
- “(iv) community organizations that serve low-income populations.

“(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible individuals under this Act of the availability of nutrition education and obesity prevention services under this section in local communities.

“(5) COORDINATION.—Subject to the approval of the Secretary, projects carried out with funds received under this section may be coordinated with other health promotion or nutrition improvement strategies, whether public or privately funded, if the projects carried out with funds received under this section remain under the administrative control of the State agency.

“(d) FUNDING.—

“(1) IN GENERAL.—Of funds made available each fiscal year under section 18(a)(1), the Secretary shall reserve for allocation to State agencies to carry out the nutrition education and obesity prevention grant program under this section, to remain available for obligation for a period of 2 fiscal years—

- “(A) for fiscal year 2011, \$375,000,000; and
- “(B) for fiscal year 2012 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

“(2) ALLOCATION.—

“(A) INITIAL ALLOCATION.—Of the funds set aside under paragraph (1), as determined by the Secretary—

- “(i) for each of fiscal years 2011 through 2013, 100 percent shall be allocated to State agencies in direct proportion to the amount of funding that the State received for carrying out section 11(f) (as that section existed on the day before the date of enactment of this section) during fiscal year 2009, as reported to the Secretary as of February 2010; and

“(ii) subject to a reallocation under subparagraph

(B)—

“(I) for fiscal year 2014—

“(aa) 90 percent shall be allocated to State agencies in accordance with clause (i); and

“(bb) 10 percent shall be allocated to State agencies based on the respective share of each

State of the number of individuals participating in the supplemental nutrition assistance program during the 12-month period ending the preceding January 31;

“(II) for fiscal year 2015—

“(aa) 80 percent shall be allocated to State agencies in accordance with clause (i); and

“(bb) 20 percent shall be allocated in accordance with subclause (I)(bb);

“(III) for fiscal year 2016—

“(aa) 70 percent shall be allocated to State agencies in accordance with clause (i); and

“(bb) 30 percent shall be allocated in accordance with subclause (I)(bb);

“(IV) for fiscal year 2017—

“(aa) 60 percent shall be allocated to State agencies in accordance with clause (i); and

“(bb) 40 percent shall be allocated in accordance with subclause (I)(bb); and

“(V) for fiscal year 2018 and each fiscal year thereafter—

“(aa) 50 percent shall be allocated to State agencies in accordance with clause (i); and

“(bb) 50 percent shall be allocated in accordance with subclause (I)(bb).

“(B) REALLOCATION.—

“(i) IN GENERAL.—If the Secretary determines that a State agency will not expend all of the funds allocated to the State agency for a fiscal year under paragraph (1) or in the case of a State agency that elects not to receive the entire amount of funds allocated to the State agency for a fiscal year, the Secretary shall reallocate the unexpended funds to other States during the fiscal year or the subsequent fiscal year (as determined by the Secretary) that have approved State plans under which the State agencies may expend the reallocated funds.

“(ii) EFFECT OF ADDITIONAL FUNDS.—

“(I) FUNDS RECEIVED.—Any reallocated funds received by a State agency under clause (i) for a fiscal year shall be considered to be part of the fiscal year 2009 base allocation of funds to the State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

“(II) FUNDS SURRENDERED.—Any funds surrendered by a State agency under clause (i) shall not be considered to be part of the fiscal year 2009 base allocation of funds to a State agency for that fiscal year for purposes of determining allocation under subparagraph (A) for the subsequent fiscal year.

“(3) LIMITATION ON FEDERAL FINANCIAL PARTICIPATION.—

“(A) IN GENERAL.—Grants awarded under this section shall be the only source of Federal financial participation under this Act in nutrition education and obesity prevention.

Deadline.
Federal Register publication.

“(B) EXCLUSION.—Any costs of nutrition education and obesity prevention in excess of the grants authorized under this section shall not be eligible for reimbursement under section 16(a).

“(e) IMPLEMENTATION.—Not later than January 1, 2012, the Secretary shall publish in the Federal Register a description of the requirements for the receipt of a grant under this section.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended in the first sentence by striking “and, through an approved State plan, nutrition education”.

(2) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (f).

SEC. 242. PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.

Section 9(a)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)(4)) is amended by adding at the end the following:

“(C) PROCUREMENT AND PROCESSING OF FOOD SERVICE PRODUCTS AND COMMODITIES.—The Secretary shall—

(i) identify, develop, and disseminate to State departments of agriculture and education, school food authorities, local educational agencies, and local processing entities, model product specifications and practices for foods offered in school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to ensure that the foods reflect the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(ii) not later than 1 year after the date of enactment of this subparagraph—

(I) carry out a study to analyze the quantity and quality of nutritional information available to school food authorities about food service products and commodities; and

(II) submit to Congress a report on the results of the study that contains such legislative recommendations as the Secretary considers necessary to ensure that school food authorities have access to the nutritional information needed for menu planning and compliance assessments; and

(iii) to the maximum extent practicable, in purchasing and processing commodities for use in school nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), purchase the widest variety of healthful foods that reflect the most recent Dietary Guidelines for Americans.”.

Deadline.

Reports.

SEC. 243. ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.

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

(1) by redesignating subsections (h) and (i) and subsection (j) (as added by section 210) as subsections (i) through (k), respectively;

(2) in subsection (g), by striking “(g) ACCESS TO LOCAL FOODS AND SCHOOL GARDENS.—” and all that follows through “(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—” and inserting the following:

“(g) ACCESS TO LOCAL FOODS: FARM TO SCHOOL PROGRAM.—

“(1) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term ‘eligible school’ means a school or institution that participates in a program under this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

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

“(3) GRANTS.—

“(A) IN GENERAL.—The Secretary shall award competitive grants under this subsection to be used for—

- “(i) training;
- “(ii) supporting operations;
- “(iii) planning;
- “(iv) purchasing equipment;
- “(v) developing school gardens;
- “(vi) developing partnerships; and
- “(vii) implementing farm to school programs.

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

- “(i) geographical diversity; and
- “(ii) equitable treatment of urban, rural, and tribal communities.

“(C) MAXIMUM AMOUNT.—The total amount provided to a grant recipient under this subsection shall not exceed \$100,000.

“(4) FEDERAL SHARE.—

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

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

“(5) CRITERIA FOR SELECTION.—To the maximum extent practicable, in providing assistance under this subsection, the Secretary shall give the highest priority to funding projects that, as determined by the Secretary—

“(A) make local food products available on the menu of the eligible school;

“(B) serve a high proportion of children who are eligible for free or reduced price lunches;

“(C) incorporate experiential nutrition education activities in curriculum planning that encourage the participation of school children in farm and garden-based agricultural education activities;

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

“(E) include adequate and participatory evaluation plans;

“(F) demonstrate the potential for long-term program sustainability; and

“(G) meet any other criteria that the Secretary determines appropriate.

