

**THE CHILD NUTRITION AND WIC REAUTHORIZATION ACT OF 2004  
PUBLIC LAW 108-265**

**SECTION-BY-SECTION DESCRIPTION**

**Title I.— Amendments to the Richard B. Russell National School Lunch Act (NSLA)**

**Section 101. Nutrition Promotion**

*Current law:* No provisions.

*Section 101:* Subject to the availability of funds, this section requires the Secretary to make payments to State agencies to promote nutrition in child nutrition food service programs.

For each fiscal year, the total amount made available may not be more than ½ cent times the number of lunches reimbursed (subsidized) through the school lunch program, the child and adult care food program, and the summer food service program. At current lunch service rates, this would total approximately \$34 million.

Each State agency would be allocated either a uniform base amount set by the Secretary, or if higher, an amount based on its proportion of the total number of lunches reimbursed through the school lunch program, the child and adult care food program, and the summer food service program. However, the Secretary would be required to reduce proportional allocations to State agencies to the extent necessary to ensure that the total allocated is not greater than the amount appropriated for the nutrition promotion program.

Most funding received by State agencies would be disbursed to school food authorities and other child nutrition food service institutions to disseminate and use nutrition messages and materials developed by the Secretary. But State agencies would be allowed to (1) reserve up to 5% of their allocation (or, in the case of small State agencies, a higher percentage set by the Secretary) to support dissemination and use of nutrition messages and materials developed by the Secretary and (2) retain an additional portion of their allocation (set by the Secretary) and use the funds to disseminate and use nutrition messages and materials developed by the Secretary through the summer food service program.

Documentation of State agency activities would be required, and the Secretary would be permitted to reallocate unused funds.

Appropriations for the nutrition promotion program are authorized at “such sums as necessary” to carry out the program, to remain available until expended.

## Section 102. Nutrition Requirements

**Current law:** Lunches served by schools participating in the school lunch program *must* offer:

- fluid milk; and
- a variety of fluid milk consistent with prior year preferences, unless the prior year preference for any particular variety of fluid milk is less than 1% of the total milk consumed at the school.

[Sec. 9(a)(2) of the Richard B. Russell National School Lunch Act (NSLA)]

**Notes:** By regulation, substitutes for fluid milk may be offered by schools. But they are only considered part of a reimbursable (subsidized) school meal if they are provided under the following rules. Schools *must* make substitutions in response to a request from a licensed physician for students with a “disability” that restricts their diet. Schools *may* make substitutions for students with “medical or other special dietary needs” when requested by a recognized medical authority. Under the terms of section 4(e) of the Child Nutrition Act of 1966, the milk and milk substitute rules of the school lunch program also apply to the school breakfast program. By policy, they also apply to other child nutrition food service programs.

**Section 102:** This section replaces current law provisions and establishes rules that, in most matters, track current law and regulations. It stipulates that lunches served by schools participating in the school lunch program:

- *must* offer fluid milk in a variety of fat contents;
- *may* offer flavored and unflavored fluid milk and lactose-free fluid milk; and
- *must* provide a fluid milk substitute for students whose “disability” restricts their diet on the receipt of a written statement from a licensed physician that identifies the “disability” and specifies the substitute.

In addition, schools *may* substitute a non-dairy beverage that is nutritionally equivalent to fluid milk and meets nutritional standards established by the Secretary for students who cannot consume fluid milk because of a “medical or other special dietary need” (other than a “disability”). The standards (among other requirements set by the Secretary) must include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow’s milk.

The permissive substitutions noted immediately above may be made if (1) the school notifies the State agency that the school is implementing a permitted variation and (2) the substitution is requested by written statement of a medical authority *or the student’s parent or legal guardian* that identifies the “medical or other special dietary need” that restricts the student’s diet. A school is not required to provide non-dairy beverages other than those the school has identified as acceptable substitutes. Expenses incurred in providing substitutions for fluid milk that are in excess of expenses covered by program reimbursements must be paid by the school district.

Finally, this section bars schools and institutions participating in the school lunch program from restricting, directly or indirectly, the sale or marketing of “fluid milk products” by the school (or a person approved by the school) at any time or place on school premises or at any school-sponsored event.

### **Section 103. Provision of Information.**

***Current law:*** No provisions.

***Section 103:*** Prior to the beginning of the 2004-2005 school year, this section requires the Secretary to issue guidance to States and school food authorities to increase the consumption of foods and food ingredients that are recommended for increased serving consumption in the most recent Dietary Guidelines for Americans.

Not later than June 2006, the Secretary is required to issue regulations that reflect specific recommendations (expressed as serving recommendations) for increased consumption of foods and food ingredients in school nutrition programs based on the most recent Dietary Guidelines for Americans.

### **Section 104. Direct Certification.**

#### ***Applications and descriptive materials***

***Current law:*** Applications for free and reduced-price school meals and descriptive materials about school meal programs must be distributed to parents and guardians.

[Sec. 9(b) of the NSLA]

***Section 104:*** This section requires that descriptive materials distributed to parents and guardians contain a notification that (1) participants in the special supplemental nutrition program for women, infants, and children (the WIC program), the food stamp program, the food distribution program on Indian reservations, and State TANF programs may be eligible for free or reduced-price school meals and (2) documentation may be requested for verification of eligibility for free or reduced-price meals.

***“Direct certification”***

***Current law:*** A school food authority *may* “directly certify” any child as eligible for free or reduced-price school meals, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of the child’s status as a member of a food stamp household or a family receiving TANF.

[Sec. 9(b)(2)(C)(ii) of the NSLA]

***Section 104:*** This section *requires* school food authorities to “directly certify” as eligible for free school meals, without further application, any child who is a member of a *food stamp household*. In order to carry out this rule, it also *requires* each State agency to enter into an agreement with the State food stamp agency to establish procedures under which children who are members of food stamp households will be “directly certified” and amends the Food Stamp Act to require State food stamp agencies to enter into the required agreements and cooperate in carrying out “direct certification.”

The “direct certification” requirements are phased in. For school year 2006-2007, they apply to school districts with an enrollment of 25,000 students or more in the preceding year. For school year 2007-2008, they apply to school districts with an enrollment of 10,000 students or more in the preceding year. For subsequent school years, they apply nationwide. Until mandatory “direct certification” for children in food stamp households is fully implemented, the existing permissive authority is retained.

In addition, this section adds (to existing authority with regard to children in TANF families) *permissive* authority for school food authorities to “directly certify” homeless children, children served by programs under the Runaway and Homeless Youth Act, and migrant children.

***Funding***

***Current law:*** No provisions.

***Section 104:*** This section also provides the Secretary mandatory funding (\$9 million to be available October 1, 2005 and remain available until spent) to assist States in carrying out the provisions of this section (as to applications and descriptive materials and “direct certification”) and verification activities (see section 105).

### *Communications*

**Current law:** No provisions.

**Section 104:** This section requires that any communications with households for verification or eligibility determination purposes be in an understandable and uniform format and, to the maximum extent practicable, in a language that parents and guardians can understand. It also explicitly permits applications and descriptive material to be made available electronically via the Internet.

### *Miscellaneous and conforming provisions*

**Section 104** further (1) limits information that may be provided to third-party contractors used in verification “follow-up” activities (see section 105), (2) allows the disclosure of information to State Medicaid agencies for “direct verification” purposes (see section 105), (3) requires State food stamp agencies to cooperate in verification activities (see section 105), and (4) makes various conforming amendments to the NSLA.

## **Section 105. Household Applications**

### *Eligibility determinations*

**Current law:** Eligibility determinations for free or reduced-price school meals (other than cases where “direct certification” is used) are to be made on the basis of a complete application executed by an adult member of the household.