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

“(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and information to assist eligible schools, State and local agencies, Indian tribal organizations, and non-profit entities—

“(A) to facilitate the coordination and sharing of information and resources in the Department that may be applicable to the farm to school program;

“(B) to collect and share information on best practices; and

“(C) to disseminate research and data on existing farm to school programs and the potential for programs in underserved areas.

“(8) FUNDING.—

“(A) IN GENERAL.—On October 1, 2012, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$5,000,000, to remain available until expended.

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

“(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under paragraph (8), there are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2011 through 2015.

“(h) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

“(1) IN GENERAL.—”; and

(3) in subsection (h) (as redesignated by paragraph (2))—

(A) in subparagraph (F) of paragraph (1) (as so redesignated), by striking “in accordance with paragraph (1)(H)” and inserting “carried out by the Secretary”;

(B) by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2) (as so redesignated), by striking “2009” and inserting “2015”.

Effective dates.

SEC. 244. RESEARCH ON STRATEGIES TO PROMOTE THE SELECTION AND CONSUMPTION OF HEALTHY FOODS. 7 USC 3179.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish a research, demonstration, and technical assistance program to promote healthy eating and reduce the prevalence of obesity, among all population groups but especially among children, by applying the principles and insights of behavioral economics research in schools, child care programs, and other settings.

(b) PRIORITIES.—The Secretary shall—

(1) identify and assess the impacts of specific presentation, placement, and other strategies for structuring choices on selection and consumption of healthful foods in a variety of settings, consistent with the most recent version of the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(2) demonstrate and rigorously evaluate behavioral economics-related interventions that hold promise to improve diets and promote health, including through demonstration projects that may include evaluation of the use of portion size, labeling, convenience, and other strategies to encourage healthy choices; and

(3) encourage adoption of the most effective strategies through outreach and technical assistance.

(c) AUTHORITY.—In carrying out the program under subsection (a), the Secretary may—

(1) enter into competitively awarded contracts or cooperative agreements; or

(2) provide grants to States or public or private agencies or organizations, as determined by the Secretary.

(d) APPLICATION.—To be eligible to enter into a contract or cooperative agreement or receive a grant under this section, a State or public or private agency or organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) COORDINATION.—The solicitation and evaluation of contracts, cooperative agreements, and grant proposals considered under this section shall be coordinated with the Food and Nutrition Service as appropriate to ensure that funded projects are consistent with the operations of Federally supported nutrition assistance programs and related laws (including regulations).

(f) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

(1) the policies, priorities, and operations of the program carried out by the Secretary under this section during the fiscal year;

(2) the results of any evaluations completed during the fiscal year; and

(3) the efforts undertaken to disseminate successful practices through outreach and technical assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2011 through 2015.

(2) USE OF FUNDS.—The Secretary may use up to 5 percent of the funds made available under paragraph (1) for Federal administrative expenses incurred in carrying out this section.

TITLE III—IMPROVING THE MANAGEMENT AND INTEGRITY OF CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Program

SEC. 301. PRIVACY PROTECTION.

Section 9(d)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(d)(1)) is amended—

- (1) in the first sentence, by inserting “the last 4 digits of” before “the social security account number”; and
- (2) by striking the second sentence.

SEC. 302. APPLICABILITY OF FOOD SAFETY PROGRAM ON ENTIRE SCHOOL CAMPUS.

Section 9(h)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(h)(5)) is amended—

- (1) by striking “Each school food” and inserting the following:

“(A) IN GENERAL.—Each school food”; and

- (2) by adding at the end the following:

“(B) APPLICABILITY.—Subparagraph (A) shall apply to any facility or part of a facility in which food is stored, prepared, or served for the purposes of the school nutrition programs under this Act or section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”.

SEC. 303. FINES FOR VIOLATING PROGRAM REQUIREMENTS.

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

“(e) FINES FOR VIOLATING PROGRAM REQUIREMENTS.—

“(1) SCHOOL FOOD AUTHORITIES AND SCHOOLS.—

“(A) IN GENERAL.—The Secretary shall establish criteria by which the Secretary or a State agency may impose a fine against any school food authority or school administering a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary or the State agency determines that the school food authority or school has—

“(i) failed to correct severe mismanagement of the program;

“(ii) disregarded a program requirement of which the school food authority or school had been informed; or

“(iii) failed to correct repeated violations of program requirements.

“(B) LIMITS.—

“(i) IN GENERAL.—In calculating the fine for a school food authority or school, the Secretary shall base the amount of the fine on the reimbursement earned by school food authority or school for the program in which the violation occurred.

“(ii) AMOUNT.—The amount under clause (i) shall not exceed—

“(I) 1 percent of the amount of meal reimbursements earned for the fiscal year for the first finding of 1 or more program violations under subparagraph (A);

“(II) 5 percent of the amount of meal reimbursements earned for the fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

“(III) 10 percent of the amount of meal reimbursements earned for the fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

“(2) STATE AGENCIES.—

“(A) IN GENERAL.—The Secretary shall establish criteria by which the Secretary may impose a fine against any State agency administering a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) if the Secretary determines that the State agency has—

“(i) failed to correct severe mismanagement of the program;

“(ii) disregarded a program requirement of which the State had been informed; or

“(iii) failed to correct repeated violations of program requirements.

“(B) LIMITS.—In the case of a State agency, the amount of a fine under subparagraph (A) shall not exceed—

“(i) 1 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the first finding of 1 or more program violations under subparagraph (A);

“(ii) 5 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the second finding of 1 or more program violations under subparagraph (A); and

“(iii) 10 percent of funds made available under section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) for State administrative expenses during a fiscal year for the third or subsequent finding of 1 or more program violations under subparagraph (A).

“(3) SOURCE OF FUNDING.—Funds to pay a fine imposed under paragraph (1) or (2) shall be derived from non-Federal sources.”.

SEC. 304. INDEPENDENT REVIEW OF APPLICATIONS.

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:

“(6) ELIGIBILITY DETERMINATION REVIEW FOR SELECTED LOCAL EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—A local educational agency that has demonstrated a high level of, or a high risk for, administrative error associated with certification, verification, and other administrative processes, as determined by the Secretary, shall ensure that the initial eligibility determination for each application is reviewed for accuracy prior to notifying a household of the eligibility or ineligibility of the household for free or reduced price meals.

“(B) TIMELINESS.—The review of initial eligibility determinations—

“(i) shall be completed in a timely manner; and

“(ii) shall not result in the delay of an eligibility determination for more than 10 operating days after the date on which the application is submitted.

“(C) ACCEPTABLE TYPES OF REVIEW.—Subject to standards established by the Secretary, the system used to review eligibility determinations for accuracy shall be conducted by an individual or entity that did not make the initial eligibility determination.

“(D) NOTIFICATION OF HOUSEHOLD.—Once the review of an eligibility determination has been completed under this paragraph, the household shall be notified immediately of the determination of eligibility or ineligibility for free or reduced price meals.

“(E) REPORTING.—

“(i) LOCAL EDUCATIONAL AGENCIES.—In accordance with procedures established by the Secretary, each local educational agency required to review initial eligibility determinations shall submit to the relevant State agency a report describing the results of the reviews, including—

“(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

“(II) such other information as the Secretary determines to be necessary.

“(ii) STATE AGENCIES.—In accordance with procedures established by the Secretary, each State agency shall submit to the Secretary a report describing the results of the reviews of initial eligibility determinations, including—

“(I) the number and percentage of reviewed applications for which the eligibility determination was changed and the type of change made; and

“(II) such other information as the Secretary determines to be necessary.

“(iii) TRANSPARENCY.—The Secretary shall publish annually the results of the reviews of initial eligibility determinations by State, number, percentage, and type of error.”.

Standards.

Procedures.

Procedures.

Publication.

SEC. 305. PROGRAM EVALUATION.

Section 28 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769i) is amended by adding at the end the following:

“(c) COOPERATION WITH PROGRAM RESEARCH AND EVALUATION.—States, State educational agencies, local educational agencies, schools, institutions, facilities, and contractors participating in programs authorized under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall cooperate with officials and contractors acting on behalf of the Secretary, in the conduct of evaluations and studies under those Acts.”.

SEC. 306. PROFESSIONAL STANDARDS FOR SCHOOL FOOD SERVICE.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended by striking subsection (g) and inserting the following:

“(g) PROFESSIONAL STANDARDS FOR SCHOOL FOOD SERVICE.—

“(1) CRITERIA FOR SCHOOL FOOD SERVICE AND STATE AGENCY DIRECTORS.—

“(A) SCHOOL FOOD SERVICE DIRECTORS.—

“(i) IN GENERAL.—The Secretary shall establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority.

“(ii) REQUIREMENTS.—The program shall include—

“(I) minimum educational requirements necessary to successfully manage the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act;

“(II) minimum program training and certification criteria for school food service directors; and

“(III) minimum periodic training criteria to maintain school food service director certification.

“(B) SCHOOL NUTRITION STATE AGENCY DIRECTORS.—

The Secretary shall establish criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act.

“(C) TRAINING PROGRAM PARTNERSHIP.—The Secretary may provide financial and other assistance to 1 or more professional food service management organizations—

“(i) to establish and manage the program under this paragraph; and

“(ii) to develop voluntary training and certification programs for other school food service workers.

“(D) REQUIRED DATE OF COMPLIANCE.—

“(i) SCHOOL FOOD SERVICE DIRECTORS.—The Secretary shall establish a date by which all school food service directors whose local educational agencies are participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act shall be required to comply with the education, training, and

certification criteria established in accordance with subparagraph (A).

“(ii) SCHOOL NUTRITION STATE AGENCY DIRECTORS.—The Secretary shall establish a date by which all State agencies shall be required to comply with criteria and standards established in accordance with subparagraph (B) for the selection of State agency directors with responsibility for the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of this Act.

“(2) TRAINING AND CERTIFICATION OF FOOD SERVICE PERSONNEL.—

“(A) TRAINING FOR INDIVIDUALS CONDUCTING OR OVERSEEING ADMINISTRATIVE PROCEDURES.—

“(i) IN GENERAL.—At least annually, each State shall provide training in administrative practices (including training in application, certification, verification, meal counting, and meal claiming procedures) to local educational agency and school food authority personnel and other appropriate personnel.

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

“(I) provide training and technical assistance described in clause (i) to the State; or

“(II) at the option of the Secretary, directly provide training and technical assistance described in clause (i).

“(iii) REQUIRED PARTICIPATION.—In accordance with procedures established by the Secretary, each local educational agency or school food authority shall ensure that an individual conducting or overseeing administrative procedures described in clause (i) receives training at least annually, unless determined otherwise by the Secretary.

“(B) TRAINING AND CERTIFICATION OF ALL LOCAL FOOD SERVICE PERSONNEL.—

“(i) IN GENERAL.—The Secretary shall provide training designed to improve—

“(I) the accuracy of approvals for free and reduced price meals; and

“(II) the identification of reimbursable meals at the point of service.

“(ii) CERTIFICATION OF LOCAL PERSONNEL.—In accordance with criteria established by the Secretary, local food service personnel shall complete annual training and receive annual certification—

“(I) to ensure program compliance and integrity; and

“(II) to demonstrate competence in the training provided under clause (i).

“(iii) TRAINING MODULES.—In addition to the topics described in clause (i), a training program carried out under this subparagraph shall include training modules on—

“(I) nutrition;

Deadline.

Procedures.

“(II) health and food safety standards and methodologies; and
“(III) any other appropriate topics, as determined by the Secretary.

“(3) FUNDING.—

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

- “(i) on October 1, 2010, \$5,000,000; and
- “(ii) on each October 1 thereafter, \$1,000,000.

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

Effective dates.

SEC. 307. INDIRECT COSTS.

(a) **GUIDANCE ON INDIRECT COSTS RULES.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidance to school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) covering program rules pertaining to indirect costs, including allowable indirect costs that may be charged to the nonprofit school food service account.

(b) **INDIRECT COST STUDY.**—The Secretary shall—

(1) conduct a study to assess the extent to which school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) pay indirect costs, including assessments of—

(A) the allocation of indirect costs to, and the methodologies used to establish indirect cost rates for, school food authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(B) the impact of indirect costs charged to the nonprofit school food service account;

(C) the types and amounts of indirect costs charged and recovered by school districts;

(D) whether the indirect costs charged or recovered are consistent with requirements for the allocation of indirect costs and school food service operations; and

(E) the types and amounts of indirect costs that could be charged or recovered under requirements for the allocation of indirect costs and school food service operations but are not charged or recovered; and

(2) after completing the study required under paragraph (1), issue additional guidance relating to the types of costs that are reasonable and necessary to provide meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

42 USC 1751

note.
Deadline.

(c) REGULATIONS.—After conducting the study under subsection (b)(1) and identifying costs under subsection (b)(2), the Secretary may promulgate regulations to address—

(1) any identified deficiencies in the allocation of indirect costs; and

(2) the authority of school food authorities to reimburse only those costs identified by the Secretary as reasonable and necessary under subsection (b)(2).

(d) REPORT.—Not later than October 1, 2013, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study under subsection (b).

(e) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section \$2,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary 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. 308. ENSURING SAFETY OF SCHOOL MEALS.

The Richard B. Russell National School Lunch Act is amended by after section 28 (42 U.S.C. 1769i) the following:

Deadlines.
42 USC 1769j.

Guidelines.

“SEC. 29. ENSURING SAFETY OF SCHOOL MEALS.