[Sec. 9(b)(2)(C) of the NSLA]

**Note:** School food authorities may request separate applications for each child in a household. By policy, school food authorities may assist in completing an application.

**Section 105:** This section requires that eligibility determinations for free or reduced-price school meals (other than cases where “direct certification” is used) are to be made on the basis of a complete application executed by an adult member of the household *or in accordance with*

*guidance issued by the Secretary.* It also stipulates that the household application must identify the names of each child in the household for whom free or reduced-price meal benefits are being requested and *bars State agencies and local educational authorities from requesting separate applications for each child in cases where the children attend schools under the same local educational authority.* It further explicitly permits applications with *electronic signatures* if the application is submitted electronically and the application filing system meets confidentiality standards set by the Secretary.

### ***Verification of a sample of applications***

***Current law:*** By regulation, local school food authorities must verify the eligibility of children in a sample of approved free and reduced-price school meal applications. The sample size selected must be either (1) the lesser of 3% of, or 3,000, approved applications selected at random or (2) the lesser of 1% of all applications selected from “error-prone” applications or 1,000 “error-prone” applications, plus the lesser of ½ of 1% of, or 500, approved applications that provided a case number (in lieu of income information) showing participation in the food stamp program, a State TANF program, or the food distribution program on Indian reservations.

“Error-prone” applications are those that indicate monthly income within \$100 (or annual income within \$1,200) of the income eligibility limits for free or reduced-price school meals.

[Regulations under Sec. 9(b) of the NSLA]

***Section 105:*** Effective July 2005, this section requires in law that local educational authorities verify the eligibility of children in a sample of approved free and reduced-price school meal applications.

The basic sample size would be the lesser of 3% of all approved applications (as of October 1 of the school year) selected from “error-prone” applications or 3,000 approved error-prone applications. “Error-prone” applications would be those defined as such under current regulations or, alternately, under criteria set by the Secretary.

However, local educational agencies could choose 1 of 2 *alternate sample sizes* (effectively the options established in current regulations, noted above) if:

- their “nonresponse rate” for the preceding school year is less than 20%, or

– they are a local educational agency with more than 20,000 children approved by application as eligible for free or reduced-price school meals as of October 1, and their “nonresponse rate” for the preceding school year is at least 10% below the “nonresponse rate” for the second preceding school year.

A “nonresponse rate” is the percentage of approved household applications for which verification information has not been obtained by an SFA.

**Note:** Second-preceding-school-year “nonresponse rates” may not be available for all schools for the 2005-2006 school year. As a result, this section also provides that, for the 2005-2006 school year, large local educational agencies (20,000+ approved students) also could qualify to use one 1 of the 2 alternate sample sizes (the options in current regulations) if they attempt to verify all approved household applications through the use of “direct verification” – i.e., use of public agency records from at least 2 programs (see later description of “direct verification”).

In cases in which there are not enough “error-prone” applications to comply with the options, local educational agencies would be required to randomly select additional applications to fulfill the percentage or number requirement.

### ***Preliminary reviews of approved applications***

**Current law:** No provisions.

**Section 105:** Prior to conducting any other verification activity for approved applications, this section requires local educational agencies to ensure that the initial eligibility determination for each approved household application is reviewed for accuracy by an individual other than the individual making the initial determination (unless otherwise determined by the Secretary). This requirement must be waived if the local educational agency is using a “technology-based solution” that demonstrates a high level of accuracy in processing initial eligibility determinations.

If the initial determination is found to be incorrect, the local educational agency must (1) correct the household’s eligibility status, (2) notify the household of the change, and (3) if the review indicates the household is not eligible for either free or reduced-price school meals, notify the household of the reason and that the household may reapply with income documentation. If a preliminary review indicates that a household is eligible the local educational agency must proceed to verify the application.

***“Direct verification”***

***Current law:*** No provisions.

***Section 105:*** When verifying eligibility for free or reduced-price school meals, this section permits local educational agencies to first use “direct verification” – i.e., obtain and use income and program participation information from public agencies administering certain programs, in accordance with criteria established by the Secretary and to the extent they have comparable income eligibility limits.

The programs are: the food stamp program, the food distribution program on Indian reservations, State TANF programs, State Medicaid programs, or similar income-tested programs (or other sources of information) as determined by the Secretary. ***Note:*** In order to facilitate “direct verification” through the Medicaid program, this section amends Medicaid law to allow States to exchange information necessary to verify eligibility for free or reduced-price school meals.

This section also requires the Secretary to evaluate (1) the effectiveness of “direct verification” in decreasing the portion of the verification sample that must be verified by contacting households, while ensuring that adequate verification information is obtained, and (2) the feasibility of “direct verification.” If the Secretary finds that “direct verification” significantly decreases the portion of the sample that must be verified by means of directly communicating with families, while ensuring that adequate information is obtained, and that it can be conducted by most State agencies and local educational agencies, the Secretary may require State agencies or local educational agencies to implement “direct verification” through 1 or more of the programs noted above – unless the State agency or local educational agency demonstrates that it lacks the capacity to conduct “direct verification” or is unable to implement it.

This section further provides mandatory funding (\$2 million to be available October 1, 2005 and remain available until spent) for the evaluation of “direct verification.”

***Individual household verification, “follow-up” activities***

***Current law:*** No provisions.

***Section 105:*** If an approved household application is not verified through “direct verification,” this section requires local educational agencies to provide the household a written notice that its application has been selected for verification and that it is required to submit information to

confirm eligibility for free or reduced-price school meals. The notice is to include a toll-free phone number that parents or legal guardians may use for assistance in the verification process.

If the household does not respond to a verification request for information, the local educational agency is required to make at least 1 additional attempt to obtain the necessary verification from the household.

This section also permits local educational agencies to contract with a third party to assist the agency in carrying out “follow-up” activities to make additional attempts to obtain necessary verification – under standards established by the Secretary.

### ***Verification deadline***

***Current law:*** By regulation, verification activities must be completed by December 15<sup>th</sup> of each school year.

***Section 105:*** This section requires local educational agencies to complete all verification activities (including “follow-up” activities) by November 15 of each school year; States may extend this deadline to December 15 under criteria set by the Secretary. It also requires local educational agencies to make appropriate modifications to eligibility determinations based on their verification activities.

### ***Changing the verification sample***

***Current law:*** No provisions.

***Section 105:*** This section allows the Secretary to alter required verification sample sizes, sample selection criteria, and the November 15 verification activity deadline – in the case of a natural disaster, civil disorder, strike, or other local condition. On individual case review, it also allows local educational agencies to “decline” to verify up to 5% of their verification sample and replace the declined applications with other approved applications.

### ***Feasibility study of the use of computer technology***

***Current law:*** No provisions.

***Section 105:*** This section requires the Secretary to conduct a study of the feasibility of using computer technology (including “data mining”) to reduce: overcertification errors; waste, fraud, and abuse in the application process; and errors, waste, fraud, and abuse in other nutrition programs. A report, including a plan that spells out how using computer technology could be implemented, is due not later than December 2004.

### **Section 106. Duration of Eligibility for Free or Reduced Price Meals**

***Current law:*** No provisions. ***Note:*** Current policies direct that, when a family’s income changes in such a way as to make them ineligible for free or reduced-price school meals, they are to report the change, and the local school food authority is to adjust their status.

***Section 106:*** This section effectively directs that eligibility for free or reduced-price school meals remains valid for 1 year for most students. Eligibility would remain in effect beginning with approval for the current school year and ending on a date during the subsequent school year determined by the Secretary. An exception is included for cases where verification activities indicate ineligibility.

### **Section 107. Runaway, Homeless, and Migrant Youth**

#### ***Categorical (automatic) eligibility***

***Current law:*** By administrative guidance, homeless children generally are automatically eligible for free school meals. There are no explicit eligibility provisions for runaway youth or migrant children. Also by administrative guidance, school officials may, for purposes of granting eligibility for free school meals, accept documentation that children are homeless from the local educational liaison for the homeless or directors of homeless shelters where the children reside.

**Section 107:** This section establishes in law the automatic eligibility of homeless children for free school meals. It also makes youth served by grant programs under the Runaway and Homeless Youth Act and migrant children automatically eligible for free school meals. For purposes of granting automatic eligibility to homeless children, runaway youth, and migrant children, this section also requires documentation that they are homeless, served by a runaway youth program, or a migrant child.

### **Section 108. Certification by Local Educational Agencies**

**Current law:** By regulation and practice, local “school food authorities” certify and verify eligibility for free and reduced price school meals.

**Section 108:** This section – and other amendments relating to certifying and verifying eligibility for free and reduced price school meals – stipulates that “local educational agencies” are effectively responsible for certification and verification activities. “Local educational agencies” are defined as under the Elementary and Secondary Education Act, or, in the case of private nonprofit schools, an appropriate entity determined by the Secretary.

### **Section 109. Exclusion of Military Housing Allowances**

**Current law:** In cases where military families live in “privatized” housing, their housing allowances are *not* counted as income when determining eligibility for free or reduced-price school meals. This rule was to expire June 30, 2004.

[Sec. 9(b)(7) of the NSLA]

**Section 109:** This section makes *permanent* the rule disregarding housing allowances for “privatized” housing.

### **Section 110. Waiver of Requirement for Weighted Averages for Nutrient Analysis**

**Current law:** School food authorities must use “weighted averages” for their nutrient analysis of their school meal programs. Under this method, the nutrient content of school meals is measured (“weighted”) according to food items chosen by students. Compliance with this requirement was waived until September 30, 2003.

[Sec. 9(f)(5) of the NSLA]

**Section 110:** This section re-instates the waiver of the requirement to use “weighted averages” for nutrient analysis – through September 30, 2009.

### **Section 111. Food Safety**

**Current law:** Schools participating in the school lunch and breakfast programs must, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections. Schools are not required to comply with this requirement if a food safety inspection of the school is required by a State or local governmental agency responsible for inspections.

[Sec. 9(h) of the NSLA]

**Section 111:** This section increases the number of required food safety inspections to at least twice a year and requires that reports on the most recent inspection be publicly posted and provided to the public. **Note:** This section explicitly allows State and local governments to adopt or enforce any requirement for more frequent inspections. Through fiscal year 2009, it also requires States to annually audit required school food safety inspections and submit the results to the Secretary. The Secretary is required to audit these State reports.

This section further adds a requirement that school food authorities implement a school food safety program for the preparation and service of meals that complies with any “hazard analysis and critical control point” system established by the Secretary (see section 125, Food Service Management Institute).

### **Section 112. Purchases of Locally Produced Foods**

**Current law:** Subject to the availability of appropriations, the Secretary is required to encourage institutions participating in the school lunch and school breakfast programs to purchase, in addition to other food purchases, locally produced foods – to the maximum extent practicable and appropriate. The Secretary also is required to provide startup grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities (and similar costs) incurred in carrying out this policy. Annual appropriations of \$400,000 are authorized through fiscal year 2007.

[Sec. 9(j) of the NSLA]

**Section 112:** This section extends the authorization of appropriations through fiscal year 2009.

### **Section 113. Special Assistance**

**Current law:** Under “Provision 2” and “Provision 3,” *schools* with high proportions of children eligible for free and reduced-price school meals may elect to serve all meals free (i.e., avoid annual individual eligibility determinations and separate meal counting procedures for free and reduced-price meals), if they pay the extra subsidy cost of doing so. The Federal government is held harmless through formulas for estimating what costs would have been without a totally free meal system.

[Sec. 11(a)(1) of the NSLA]

**Section 113:** This section allows school *districts* to claim “Provision 2” or “Provision 3” status.

### **Section 114. Food and Nutrition Projects Integrated with Elementary School Curricula**

**Current law:** Subject to the availability of appropriations, the Secretary is required to award grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula. The authorization of appropriations for these grants (\$100,000 - \$200,000 a year) expired at the end of fiscal year 2003.

[Sec. 12(m) of the NSLA]

**Section 114:** This section deletes provisions for grants for food and nutrition projects integrated with elementary school curricula.

### **Section 115. Procurement Training**

**Current law:** No provisions.

**Section 115:** Subject to the availability of appropriations, this section requires the Secretary to provide technical assistance and training to States, State agencies, schools, and school food authorities in the procurement of goods and services for child nutrition meal service programs – including (1) technical assistance and training to ensure compliance with “Buy American” requirements and (2) technical assistance and training on procuring safe foods (including model specifications). Annual appropriations are authorized at \$1 million a year for each of fiscal years 2005 through 2009, to remain available until spent.

### **Section 116. Summer Food Service Program for Children**

#### ***“Seamless summer option”***

**Current law:** No provision. **Note:** By administrative policy, school food authorities may be granted “seamless summer waivers” under which they may administer summer food service programs under provisions of law that normally apply to school meal programs, including school meal reimbursement (subsidy) rates. These waivers may be obtained to operate programs during traditional summer vacation periods and, for year-round schools, long school vacation periods (generally exceeding 2-3 weeks).

**Section 116:** This section specifies in law provisions that closely track the current “seamless summer waiver” policy. Under this “seamless summer option,” school food authorities may administer summer or school vacation food service under the provisions of the school meal programs, including school meal reimbursement (subsidy) rates – except as otherwise determined by the Secretary.

***Rural Area Eligibility for Summer Food Service***

***Current law:*** No provisions. ***Note:*** Under section 13(a)(1) of the NSLA, summer food service programs in “areas in which poor economic conditions exist” operate as “open-site” programs in which all participating children are served free meals. “Areas in which poor economic conditions exist” are defined as those in which more than 50% of the children are eligible for free or reduced-price school meals.

***Section 116:*** This section stipulates that, in rural areas of Pennsylvania, the threshold for “open-site” programs will be 40% – for calendar years 2005 and 2006.

This section also requires the Secretary to conduct an evaluation of the lowered threshold. A report is due not later than January 1, 2008, and mandatory funding (a total of \$400,000) is provided to carry out the evaluation, to be available until spent.

***Summer food service rural transportation grants***

***Current law:*** No provisions.

***Section 116:*** This section requires the Secretary to provide grants to increase participation in congregate feeding sites under the summer food service program through innovative approaches to limited transportation in rural areas. The grants would be provided through not more than 5 State agencies to not more than 60 eligible service institutions – selected by the Secretary. Eligible service institutions would be allowed to conduct a program for 3 successive fiscal years, and mandatory funding is provided (\$2 million for fiscal year 2006, and \$1 million a year for fiscal years 2007 and 2008, available until spent). Also required are an interim report and a final report (due by January 1, 2008).

***Appropriations authorization for the summer food service program***

***Current law:*** The authorization of appropriations for the summer food service program was to expire June 30, 2004.

[Sec. 13(q) of the NSLA]

***Section 116:*** This section extends the appropriations authorization September 30, 2009.

### *Simplified summer food programs*

**Current law:** The “Lugar” pilot project allows public sponsors of summer food service programs (e.g. schools, local governments) to receive the maximum summer program reimbursement (subsidy) rates without providing documentation of costs. The project operates in 13 States and 1 commonwealth: Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Puerto Rico, Texas, and Wyoming. Authorization was to expire June 30, 2004.