“(a) FOOD AND NUTRITION SERVICE.—Not later than 1 year after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary, acting through the Administrator of the Food and Nutrition Service, shall—

“(1) in consultation with the Administrator of the Agricultural Marketing Service and the Administrator of the Farm Service Agency, develop guidelines to determine the circumstances under which it is appropriate for the Secretary to institute an administrative hold on suspect foods purchased by the Secretary that are being used in school meal programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(2) work with States to explore ways for the States to increase the timeliness of notification of food recalls to schools and school food authorities;

“(3) improve the timeliness and completeness of direct communication between the Food and Nutrition Service and States about holds and recalls, such as through the commodity alert system of the Food and Nutrition Service; and

“(4) establish a timeframe to improve the commodity hold and recall procedures of the Department of Agriculture to address the role of processors and determine the involvement of distributors with processed products that may contain recalled ingredients, to facilitate the provision of more timely and complete information to schools.

“(b) FOOD SAFETY AND INSPECTION SERVICE.—Not later than 1 year after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary, acting through the Administrator

of the Food Safety and Inspection Service, shall revise the procedures of the Food Safety and Inspection Service to ensure that schools are included in effectiveness checks.”.

Subtitle B—Summer Food Service Program

SEC. 321. SUMMER FOOD SERVICE PROGRAM PERMANENT OPERATING AGREEMENTS.

Section 13(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)) is amended by striking paragraph (3) and inserting the following:

“(3) PERMANENT OPERATING AGREEMENTS AND BUDGET FOR ADMINISTRATIVE COSTS.—

“(A) PERMANENT OPERATING AGREEMENTS.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the program, a service institution that meets the conditions of eligibility described in this section and in regulations promulgated by the Secretary, shall be required to enter into a permanent agreement with the applicable State agency.

Regulations.

“(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the service institution is in compliance with all requirements established in this section or by the Secretary.

“(iii) TERMINATION.—A permanent agreement described in clause (i)—

“(I) may be terminated for convenience by the service institution and State agency that is a party to the permanent agreement; and

“(II) shall be terminated—

“(aa) for cause by the applicable State agency in accordance with subsection (q) and with regulations promulgated by the Secretary; or

“(bb) on termination of participation of the service institution in the program.

Regulations.

“(B) BUDGET FOR ADMINISTRATIVE COSTS.—

“(i) IN GENERAL.—When applying for participation in the program, and not less frequently than annually thereafter, each service institution shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State.

“(ii) AMOUNT.—Payment to service institutions for administrative costs shall equal the levels determined by the Secretary pursuant to the study required in paragraph (4).”.

SEC. 322. SUMMER FOOD SERVICE PROGRAM DISQUALIFICATION.

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

(1) by redesignating subsection (q) as subsection (r); and
(2) by inserting after subsection (p) the following:

“(q) TERMINATION AND DISQUALIFICATION OF PARTICIPATING ORGANIZATIONS.—

Procedures.

“(1) IN GENERAL.—Each State agency shall follow the procedures established by the Secretary for the termination of participation of institutions under the program.

“(2) FAIR HEARING.—The procedures described in paragraph (1) shall include provision for a fair hearing and prompt determination for any service institution aggrieved by any action of the State agency that affects—

“(A) the participation of the service institution in the program; or

“(B) the claim of the service institution for reimbursement under this section.

“(3) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—

“(A) IN GENERAL.—The Secretary shall maintain a list of service institutions and individuals that have been terminated or otherwise disqualified from participation in the program under the procedures established pursuant to paragraph (1).

“(B) AVAILABILITY.—The Secretary shall make the list available to States for use in approving or renewing applications by service institutions for participation in the program.”.

Subtitle C—Child and Adult Care Food Program

SEC. 331. RENEWAL OF APPLICATION MATERIALS AND PERMANENT OPERATING AGREEMENTS.

(a) PERMANENT OPERATING AGREEMENTS.—Section 17(d)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended by adding at the end the following:

“(E) PERMANENT OPERATING AGREEMENTS.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), to participate in the child and adult care food program, an institution that meets the conditions of eligibility described in this subsection shall be required to enter into a permanent agreement with the applicable State agency.

“(ii) AMENDMENTS.—A permanent agreement described in clause (i) may be amended as necessary to ensure that the institution is in compliance with all requirements established in this section or by the Secretary.

“(iii) TERMINATION.—A permanent agreement described in clause (i)—

“(I) may be terminated for convenience by the institution or State agency that is a party to the permanent agreement; and

“(II) shall be terminated—

“(aa) for cause by the applicable State agency in accordance with paragraph (5); or

“(bb) on termination of participation of the institution in the child and adult care food program.”.

(b) APPLICATIONS AND REVIEWS.—Section 17(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)) is amended by striking paragraph (2) and inserting the following:

“(2) PROGRAM APPLICATIONS.—

“(A) IN GENERAL.—The Secretary shall develop a policy under which each institution providing child care that participates in the program under this section shall—

“(i) submit to the State agency an initial application to participate in the program that meets all requirements established by the Secretary by regulation;

“(ii) annually confirm to the State agency that the institution, and any facilities of the institution in which the program is operated by a sponsoring organization, is in compliance with subsection (a)(5); and

“(iii) annually submit to the State agency any additional information necessary to confirm that the institution is in compliance with all other requirements to participate in the program, as established in this Act and by the Secretary by regulation.

“(B) REQUIRED REVIEWS OF SPONSORED FACILITIES.—

“(i) IN GENERAL.—The Secretary shall develop a policy under which each sponsoring organization participating in the program under this section shall conduct—

“(I) periodic unannounced site visits at not less than 3-year intervals to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program; and

“(II) at least 1 scheduled site visit each year to sponsored child and adult care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations.

“(ii) VARIED TIMING.—Sponsoring organizations shall vary the timing of unannounced reviews under clause (i)(I) in a manner that makes the reviews unpredictable to sponsored facilities.

“(C) REQUIRED REVIEWS OF INSTITUTIONS.—The Secretary shall develop a policy under which each State agency shall conduct—

“(i) at least 1 scheduled site visit at not less than 3-year intervals to each institution under the State agency participating in the program under this section—

“(I) to identify and prevent management deficiencies and fraud and abuse under the program; and

“(II) to improve program operations; and

“(ii) more frequent reviews of any institution that—

“(I) sponsors a significant share of the facilities participating in the program;

“(II) conducts activities other than the program authorized under this section;

Regulations.
Deadlines.

Deadlines.

Deadline.

“(III) has serious management problems, as identified in a prior review, or is at risk of having serious management problems; or

“(IV) meets such other criteria as are defined by the Secretary.

“(D) DETECTION AND DETERRENCE OF ERRONEOUS PAYMENTS AND FALSE CLAIMS.—

“(i) IN GENERAL.—The Secretary may develop a policy to detect and deter, and recover erroneous payments to, and false claims submitted by, institutions, sponsored child and adult care centers, and family or group day care homes participating in the program under this section.

“(ii) BLOCK CLAIMS.—

“(I) DEFINITION OF BLOCK CLAIM.—In this clause, the term ‘block claim’ has the meaning given the term in section 226.2 of title 7, Code of Federal Regulations (or successor regulations).

“(II) PROGRAM EDIT CHECKS.—The Secretary may not require any State agency, sponsoring organization, or other institution to perform edit checks or on-site reviews relating to the detection of block claims by any child care facility.