[Sec. 18(f) of the NSLA]

**Section 116:** This section makes the “Lugar” pilot project permanent as the “simplified summer food program,” continues it for those States already participating, requires an evaluation report by April 30, 2007, and expands it in 2 ways:

- effective January 2005, it adds 6 States (Colorado, Louisiana, Michigan, Mississippi, Ohio, and Oregon) based on the proportion of children receiving summer meals compared to the national average; and

- effective January 2005, it extends coverage of the “Lugar” pilot project to *all* sponsors in all covered States (i.e., includes private nonprofit sponsors).

### **Section 117. Commodity Distribution Program**

**Current law:** The Secretary is required to use “Section 32” and Commodity Credit Corporation funds to maintain the “annually programmed level of commodity assistance” for child nutrition and Older Americans Act programs (i.e., supplement appropriated funds in order to ensure that the covered programs receive the value of commodities they are “entitled” to receive). This requirement was to expire June 30, 2004.

[Sec. 14(a) of the NSLA]

**Section 117:** This section makes the requirement for the Secretary to use “Section 32” and Commodity Credit Corporation funds to maintain the “annually programmed level of commodity assistance” *permanent*.

### **Section 118. Notice of Irradiated Food Products**

**Current law:** No provisions. **Note:** Under current policy the Secretary may *offer* schools irradiated food products.

**Section 118:** This section requires the Secretary to develop a policy and establish procedures for the purchase and distribution of irradiated food products for school meal programs. At a minimum, they must ensure that:

- irradiated food products are made available only at the request of States and school food authorities;
- reimbursements (subsidies) to schools for these products are equal to those for products that are not irradiated;
- States and school food authorities are provided factual information on the science and evidence regarding irradiation technology, a notice that irradiation is not a substitute for safe food handling techniques, and other food safety information;
- States and school food authorities receive model procedures for providing factual information on irradiation technology and other food safety information to parents and students;
- irradiated food products provided by the Secretary are appropriately labeled;
- irradiated food products are not commingled with other foods; and
- schools that offer irradiated food products are encouraged to offer alternatives.

### **Section 119. Child and Adult Care Food Program**

#### ***For-profit day care centers***

**Current law:** For-profit day care centers may participate in the child and adult care food program if at least 25% of the children they serve meet the eligibility criteria for free or reduced-price school meals. In addition, they may participate if they receive compensation from amounts granted under Title XX of the Social Security Act (the social services block grant program) for at least 25% of the children enrolled or their licensed capacity, whichever is less. The first of these rules (25% of children served meeting the eligibility criteria for free or reduced-price school meals) was to expire June 30, 2004.

[Sec. 17(a)(2)(B) of the NSLA]

**Note:** Separately, section 17(p) of the NSLA permanently authorizes a 3-State “pilot” project under which for-profit child care centers can qualify under the first rule noted above (25% of children served meeting the eligibility criteria for free or reduced-price school meals) in Delaware, Iowa, and Kentucky.

**Section 119:** This section makes *permanent* (and nationally applicable) for-profit child care centers’ ability to qualify if at least 25% of the children they serve are eligible for free or reduced-price school meals (i.e., the first rule noted above). **Note:** It also ends the 3-State “pilot” project expanding eligibility of for-profit child care centers since the rule they operate under is made nationwide.

### ***“Tier I “ family day care homes: duration of determination***

**Current law:** “Tier I” family day care homes are located in low-income areas or have low-income providers. They qualify for the higher of the 2 day care home reimbursement (subsidy) rates offered under the child and adult care food program. A determination that a day care home is located in a low-income area (typically based on the proportion of children who are eligible for free or reduced-price school meals) generally is effective for 3 years – unless the State agency determines that the area no longer qualifies.

[Sec. 17(f)(3)(E)(iii) of the NSLA]

**Section 119:** This section increases the length of “Tier I” determinations to 5 years – unless the State agency determines that the area no longer qualifies.

### ***Disregarded overpayments***

**Current law:** No provisions.

**Section 119:** When conducting management evaluations, reviews, or audits, this section allows the Secretary or a State agency to disregard overpayments to participating institutions (typically, child care centers and sponsors of family day care homes) if the total overpayment for the fiscal year does not exceed an amount – consistent with the disregards allowed under other child nutrition programs – that recognizes the cost of collecting small claims. Disregards would not be allowed for overpayments for which there is evidence of a violation of law. **Note:** By regulation, the comparable disregard in school meal programs is \$600.

***Family day care homes: duration of agreements***

***Current law:*** The Secretary is authorized to issue regulations directing States to develop and provide for the use of a standard agreement form between family day care homes and their sponsoring organizations. These agreements specify the rights and responsibilities of each party.

[Sec. 17(j) of the NSLA]

***Section 119:*** This section specifies that standard form agreements between day care homes and their sponsors are to remain in effect until terminated by either party.

***Rural area eligibility determinations for day care homes***

***Current law:*** Family or group day care homes qualify as “Tier I” homes (i.e., eligible for higher reimbursement/subsidy rates) if they are located in areas in which more than 50% of the children are eligible for free or reduced-price school meals.

[Sec. 17(f)(3)(A) of the NSLA]

***Section 119:*** This section stipulates that, in rural areas of Nebraska, the threshold for qualifying as a “Tier I” family or group day care home will be 40% – for fiscal years 2006 and 2007.

This section also requires the Secretary to conduct an evaluation of lowering the eligibility threshold in rural areas of Nebraska. A report is due not later than March 31, 2008, and mandatory funding (a total of \$400,000) is provided to carry out the evaluation, available until spent.

***Management support initiative***

***Current law:*** The Secretary is required to provide training and technical assistance in order to assist State agencies in improving their management and oversight of the child and adult care food program. Mandatory funding for this initiative (\$1 million a year) expired at the end of FY2003.

[Sec. 17(q) of the NSLA]

**Section 119:** This section provides mandatory funding for the management improvement initiative for fiscal years 2005 and 2006 – at \$1 million a year.

### ***Age limits***

**Current law:** Emergency homeless shelters may participate in the child and adult care food program. Subsidies are paid for free meals and snacks served to (1) children not more than 12 years old, (2) children of migrant workers who are not more than 15 years old, and (3) children with disabilities (no age limit).

[Sec. 17(t) of the NSLA]

**Section 119:** This section allows subsidies to be paid for free meals and snacks served by emergency homeless shelters to (1) all children not more than *18 years old* and (2) children with disabilities (no age limit).

### ***Paperwork reduction and technical amendments***

**Current law:** No provisions.

**Section 119:** This section also makes technical amendments to section 17 of the NSLA and requires the Secretary (in conjunction with the States and participating child care food service institutions) to examine the feasibility of reducing paperwork resulting from regulations and recordkeeping requirements for State agencies, day care homes, child care centers, and sponsors under the child and adult care food program.

### ***Early child nutrition education***

**Current law:** No provisions.

**Section 119:** Subject to the availability of funds, this section requires the Secretary to award grants to “entities” with expertise in designing and implementing health education programs for limited-English-proficient individuals to enhance obesity prevention activities by child care centers and organizations sponsoring child and adult care food programs that provide services to limited-English-proficient persons. Grants would be for 4 successive years in 4 States that have experienced a large growth in their limited-English-proficient population. Independent

evaluations by institutions of higher education would be required, as would a report by the Secretary.

For fiscal years 2005-2009, this section also authorizes appropriations of \$250,000 a year for these grants.