“(III) ALLOWANCE.—Notwithstanding sub-clause (II), the Secretary may require any State agency, sponsoring organization, or other institution to collect, store, and transmit to the appropriate entity information necessary to develop any other policy developed under clause (i).”.

(c) AGREEMENTS.—Section 17(j)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(j)(1)) is amended—

(1) by striking “may” and inserting “shall”;

(2) by striking “family or group day care” the first place it appears; and

(3) by inserting “or sponsored day care centers” before “participating”.

SEC. 332. STATE LIABILITY FOR PAYMENTS TO AGGRIEVED CHILD CARE INSTITUTIONS.

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

(1) in paragraph (3), by striking “(3) If a State” and inserting the following:

“(5) SECRETARIAL HEARING.—If a State”; and

(2) by striking “(e) Except as provided” and all that follows through “(2) A State” and inserting the following:

“(e) HEARINGS.—

“(1) IN GENERAL.—Except as provided in paragraph (4), each State agency shall provide, in accordance with regulations promulgated by the Secretary, an opportunity for a fair hearing and a prompt determination to any institution aggrieved by any action of the State agency that affects—

“(A) the participation of the institution in the program authorized by this section; or

“(B) the claim of the institution for reimbursement under this section.

“(2) REIMBURSEMENT.—In accordance with paragraph (3), a State agency that fails to meet timeframes for providing an opportunity for a fair hearing and a prompt determination to any institution under paragraph (1) in accordance with regulations promulgated by the Secretary, shall pay, from non-Federal sources, all valid claims for reimbursement to the institution and the facilities of the institution during the period beginning on the day after the end of any regulatory deadline for providing the opportunity and making the determination and ending on the date on which a hearing determination is made.

Regulations.
Time period.

“(3) NOTICE TO STATE AGENCY.—The Secretary shall provide written notice to a State agency at least 30 days prior to imposing any liability for reimbursement under paragraph (2).

Deadline.

“(4) FEDERAL AUDIT DETERMINATION.—A State”.

SEC. 333. TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.

Section 17(f)(3)(A)(iii)(III) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(iii)(III)) is amended by adding at the end the following:

“(dd) TRANSMISSION OF INCOME INFORMATION BY SPONSORED FAMILY OR GROUP DAY CARE HOMES.—If a family or group day care home elects to be provided reimbursement factors described in subclause (II), the family or group day care home may assist in the transmission of necessary household income information to the family or group day care home sponsoring organization in accordance with the policy described in item (ee).

“(ee) POLICY.—The Secretary shall develop a policy under which a sponsored family or group day care home described in item (dd) may, under terms and conditions specified by the Secretary and with the written consent of the parents or guardians of a child in a family or group day care home participating in the program, assist in the transmission of the income information of the family to the family or group day care home sponsoring organization.”.

SEC. 334. SIMPLIFYING AND ENHANCING ADMINISTRATIVE PAYMENTS TO SPONSORING ORGANIZATIONS.

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

“(B) ADMINISTRATIVE FUNDS.—

“(i) IN GENERAL.—In addition to reimbursement factors described in subparagraph (A), a family or group day care home sponsoring organization shall receive reimbursement for the administrative expenses of the sponsoring organization in an amount that is not less than the product obtained each month by multiplying—

“(I) the number of family and group day care homes of the sponsoring organization submitting a claim for reimbursement during the month; by

“(II) the appropriate administrative rate determined by the Secretary.

“(ii) ANNUAL ADJUSTMENT.—The administrative reimbursement levels specified in clause (i) shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available.

“(iii) CARRYOVER FUNDS.—The Secretary shall develop procedures under which not more than 10 percent of the amount made available to sponsoring organizations under this section for administrative expenses for a fiscal year may remain available for obligation or expenditure in the succeeding fiscal year.”.

SEC. 335. CHILD AND ADULT CARE FOOD PROGRAM AUDIT FUNDING.

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

“(2) FUNDING.—

“(A) IN GENERAL.—The Secretary shall make available for each fiscal year to each State agency administering the child and adult care food program, for the purpose of conducting audits of participating institutions, an amount of up to 1.5 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

“(B) ADDITIONAL FUNDING.—

“(i) IN GENERAL.—Subject to clause (ii), for fiscal year 2016 and each fiscal year thereafter, the Secretary may increase the amount of funds made available to any State agency under subparagraph (A), if the State agency demonstrates that the State agency can effectively use the funds to improve program management under criteria established by the Secretary.

“(ii) LIMITATION.—The total amount of funds made available to any State agency under this paragraph shall not exceed 2 percent of the funds used by each State agency in the program under this section, during the second preceding fiscal year.”.

42 USC 1766
note.

SEC. 336. REDUCING PAPERWORK AND IMPROVING PROGRAM ADMINISTRATION.

(a) DEFINITION OF PROGRAM.—In this section, the term “program” means 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).

(b) ESTABLISHMENT.—The Secretary, in conjunction with States and participating institutions, shall continue to examine the feasibility of reducing unnecessary or duplicative paperwork resulting from regulations and recordkeeping requirements for State agencies, institutions, family and group day care homes, and sponsored centers participating in the program.

(c) DUTIES.—At a minimum, the examination shall include—

(1) review and evaluation of the recommendations, guidance, and regulatory priorities developed and issued to comply with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108-265); and

(2) examination of additional paperwork and administrative requirements that have been established since February 23, 2007, that could be reduced or simplified.

(d) ADDITIONAL DUTIES.—The Secretary, in conjunction with States and institutions participating in the program, may also examine any aspect of administration of the program.

(e) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the actions that have been taken to carry out this section, including—

(1) actions taken to address administrative and paperwork burdens identified as a result of compliance with section 119(i) of the Child Nutrition and WIC Reauthorization Act of 2004 (42 U.S.C. 1766 note; Public Law 108-265);

(2) administrative and paperwork burdens identified as a result of compliance with section 119(i) of that Act for which no regulatory action or policy guidance has been taken;

(3) additional steps that the Secretary is taking or plans to take to address any administrative and paperwork burdens identified under subsection (c)(2) and paragraph (2), including—

(A) new or updated regulations, policy, guidance, or technical assistance; and

(B) a timeframe for the completion of those steps; and

(4) recommendations to Congress for modifications to existing statutory authorities needed to address identified administrative and paperwork burdens.

SEC. 337. STUDY RELATING TO THE CHILD AND ADULT CARE FOOD PROGRAM.

(a) STUDY.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall carry out a study of States participating in an afterschool supper program under the child and adult care food program established under section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress, and make available on the website of the Food and Nutrition Service, a report that describes—

(1) best practices of States in soliciting sponsors for an afterschool supper program described in subsection (a); and

(2) any Federal or State laws or requirements that may be a barrier to participation in the program.

Subtitle D—Special Supplemental Nutrition Program for Women, Infants, and Children

SEC. 351. SHARING OF MATERIALS WITH OTHER PROGRAMS.