### **Section 120. Fresh Fruit and Vegetable Program**

**Current law:** A pilot project under which students in 25 elementary or secondary schools in each of 4 States (and elementary or secondary schools on 1 Indian reservation) have made available to them free fresh and dried fruits and fresh vegetables expires at the end of the 2003-2004 school year. The project operates in Indiana, Iowa, Ohio, Michigan, and the Zuni Reservation and was funded with a total of \$6 million.

[Sec. 18(g) of the NSLA]

**Section 120:** Beginning with the 2004-2005 school year, this section requires the Secretary to operate a permanent program under which free fresh fruits and vegetables are made available to the maximum extent practicable to students in:

- 25 elementary or secondary schools in each of the States and the Indian reservation in the existing project;
- 25 elementary or secondary schools in a separate existing project in Mississippi; and
- 25 elementary or secondary schools in each of 3 additional States and 2 Indian reservations (as selected by the Secretary).

In selecting schools to participate in the 3 additional States and 2 Indian reservations, the Secretary must, to the maximum extent practicable, ensure that the majority of schools are those in which at least 50% of students are eligible for free or reduced-price school meals.

This section also requires the Secretary to submit annual interim reports on the project, along with a final report (due by December 31, 2008).

This section further (1) provides that any remaining funding for the existing project may be used

for the expanded program, (2) provides new mandatory funding for the program (\$9 million a year), and (3) authorizes appropriation of “such sums as are necessary” to expand the pilot project.

### **Section 121. Summer Food Service Residential Camp Eligibility**

**Current law:** No provisions. **Note:** Residential summer camps may participate in the summer food service program, but must differentiate between children eligible for free and reduced-price meals and others in their meal service and collect income information. They may not operate as an “open-site” summer program (where all meals are served free to all children).

**Section 121:** During the summers of 2004 and 2005, this section requires the Secretary to modify the eligibility criteria for residential summer camps – in 1 camp in each of 2 States – in order to identify and evaluate alternative methods of determining the eligibility of residential private nonprofit camps to participate in the summer food service program. Eligible camps may not charge fees to any children in residence, must serve children from areas in which at least 50% of the children are eligible for free or reduced-price school meals, and would receive reimbursements (subsidies) for *all* meals served to participating children at the *free-meal* summer food service reimbursement/subsidy rate (effectively allowing them to operate as an “open-site” program). An evaluation report would be due by March 31, 2006.

### **Section 122. Access to Local Foods and School Gardens**

**Current law:** No provisions. **Note:** See section 112 (purchases of locally produced foods).

**Section 122:** This section authorizes the Secretary to provide assistance – through competitive matching grants and technical assistance – to schools and nonprofit entities for projects that:

- improve access to local foods in child nutrition food service schools and institutions through “farm-to-cafeteria” activities (assistance may include the acquisition of food and appropriate equipment and training and education);
- procure local foods from small- and medium-sized farms;
- support school garden programs;

- support nutrition education activities incorporating the participation of schoolchildren in farm-based agricultural education activities;
- develop a sustained commitment to “farm-to-cafeteria” projects in the community;
- require \$100,000 or less in Federal contributions and a Federal contribution of not more than 75%;
- provide cash or in-kind matching contributions;
- and cooperate in an evaluation carried out by the Secretary.

“Such sums as are necessary” are authorized to be appropriated to carry out this grant program – for fiscal years 2004 through 2009.

### **Section 123. Year Round Services for Eligible Entities**

**Current law:** No provisions.

**Section 123:** This section permits local governments and private nonprofit organizations in California to receive reimbursements (subsidies) for up to 2 meals for any day during the summer or a school vacation (or other break in school). They also would be permitted to receive reimbursements (subsidies) for snacks served after school hours and on weekends and school holidays during the regular school year. They would operate generally using summer food service program rules, including summer food service reimbursement (subsidy) rates. The Secretary is required to provide such sums as are necessary to carry out this authority for fiscal years 2005 through 2009. **Note:** In the alternative, local governments and private nonprofit organizations may qualify and choose to receive reimbursements (subsidies) under regular summer food service or after-school programs.

### **Section 124. Free Lunch and Breakfast Eligibility**

**Current law:** No provisions. **Note:** Eligibility for free lunches and breakfasts generally is limited to children from families with income below 130% of the federal poverty income guidelines. Children from families with income between 130% and 185% of the guidelines are eligible for reduced price lunches and breakfasts.

**Section 124:** Subject to the availability of funds, this section requires the Secretary to expand the service of free lunches and breakfasts in all or parts of 5 States (at least 1 of which must be a largely rural State with a significant Native American population). Under this requirement, the income limit for free lunches and breakfasts would be raised to 185% of the poverty guidelines. Within 3 years of implementation, an evaluation of the effects of this expansion would be required – including the effect on costs, certification and participation rates, “meal-skipping” rates, academic achievement, and the allocation of funds under the Elementary and Secondary Education Act.

This section authorizes such sums as are necessary to carry out the free meal expansion initiative, to be available until expended.

## **Section 125. Training, Technical Assistance, and Food Service Management Institute**

### *Technology and information management systems*

**Current law:** No provisions. **Note:** Section 21(a)(1) of the NSLA authorizes training and technical assistance activities to improve skills of individuals employed in child nutrition food service programs. Appropriations are authorized at \$1 million a year.

**Section 125:** This section adds 2 new uses for the current training and technical assistance funding:

- providing assistance to State agencies, on a competitive basis, for the purpose of aiding schools and school food authorities (with at least 50% of enrolled children certified eligible for free or reduced price meals) in meeting the cost of acquiring or upgrading technology and information management systems for use in child nutrition food service programs; and
- providing assistance to State agencies (on a competitive basis) with low proportions of schools/ students participating in the school breakfast program that demonstrate the greatest need for aid in meeting costs associated with initiating or expanding a school breakfast program.

This section also stipulates that existing training and technical assistance activities use, to the maximum extent practicable, individuals who administer exemplary local food service programs.

### ***Food Service Management Institute***

***Current law:*** The Food Service Management Institute (FSMI) is required to (1) conduct research to assist schools and other child nutrition food service organizations in providing high quality, nutritious, and cost-effective meal service to children, (2) provide training and technical assistance relating to a number of food service matters, (3) establish a national network of professionals to present training programs and workshops for food service personnel, (4) develop training materials for the programs/ workshops, (5) act as a clearinghouse for research on the operation of food service programs, (6) train food service personnel, (7) prepare informational material, and (8) assist State educational agencies in providing additional nutrition and health instructions and instructors.

[Sec. 21(c) of the NSLA]

***Section 125:*** This section adds to the matters for which the FSMI is required to provide training and technical assistance – “hazard analysis and critical control point” plan implementation (see section 111), emergency readiness, responding to a food recall, and food bio-security training.

### ***Funding***

***Current law:*** For training and technical assistance activities, \$1 million a year is authorized to be appropriated through fiscal year 2003. For the FSMI, mandatory funding of \$3 million a year is provided.

[Sec. 21(e) of the NSLA]

***Section 125:*** This section extends the \$1 million-a-year appropriations authorization for training and technical assistance activities through fiscal year 2008. It also increases mandatory funding for the FSMI to \$4 million a year, beginning with fiscal year 2005.

## Section 126. Administrative Error Reduction

### *Administrative training and technical assistance materials*

**Current law:** No provisions.

**Section 126:** This section requires the Secretary – in collaboration with State educational agencies, school food authorities, and local educational agencies – to develop and distribute training and technical assistance materials related to the administration of school meal programs that are representative of the best management and administrative practices.

### *Federal administrative support*

**Current law:** No provisions.

**Section 126:** This section provides mandatory funding that the Secretary may use to (1) provide training and technical assistance and materials related to improving program integrity and administrative accuracy in school meal programs and (2) assist State educational agencies in reviewing the administrative practices of school food authorities. It provides \$3 million a year for fiscal years 2005 and 2006, and \$2 million a year for fiscal years 2007, 2008, and 2009.

### *Additional administrative review requirements*

**Current law:** No provisions. **Note:** School food authorities are subject to periodic comprehensive reviews of their food service programs – covering all aspects (e.g., meal quality, administrative matters). Improperly paid funds may be recovered and returned to the Secretary.

**Section 126:** In addition to any review carried out under current law, this section requires State educational agencies to conduct administrative reviews of local educational agencies that have demonstrated a high level of, or a high risk for, administrative error (as determined by the Secretary). These additional reviews would review only the administrative processes of the selected agencies – including application, certification, verification, meal counting, and meal claiming procedures.

If, based on the administrative review, the State agency determines that a local educational agency fails to meet performance criteria established by the Secretary, the State agency must

require the local educational agency to develop and carry out an approved corrective action plan, provide technical assistance in carrying out the plan (unless the Secretary provides this assistance), and conduct a follow-up review.

If a local educational agency fails to meet administrative performance criteria set by the Secretary in both an initial and follow-up review (under the new administrative review rules or current law reviews), this section explicitly allows the Secretary to require the State educational agency to retain funds otherwise payable, under procedures determined by the Secretary. These retained funds may be returned to the Secretary or retained by the State agency. Specific rules are provided for calculating the amount to be retained.

Funds returned to the Secretary may be credited to the child nutrition appropriation account or be used to (1) provide training and technical assistance related to administrative practices, (2) assist State agencies in reviewing the administrative practices of school food authorities, and (3) develop and distribute training and technical assistance materials. Funds retained by the State agency (not more than 25% of the total retained) may be used to carry out school meal program integrity initiatives (under an approved State plan) that assist school food authorities that have repeatedly failed to meet administrative performance criteria.

### ***State plan requirements***

***Current law:*** No provisions.

***Section 126:*** This section stipulates that each State plan submitted for State administrative expense funding must include a description of how technology and information management systems will be used to improve program integrity by: (1) monitoring the nutrient content of meals, (2) training schools and school food authorities in how to use technology and information management systems, and (3) using electronic data to establish benchmarks to monitor program integrity, participation, and financial data.

This section also stipulates that each State plan submitted for State administrative expense funding must include descriptions of the manner in which the State intends to administer (1) additional administrative review requirements (see above) and (2) state training requirements (see below).

### ***State training requirements***

***Current law:*** No provisions.

***Section 126:*** This section requires each State to provide training in administrative practices to local educational agency and school food authority administrative personnel and mandates that school food authorities and local educational agencies ensure that individuals conducting or overseeing administrative procedures receive training at least annually (unless the Secretary determines otherwise). It also requires the Secretary to provide training and technical assistance to States in support of State training initiatives or, at the Secretary's option, to directly provide training and technical assistance.

### ***Funding for training and administrative reviews***

***Current law:*** No provisions.

***Section 126:*** For each fiscal year beginning with fiscal year 2005, this section makes available to the Secretary mandatory funding of \$4 million to assist States in carrying out training and additional administrative review requirements (see above) – except that the Secretary may retain a portion of this funding to cover costs of activities the Secretary carries out in lieu of States. Funding sent to the States must be allocated based on the number of local agencies that have demonstrated a high level of, or a high risk for, administrative error, and unused funding may be reallocated.

### **Section 127. Compliance and Accountability**

***Current law:*** Appropriations of \$3 million a year were authorized for compliance and accountability activities – through fiscal year 2003. ***Note:*** Actual appropriations have typically been higher than the authorized amount (e.g., \$5.2 million for fiscal year 2004).

[Sec. 22(d) of the NSLA]

***Section 127:*** This section extends the appropriations authorization for compliance and accountability activities through fiscal year 2009 and raises it to \$6 million a year.

### **Section 128. Information Clearinghouse**

**Current law:** The Secretary is required to enter into a contract with a nongovernmental organization for a clearinghouse that provides information to nongovernmental groups that assist low-income individuals and communities with food assistance, self-help activities, and other activities that empower low-income individuals or communities to improve their lives and reduce reliance on Federal, State, or local government agencies for food and other assistance. Appropriations of \$166,000 a year were authorized – through fiscal year 2003.

[Sec. 26(d) of the NSLA]

**Section 128:** This section extends the appropriations authorization for an information clearinghouse through fiscal year 2009 and raises it to \$250,000 a year.

### **Section 129. Program Evaluation**

**Current law:** No provisions.

**Section 129:** Subject to the availability of funds, this section permits the Secretary to conduct annual national performance assessments of child nutrition meal service programs that assess the cost of producing meals and snacks, the nutrient profile of meals, and the status of menu planning practices. For this purpose, it authorizes appropriations of \$5 million a year.

Subject to the availability of funds, this section also requires the Secretary to conduct a study of the feasibility of improving the eligibility certification process for the school lunch program and allows the Secretary to conduct pilot projects to improve the certification process. For this purpose, it authorizes “such sums as are necessary.”

## **Title II. Amendments to the Child Nutrition Act of 1966 (CNA)**

### **Section 201. Severe Need Assistance**

***Current law:*** In order to receive higher “severe need” school breakfast program reimbursements (subsidies), schools must document their costs. They receive the lesser of their documented costs or the severe need subsidy rate.

In order to receive higher “severe need” school breakfast reimbursements (subsidies), schools must have served 40%+ of their lunches free or at a reduced price *in the 2<sup>nd</sup> preceding year*.

[Sec. 4(d) of the Child Nutrition Act (CNA)]

***Section 201:*** This section removes the requirement to document costs in order to receive severe need reimbursements (subsidies). Schools would receive the severe need subsidy rate, so long as they meet the “40%+” eligibility requirement noted above.

This section also allows eligibility for severe need subsidies to schools in which no lunches were served in the 2<sup>nd</sup> preceding year if the Secretary determines that the requirement that they have served 40%+ of their lunches free would have been met – i.e., allows new schools to meet the “40%+” requirement without a 2<sup>nd</sup> preceding year history.

### **Section 202. State Administrative Expenses**

#### ***Minimum state grants***

***Current law:*** State administrative expense grants are calculated as 1.5% of total Federal spending on a list of child nutrition programs typically administered by State educational agencies – including school meal programs and the child and adult care food program. Separate provision is made for grants tied to spending on the summer food service program. Spending on after-school snack programs operated by schools and commodity assistance is not included in the dollar base that the 1.5% calculation is applied to. Minimum State grants are set at \$100,000 a year.

[Sec. 7(a) of the CNA]

**Section 202:** This section increases the minimum State grant for administrative expenses to \$200,000 a year (indexed after fiscal year 2008) and requires that – for fiscal years 2005 through 2007 – no State will receive less than its fiscal year 2004 allocation.

### ***Technology infrastructure improvement***

**Current law:** No provisions.

**Section 202:** This section requires States to submit, for the Secretary’s approval, an amendment to their plan as to how they will use their State administrative expense grant for information management systems that improve program integrity by – (1) monitoring the nutrient content of meals, (2) training schools and school food authorities in how to use technology and information management systems for menu planning, collecting “point-of-sale” data, processing applications for free and reduced-price meals, and verifying eligibility, and (3) using electronic data to establish benchmarks to monitor program integrity, program participation, and financial data across schools and school food authorities.