Section 17(e)(3) of the Child Nutrition Act (42 U.S.C. 1786(e)(3)) is amended by striking subparagraph (B) and inserting the following:

“(B) SHARING OF MATERIALS WITH OTHER PROGRAMS.—
“(i) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program established under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) at no cost to that program.

“(ii) CHILD AND ADULT CARE FOOD PROGRAM.—A State agency may allow the local agencies or clinics under the State agency to share nutrition educational materials with institutions participating in the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) at no cost to that program, if a written materials sharing agreement exists between the relevant agencies.”

SEC. 352. WIC PROGRAM MANAGEMENT.

(a) WIC EVALUATION FUNDS.—Section 17(g)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(5)) is amended by striking “\$5,000,000” and inserting “\$15,000,000”.

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

“(K) REPORTING.—Effective beginning October 1, 2011, each State agency shall report rebate payments received from manufacturers in the month in which the payments are received, rather than in the month in which the payments were earned.”

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

(1) in paragraph (8)(A)(iv)(III), by striking “Any” and inserting “Except as provided in paragraph (9)(B)(i)(II), any”; and

(2) by striking paragraph (9) and inserting the following:

“(9) COST CONTAINMENT MEASURE.—

“(A) DEFINITION OF COST CONTAINMENT MEASURE.—In this subsection, the term ‘cost containment measure’ means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in the approved State plan of operation and administration of the State agency.

Effective date.

“(B) SOLICITATION AND REBATE BILLING REQUIREMENTS.—Any State agency instituting a cost containment measure for any authorized food, including infant formula, shall—

“(i) in the bid solicitation—

“(I) identify the composition of State alliances for the purposes of a cost containment measure; and

“(II) verify that no additional States shall be added to the State alliance between the date of the bid solicitation and the end of the contract;

“(ii) have a system to ensure that rebate invoices under competitive bidding provide a reasonable estimate or an actual count of the number of units sold to participants in the program under this section;

“(iii) open and read aloud all bids at a public proceeding on the day on which the bids are due; and

“(iv) unless otherwise exempted by the Secretary, provide a minimum of 30 days between the publication of the solicitation and the date on which the bids are due.

“(C) STATE ALLIANCES FOR AUTHORIZED FOODS OTHER THAN INFANT FORMULA.—Program requirements relating to the size of State alliances under paragraph (8)(A)(iv) shall apply to cost containment measures established for any authorized food under this section.”

(d) ELECTRONIC BENEFIT TRANSFER.—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) ELECTRONIC BENEFIT TRANSFER.—

“(A) DEFINITIONS.—In this paragraph:

“(i) ELECTRONIC BENEFIT TRANSFER.—The term ‘electronic benefit transfer’ means a food delivery system that provides benefits using a card or other access device approved by the Secretary that permits electronic access to program benefits.

“(ii) PROGRAM.—The term ‘program’ means the special supplemental nutrition program established by this section.

“(B) REQUIREMENTS.—

“(i) IN GENERAL.—Not later than October 1, 2020, each State agency shall be required to implement electronic benefit transfer systems throughout the State, unless the Secretary grants an exemption under subparagraph (C) for a State agency that is facing unusual barriers to implement an electronic benefit transfer system.

Deadline.

“(ii) RESPONSIBILITY.—The State agency shall be responsible for the coordination and management of the electronic benefit transfer system of the agency.

“(C) EXEMPTIONS.—

“(i) IN GENERAL.—To be eligible for an exemption from the statewide implementation requirements of subparagraph (B)(i), a State agency shall demonstrate to the satisfaction of the Secretary 1 or more of the following:

Applicability.

“(I) There are unusual technological barriers to implementation.

“(II) Operational costs are not affordable within the nutrition services and administration grant of the State agency.

“(III) It is in the best interest of the program to grant the exemption.

“(ii) SPECIFIC DATE.—A State agency requesting an exemption under clause (i) shall specify a date by which the State agency anticipates statewide implementation described in subparagraph (B)(i).

“(D) REPORTING.—

“(i) IN GENERAL.—Each State agency shall submit to the Secretary electronic benefit transfer project status reports to demonstrate the progress of the State toward statewide implementation.

“(ii) CONSULTATION.—If a State agency plans to incorporate additional programs in the electronic benefit transfer system of the State, the State agency shall consult with the State agency officials responsible for administering the programs prior to submitting the planning documents to the Secretary for approval.

“(iii) REQUIREMENTS.—At a minimum, a status report submitted under clause (i) shall contain—

“(I) an annual outline of the electronic benefit transfer implementation goals and objectives of the State;

“(II) appropriate updates in accordance with approval requirements for active electronic benefit transfer State agencies; and

“(III) such other information as the Secretary may require.

“(E) IMPOSITION OF COSTS ON VENDORS.—

“(i) COST PROHIBITION.—Except as otherwise provided in this paragraph, the Secretary may not impose, or allow a State agency to impose, the costs of any equipment or system required for electronic benefit transfers on any authorized vendor in order to transact electronic benefit transfers if the vendor equipment or system is used solely to support the program.

“(ii) COST-SHARING.—The Secretary shall establish criteria for cost-sharing by State agencies and vendors of costs associated with any equipment or system that is not solely dedicated to transacting electronic benefit transfers for the program.

“(iii) FEES.—

“(I) IN GENERAL.—A vendor that elects to accept electronic benefit transfers using multi-function equipment shall pay commercial transaction processing costs and fees imposed by a third-party processor that the vendor elects to use to connect to the electronic benefit transfer system of the State.

“(II) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this paragraph.

“(iv) STATEWIDE OPERATIONS.—After completion of statewide expansion of a system for transaction of electronic benefit transfers—

“(I) a State agency may not be required to incur ongoing maintenance costs for vendors using multifunction systems and equipment to support electronic benefit transfers; and

“(II) any retail store in the State that applies for authorization to become a program vendor shall be required to demonstrate the capability to accept program benefits electronically prior to authorization, unless the State agency determines that the vendor is necessary for participant access.

“(F) MINIMUM LANE COVERAGE.—

Guidelines.

“(i) IN GENERAL.—The Secretary shall establish minimum lane coverage guidelines for vendor equipment and systems used to support electronic benefit transfers.

“(ii) PROVISION OF EQUIPMENT.—If a vendor does not elect to accept electronic benefit transfers using its own multifunction equipment, the State agency shall provide such equipment as is necessary to solely support the program to meet the established minimum lane coverage guidelines.

“(G) TECHNICAL STANDARDS.—The Secretary shall—

“(i) establish technical standards and operating rules for electronic benefit transfer systems; and

“(ii) require each State agency, contractor, and authorized vendor participating in the program to demonstrate compliance with the technical standards and operating rules.”.

(e) UNIVERSAL PRODUCT CODES DATABASE.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by striking paragraph (13) and inserting the following:

“(13) UNIVERSAL PRODUCT CODES DATABASE.—

Deadline.