Subject to the availability of funds, this section also requires the Secretary to provide funds to States, on a competitive basis, to give grants to schools and school food authorities to defray the cost of purchasing/upgrading technology and information systems. Appropriations of “such sums as are necessary” are authorized for fiscal years 2005 through 2009, to remain available until spent.

### ***Appropriations authorization***

**Current law:** “Such sums as may be necessary” were authorized to be appropriated for State administrative expense grants – through fiscal year 2003.

[Sec. 7(g) of the CNA]

**Section 202:** This section extends the appropriations authorization for State administrative expense grants through fiscal year 2009.

**Section 203. Special Supplemental Nutrition Program for Women, Infants, and Children  
(The WIC Program)**

***Definition of “nutrition education”***

***Current law:*** In the WIC context, “nutrition education” means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual’s personal, cultural, and socioeconomic preferences.

[Sec. 17(b)(7) of the CNA]

***Section 203:*** This section revises the definition of “nutrition education” to read: individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and *physical activity* habits, and that emphasize the relationship between nutrition, *physical activity*, and health, all in keeping with the *personal and cultural preferences* of the individual.

***Definition of “supplemental foods”***

***Current law:*** In the WIC context, “supplemental foods” means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may substitute nutritionally equivalent foods to allow for cultural eating patterns.

[Sec. 17(b)(14) of the CNA]

***Section 203:*** This section revises the definition of “supplemental foods” to: those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children *and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns*, as prescribed by the Secretary.

### ***Certification of breastfeeding women***

**Current law:** Through regulations, breastfeeding women are certified at intervals of approximately 6 months, ending with the breastfed infant's first birthday.

[Regulations under sec. 17(d)(3)(A) of the CNA]

**Section 203:** This section allows State agencies to certify breastfeeding women *for up to 1 year postpartum, or until a woman stops breastfeeding, whichever is earlier.*

### ***Physical presence requirement***

**Current law:** Each individual seeking certification or recertification must be physically present to determine program eligibility, unless exempt under the terms of the Americans with Disabilities Act.

Local WIC agencies may waive the physical presence requirement if they determine it would present an unreasonable participation barrier. This waiver authority may be exercised only for infants and children who were present at their initial certification and (1) are receiving ongoing health care from a provider other than the local WIC agency or (2) were physically present within 1 year of a certification/recertification and have working parents.

[Sec. 17(d)(3)(C) of the CNA]

**Section 203:** This section extends the physical presence waiver authority under current law to cover *infants under 8 weeks of age* (1) who cannot be present at certification for a reason determined appropriate by the local WIC agency and (2) for whom all necessary certification information is provided.

The Committee recognizes that many working families, especially mothers, find it difficult to access WIC services due to the fact that their work schedules preclude them from visiting WIC offices during normal office hours. The Committee encourages state and local WIC agencies to take such steps as are necessary to ensure that working families and families with irregular schedules can access the WIC program. Such steps might include, extending office hours into the evening and weekends, out-stationing staff at temporary locations, and utilizing mobile WIC sites.

*Use of WIC benefits at any authorized retail store*

**Current law:** No provisions.

**Section 203:** Through a State plan requirement, this section effectively requires State WIC agencies to allow WIC recipients to transact WIC vouchers at any authorized retail store in the State.

*Accelerated approval of WIC vendors*

**Current law:** No provisions.

**Section 203:** Through a State plan requirement, this section effectively requires that State WIC agencies have procedures for accepting and processing vendor applications outside of the agency's established time-frames, if the State agency determines there will be inadequate access to the program – including cases in which a previously authorized vendor sells a store under circumstances that do not permit timely notification to the State agency of the change in ownership.

*Fruits and vegetables*

**Current law:** No provisions.

**Section 203:** Subject to the availability of funds, this section requires the Secretary to award grants to not more than 10 local WIC sites to evaluate the feasibility of including fresh, frozen, or canned fruits and vegetables as an addition to food items included in regular WIC food packages. Under this authority, fruits and vegetables would be made available through private funds.

*Review of WIC food packages*

**Current law:** No provisions. **Note:** Under contract with the Agriculture Department, the National Academy of Sciences' Institute of Medicine initiated a review of the foods offered in the WIC program (the WIC food packages) in September 2003.

**Section 203:** This section requires the Secretary to conduct a scientific review of the foods made available under the WIC program and amend the foods offered as necessary to reflect nutrition science, public health concerns, and cultural eating patterns – as frequently as determined necessary by the Secretary to reflect the most recent scientific knowledge.

This section also requires the Secretary to issue a final rule updating the foods made available under the WIC program not later than 18 months after the review of these food items initiated by the National Academy of Sciences' Institute of Medicine in September 2003.

### *Use of funds recovered from local WIC agencies*

**Current law:** State WIC agencies may use funds recovered from vendors and participants as the result of a claim to carry out the WIC program in the fiscal year in which the claim arises, the fiscal year in which the funds are collected, and the fiscal year following the year in which the funds are collected.

[Sec. 17(f)(21) of the CNA]

**Section 203:** In addition to current law provisions as to the use of funds recovered from vendors and participants, this section allows State WIC agencies to use funds recovered from *local WIC agencies* as the result of a claim under the same terms.

### *“Rounding up” infant formula benefits*

**Current law:** Regulations set a limit on the number of ounces of infant formula that may be provided to a participant each month. **Note:** If can sizes provided by infant formula manufacturers do not add up to the regulatory limit, an extra can (going above the limit) may not be provided.

**Section 203:** This section allows State WIC agencies to “round up” to the next whole can of infant formula to allow all infants to receive the “full-authorized” nutritional benefit specified by regulation.

This new authority applies to infant formula provided under a contract resulting from a bid solicitation issued on or after October 1, 2004.

***Notification of WIC vendor violations***

**Current law:** No provisions. **Note:** State WIC agencies approve and disqualify WIC vendors. Section 17(f)(24) of the CNA requires each State WIC agency to identify vendors that have a high probability of program abuse and conduct compliance investigations of the vendors.

**Section 203:** If a State WIC agency finds that a vendor has committed a violation that requires a pattern of occurrences in order to impose a penalty/sanction, this section requires the agency to notify the vendor of the initial violation in writing (prior to documentation of another violation) – unless the agency determines that notification would compromise an investigation. **Note:** Most violations require a pattern of occurrences in order to impose a penalty/sanction.

***Authorization of appropriations***

**Current law:** “Such sums as may be necessary” were authorized to carry out the WIC program – through fiscal year 2003.

[Sec. 17(g) of the CNA]

**Section 203:** This section extends the appropriations authorization for the WIC program through fiscal year 2009.

***Nutrition services and administration allocations***

**Current law:** The Secretary is required to allocate to each State WIC agency an amount for costs of nutrition services and administration (NSA) on the basis of a formula set by the Secretary. This requirement was effective through fiscal year 2003.

[Sec. 17(h)(2)(A) of the CNA]

**Section 203:** This section makes the requirement that the Secretary allocate amounts for NSA costs permanent.

***“Healthy People 2010” initiative***

***Current law:*** No provisions.

***Section 203:*** This section requires the Secretary to “partner” with communities, State and local agencies, health care professionals, and the private sector to build a supportive breastfeeding environment for women participating in the WIC program – in order to support the breastfeeding goals of the “Healthy People 2010” initiative.

***Size of State alliances***

***Current law:*** No provisions. ***Note:*** State WIC agencies have formed a number of “alliances” through which they join together to solicit bids from infant formula manufacturers.