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Healthy, Hunger-Free Kids Act of 2010, the Secretary shall establish a national universal product code database to be used by all State agencies in carrying out the requirements of paragraph (12).

“(B) FUNDING.—

“(i) IN GENERAL.—On October 1, 2010, and on each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this paragraph \$1,000,000, to remain available until expended.

Effective dates.

“(ii) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

“(iii) USE OF FUNDS.—The Secretary shall use the funds provided under clause (i) for development, hosting, hardware and software configuration, and support of the database required under subparagraph (A).”.

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

“(8) TEMPORARY SPENDING AUTHORITY.—During each of fiscal years 2012 and 2013, the Secretary may authorize a State agency to expend more than the amount otherwise authorized under paragraph (3)(C) for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that—

“(A) there has been a significant reduction in reported infant formula cost containment savings for the preceding fiscal year due to the implementation of subsection (h)(8)(K); and

“(B) the reduction would affect the ability of the State agency to serve all eligible participants.”.

Subtitle E—Miscellaneous

SEC. 361. FULL USE OF FEDERAL FUNDS.

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

“(b) AGREEMENTS.—

“(1) IN GENERAL.—The Secretary shall incorporate, in the agreement of the Secretary with the State agencies administering programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the express requirements with respect to the operation of the programs to the extent applicable and such other provisions as in the opinion of the Secretary are reasonably necessary or appropriate to effectuate the purposes of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(2) EXPECTATIONS FOR USE OF FUNDS.—Agreements described in paragraph (1) shall include a provision that—

“(A) supports full use of Federal funds provided to State agencies for the administration of programs authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

“(B) excludes the Federal funds from State budget restrictions or limitations including, at a minimum—

- “(i) hiring freezes;
- “(ii) work furloughs; and
- “(iii) travel restrictions.”.

SEC. 362. DISQUALIFIED SCHOOLS, INSTITUTIONS, AND INDIVIDUALS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) (as amended by section 206) is amended by adding at the end the following:

“(r) DISQUALIFIED SCHOOLS, INSTITUTIONS, AND INDIVIDUALS.—

Any school, institution, service institution, facility, or individual that has been terminated from any program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and is on a list of disqualified institutions and individuals under section 13 or section 17(d)(5)(E) of this Act may not be approved to participate in or administer any program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).”.

TITLE IV—MISCELLANEOUS

Subtitle A—Reauthorization of Expiring Provisions

PART I—RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

SEC. 401. COMMODITY SUPPORT.

Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking “September 30, 2010” and inserting “September 30, 2020”.

SEC. 402. FOOD SAFETY AUDITS AND REPORTS BY STATES.

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

- (1) in paragraph (3), by striking “2006 through 2010” and inserting “2011 through 2015”; and
- (2) in paragraph (4), by striking “2006 through 2010” and inserting “2011 through 2015”.

SEC. 403. PROCUREMENT TRAINING.

Section 12(m)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(m)(4)) is amended by striking “2005 through 2009” and inserting “2010 through 2015”.

SEC. 404. AUTHORIZATION OF THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Subsection (r) of section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) (as redesignated by section 322(1)) is amended by striking “September 30, 2009” and inserting “September 30, 2015”.

SEC. 405. YEAR-ROUND SERVICES FOR ELIGIBLE ENTITIES.

Subsection (i)(5) of section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) (as redesignated by section 243(1)) is amended by striking “2005 through 2010” and inserting “2011 through 2015”.

SEC. 406. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

Section 21(e) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(e)) is amended—

- (1) by striking “(e) AUTHORIZATION OF APPROPRIATIONS” and all that follows through the end of paragraph (2)(A) and inserting the following:

“(e) FOOD SERVICE MANAGEMENT INSTITUTE.—

“(1) FUNDING.—

“(A) IN GENERAL.—In addition to any amounts otherwise made available for fiscal year 2011, on October 1, 2010, and each October 1 thereafter, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out subsection (a)(2) \$5,000,000, to remain available until expended.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out subsection (a)(2) the funds transferred under subparagraph (A), without further appropriation.”;

(2) by redesignating subparagraphs (B) and (C) as paragraphs (2) and (3), respectively, and indenting appropriately;

(3) in paragraph (2) (as so redesignated), by striking “subparagraph (A)” each place it appears and inserting “paragraph (1)”; and

(4) in paragraph (3) (as so redesignated), by striking “subparagraphs (A) and (B)” and inserting “paragraphs (1) and (2)”.

SEC. 407. FEDERAL ADMINISTRATIVE SUPPORT.

Section 21(g)(1)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b-1(g)(1)(A)) is amended—

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

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

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

“(iii) on October 1, 2010, and every October 1 thereafter, \$4,000,000.”.

SEC. 408. 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 “\$6,000,000 for each of fiscal years 2004 through 2009” and inserting “\$10,000,000 for each of fiscal years 2011 through 2015”.

SEC. 409. 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 by striking “2005 through 2010” and inserting “2010 through 2015”.

PART II—CHILD NUTRITION ACT OF 1966

SEC. 421. TECHNOLOGY INFRASTRUCTURE IMPROVEMENT.

Section 7(i)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)(4)) is amended by striking “2005 through 2009” and inserting “2010 through 2015”.

SEC. 422. STATE ADMINISTRATIVE EXPENSES.

Section 7(j) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(j)) is amended by striking “October 1, 2009” and inserting “October 1, 2015”.

SEC. 423. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17(g)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)(A)) is amended by striking “each of fiscal years 2004 through 2009” and inserting “each of fiscal years 2010 through 2015”.

SEC. 424. FARMERS MARKET NUTRITION PROGRAM.

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

“(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection

such sums as are necessary for each of fiscal years 2010 through 2015.”.

Subtitle B—Technical Amendments

SEC. 441. TECHNICAL AMENDMENTS.

(a) RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT.—
(1) NUTRITIONAL REQUIREMENTS.—Section 9(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)) is amended—
 (A) by striking “(f)” and all that follows through the end of paragraph (1) and inserting the following:
 “(f) NUTRITIONAL REQUIREMENTS.—
 “(1) IN GENERAL.—Schools that are participating in the school lunch program or school breakfast program shall serve lunches and breakfasts that—
 “(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and
 “(B) consider the nutrient needs of children who may be at risk for inadequate food intake and food insecurity.”;
 (B) by striking paragraph (2); and
 (C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively.
 (2) ROUNDING RULES FOR COMPUTATION OF ADJUSTMENT.—Section 11(a)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended by striking “ROUNDING.” and all that follows through “On July” in subclause (II) and inserting “ROUNDING.—On July”.
 (3) INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.—Section 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a) is amended by striking subsection (f).
 (4) 1995 REGULATIONS TO IMPLEMENT DIETARY GUIDELINES.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by striking subsection (k).
 (5) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—
 (A) IN GENERAL.—Section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761) is amended by striking the section heading and all that follows through the end of subsection (a)(1) and inserting the following:

“SEC. 13. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

“(a) IN GENERAL.—
 “(1) DEFINITIONS.—In this section:
 “(A) AREA IN WHICH POOR ECONOMIC CONDITIONS EXIST.—
 “(i) IN GENERAL.—Subject to clause (ii), the term ‘area in which poor economic conditions exist’, as the term relates to an area in which a program food service site is located, means—
 “(I) the attendance area of a school in which at least 50 percent of the enrolled children have been determined eligible for free or reduced price

school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(II) a geographic area, as defined by the Secretary based on the most recent census data available, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(III) an area—

“(aa) for which the program food service site documents the eligibility of enrolled children through the collection of income eligibility statements from the families of enrolled children or other means; and

“(bb) at least 50 percent of the children enrolled at the program food service site meet the income standards for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(IV) a geographic area, as defined by the Secretary based on information provided from a department of welfare or zoning commission, in which at least 50 percent of the children residing in that area are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

“(V) an area for which the program food service site demonstrates through other means approved by the Secretary that at least 50 percent of the children enrolled at the program food service site are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(ii) DURATION OF DETERMINATION.—A determination that an area is an ‘area in which poor economic conditions exist’ under clause (i) shall be in effect for—

“(I) in the case of an area described in clause (i)(I), 5 years;

“(II) in the case of an area described in clause (i)(II), until more recent census data are available;

“(III) in the case of an area described in clause (i)(III), 1 year; and

“(IV) in the case of an area described in subclause (IV) or (V) of clause (i), a period of time to be determined by the Secretary, but not less than 1 year.

“(B) CHILDREN.—The term ‘children’ means—

“(i) individuals who are 18 years of age and under; and

“(ii) individuals who are older than 18 years of age who are—

“(I) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations promulgated by the Secretary, to have a disability, and

“(II) participating in a public or nonprofit private school program established for individuals who have a disability.

“(C) PROGRAM.—The term ‘program’ means the summer food service program for children authorized by this section.

“(D) SERVICE INSTITUTION.—The term ‘service institution’ means a public or private nonprofit school food authority, local, municipal, or county government, public or private nonprofit higher education institution participating in the National Youth Sports Program, or residential public or private nonprofit summer camp, that develops special summer or school vacation programs providing food service similar to food service made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(E) STATE.—The term ‘State’ means—

“(i) each of the several States of the United States;

“(ii) the District of Columbia;

“(iii) the Commonwealth of Puerto Rico;

“(iv) Guam;

“(v) American Samoa;

“(vi) the Commonwealth of the Northern Mariana Islands; and

“(vii) the United States Virgin Islands.”.

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

(i) in paragraph (2)—

(I) by striking “(2) To the maximum extent feasible,” and inserting the following:

“(2) PROGRAM AUTHORIZATION.—

“(A) IN GENERAL.—The Secretary may carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain nonprofit summer food service programs for children in service institutions.

“(B) PREPARATION OF FOOD.—

“(i) IN GENERAL.—To the maximum extent feasible,”; and

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

“(ii) INFORMATION AND TECHNICAL ASSISTANCE.—The Secretary shall”;

(ii) in paragraph (3)—

(I) by striking “(3) Eligible service institutions” and inserting the following:

“(3) ELIGIBLE SERVICE INSTITUTIONS.—Eligible service institutions”; and

(II) by indenting subparagraphs (A) through (D) appropriately;

(iii) in paragraph (4)—

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

(II) by striking “(4) The following” and inserting the following:

“(4) PRIORITY.—

“(A) IN GENERAL.—The following”; and
 (III) by striking “The Secretary and the States” and inserting the following:

“(B) RURAL AREAS.—The Secretary and the States”;
 (iv) by striking “(5) Camps” and inserting the following:

“(5) CAMPS.—Camps”; and

(v) by striking “(6) Service institutions” and inserting the following:

“(6) GOVERNMENT INSTITUTIONS.—Service institutions”.

(6) REPORT ON IMPACT OF PROCEDURES TO SECURE STATE SCHOOL INPUT ON COMMODITY SELECTION.—Section 14(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(d)) is amended by striking the matter that follows paragraph (5).

(7) RURAL AREA DAY CARE HOME PILOT PROGRAM.—Section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) is amended by striking subsection (p).

(8) CHILD AND ADULT CARE FOOD PROGRAM TRAINING AND TECHNICAL ASSISTANCE.—Section 17(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(q)) is amended by striking paragraph (3).

(9) PILOT PROJECT FOR PRIVATE NONPROFIT STATE AGENCIES.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (a).

(10) MEAL COUNTING AND APPLICATION PILOT PROGRAMS.—Section 18(c) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(c)) is amended—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as so redesignated), by striking “In addition to the pilot projects described in this subsection, the Secretary may conduct other” and inserting “The Secretary may conduct”.

(11) MILK FORTIFICATION PILOT.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (d).

(12) FREE BREAKFAST PILOT PROJECT.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (e).

(13) 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 striking subsection (f).

(14) ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.—Section 27 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769h) is repealed.

(b) CHILD NUTRITION ACT OF 1966.—

(1) STATE ADMINISTRATIVE EXPENSES MINIMUM LEVELS FOR 2005 THROUGH 2007.—Section 7(a)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(1)) is amended—

(A) in subparagraph (A), by striking “Except as provided in subparagraph (B), each fiscal year” and inserting “Each fiscal year”;

Repeal.

(B) by striking subparagraph (B); and
(C) by redesignating subparagraph (C) as subparagraph (B).

(2) FRUIT AND VEGETABLE GRANTS UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—Section 17(f)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(11)) is amended—

(A) by striking subparagraph (C); and
(B) by redesignating subparagraph (D) as subparagraph (C).

SEC. 442. USE OF UNSPENT FUTURE FUNDS FROM THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Section 101(a) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 120) is amended—

(1) in paragraph (1), by inserting before the period at the end “, if the value of the benefits and block grants would be greater under that calculation than in the absence of this subsection”; and

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

“(2) TERMINATION.—The authority provided by this subsection shall terminate after October 31, 2013.”.

SEC. 443. EQUIPMENT ASSISTANCE TECHNICAL CORRECTION.

Grants.

(a) IN GENERAL.—Notwithstanding any other provision of law, school food authorities that received a grant for equipment assistance under the grant program carried out under the heading “FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS” in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 119) shall be eligible to receive a grant under section 749(j) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111-80; 123 Stat. 2134).

(b) USE OF GRANT.—A school food authority receiving a grant for equipment assistance described in subsection (a) may use the grant only to make equipment available to schools that did not previously receive equipment from a grant under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115).

SEC. 444. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

42 USC 1751
note.

SEC. 445. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or any of the amendments made by this Act, this Act and the amendments made by this Act take effect on October 1, 2010.

Approved December 13, 2010.

LEGISLATIVE HISTORY—S. 3307:

SENATE REPORTS: No. 111-178 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 156 (2010):

Aug. 5, considered and passed Senate.

Dec. 1, 2, considered and passed House.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2010):
Dec. 13, Presidential remarks.