***Section 203:*** This section defines “State alliance” as 2 or more State agencies that join together for the purpose of procuring infant formula by soliciting competitive bids. It also limits the size of State alliances. No State alliance may exist among States whose infant participation exceeds 100,000 as of October 1, 2003 (or a subsequent date determined by the Secretary for which data are available). However –

(1) alliances existing on the date of enactment may continue and expand to include more than 100,000 infants, so long as they do not expand to include any additional States;

(2) any State alliance may expand to include any State agency that served fewer than 5,000 infants as of October 1, 2003 (or a subsequent date set by the Secretary) or any Indian Tribal Organization; and

(3) the Secretary may waive the State alliance limits after submitting a report that describes the cost-containment and competitive benefits of the waiver to the Committee on Education and the Workforce and the Committee on Agriculture, Nutrition, and Forestry – and waiting at least 30 days.

***Primary contract infant formula***

***Current law:*** No provisions.

***Section 203:*** This section requires State WIC agencies to use the “primary contract infant formula” as the first choice of issuance (by formula type) – with all other infant formulas issued as an alternative. It also defines “primary contract formula” to mean the specific infant formula for which manufacturers submit a bid and are awarded a rebate contract.

This requirement applies to contracts resulting from bid solicitations issued on or after October 1, 2004.

***Counting units for infant formula rebates (rebate invoices)***

***Current law:*** No provisions.

***Section 203:*** This section requires each State WIC agency to have a system to ensure that invoices for infant formula rebates from manufacturers (paid under competitive bidding/cost containment contracts) provide a reasonable estimate or an actual count of the number of infant formula units “sold” to WIC participants.

***Uncoupling milk-based and soy-based infant formula bids***

***Current law:*** No provisions.

***Section 203:*** This section requires that large State WIC agencies/alliances solicit bids from infant formula manufacturers using procedures under which bids/discounts are solicited separately for milk-based and soy-based infant formulas. Large State agencies/alliances are those that served a monthly average of more than 100,000 infants during the 12-month period preceding the bid solicitation.

This requirement applies to bid solicitations issued on or after October 1, 2004.

### ***Cent-for-cent adjustments to infant formula rebates***

***Current law:*** No provisions. ***Note:*** By regulation, infant formula WIC agency bid solicitations must require the manufacturer to adjust for price changes subsequent to the opening of the bidding process. This “inflation” provision may require a cent-for-cent *increase* in rebate amounts whenever there is any change in the lowest national wholesale price for a full truckload of the particular infant formula.

***Section 203:*** This section mandates that bid solicitations for infant formula require the manufacturer to adjust for price changes subsequent to the opening of the bidding process in a manner that requires:

– a cent-for-cent increase in rebate amounts if there is an increase in the lowest national wholesale price for a full truckload of the particular formula; and

– *a cent-for-cent decrease in rebate amounts if there is a decrease in the lowest national wholesale price for a full truckload of the particular formula.*

This mandate is effective for bid solicitations issued on or after October 1, 2004.

### ***Lists of infant formula providers***

***Current law:*** No provisions.

***Section 203:*** This section requires State WIC agencies to maintain a list of infant formula food wholesalers, distributors, and retailers licensed in the State and infant formula manufacturers registered with the Food and Drug Administration. It also requires WIC vendors to purchase infant formula from the State agency list.

### *Earmarked funding*

**Current law:** Through fiscal year 2003, the Secretary was required to use \$10 million a year or the amount of WIC funding for the prior fiscal year that has not been obligated, whichever is less for:

- development of program infrastructure, including management information systems;
- special State projects of regional or national significance to improve program services; and
- special breastfeeding support and promotion projects (including projects to assess the effectiveness of particular breastfeeding promotion strategies and projects to develop State or local agency capability or facilities to provide quality breastfeeding services).

[Sec. 17(h)(10) of the CNA]

**Section 203:** For fiscal years 2006 through 2009, this section requires the Secretary to use \$64 million or the amount of WIC funding for the prior year that has not been obligated, whichever is less, for:

- program infrastructure, special projects to promote breastfeeding (including projects to assess the effectiveness of particular breastfeeding promotion strategies), and special State projects of regional or national significance to improve program services (\$14 million);
- establishing, improving, or administering management information systems, including changes necessary to meet new legislative or regulatory requirements (\$30 million); and
- special nutrition education, such as breastfeeding peer counselors or other related activities (\$20 million).

If less than \$64 million is available, the Secretary must distribute the funding proportional to the above-noted distribution.

### *Vendor cost containment*

**Current law:** In order to contain costs to the WIC program, when selecting vendors for participation State WIC agencies are required to take into consideration the prices charged by the vendor for WIC food items as compared to the prices charged by other vendors. **Note:** By

regulation, State agencies must approve an appropriate number and distribution of vendors to ensure adequate participant access and may establish criteria to limit the number of vendors they approve. They may evaluate applicant vendors based on their shelf prices or on prices they “bid” and must establish price limitations (allowable reimbursement levels) on the amount that they will pay vendors. They also *may* establish different “competitive price requirements and price limitations for different vendor peer groups” (which may include a factor to reflect fluctuations in wholesale prices) and may except pharmacy vendors that supply only infant formula or “medical foods.”

[Sec. 17(h)(11) of the CNA]

**Section 203:** This section strikes existing law and replaces it with the following vendor cost containment rules.

State WIC agencies must establish a “vendor peer group system,” as well as “competitive price criteria” and “allowable reimbursement levels” for each “vendor peer group.” State agencies may exempt certain vendors – pharmacy vendors that supply only infant formula or “medical foods” and certain nonprofit vendors.

The Secretary may exempt State agencies:

- that elect not to authorize vendors whose revenue is primarily derived from the sale of WIC food items (50%+) *and* demonstrate (1) that compliance would be inconsistent with efficient and effective operation of the WIC program or (2) that an alternative cost-containment system would be as effective; or

- for which the sale of WIC food items through vendors whose revenue is derived primarily from the sale of WIC food items constitutes less than 5% of total WIC sales *and* demonstrate that an alternative cost-containment system would be as effective and would not result in higher food costs to the program.

If a State agency elects to authorize vendors whose revenue is derived primarily from the sale of WIC food items, it must (1) distinguish between these vendors and others by establishing separate peer groups or distinct competitive price criteria and allowable reimbursement levels and (2) set competitive price criteria and allowable reimbursement levels that do not result in higher food costs.

In establishing competitive price criteria for each vendor peer group, State agencies must ensure that the retail prices charged by vendors are competitive with those charged by others and must consider the vendors' shelf prices for all buyers (or the prices the vendor "bids") and participant access by geographic area.

In establishing allowable reimbursement levels for each vendor peer group, State agencies must ensure that payments to vendors reflect competitive retail prices and may include a factor to account for wholesale price fluctuations.

If a State agency elects to authorize vendors whose revenue is derived primarily from the sale of WIC food items, the agency must demonstrate to the Secretary (and the Secretary must certify) that its competitive price criteria and allowable reimbursement levels for these vendors do not result in average payments (per voucher) to them that are higher than those to other comparable vendors.

State agencies are to comply with the new cost-containment rules not later than the end of calendar year 2005 and must include a description of their vendor peer group system, competitive price criteria, and allowable reimbursement levels in their State plan.

### ***Imposition of EBT costs on retailers***

***Current law:*** No provisions.

***Section 203:*** This section bars the Secretary from imposing, or allowing a State WIC agency to impose, the costs of any equipment, system, or processing required for electronic benefit transfer (EBT) systems on any retailer as a condition of participation in the WIC program.

### ***Universal Product Code (UPC) data base***

***Current law:*** No provisions.

***Section 203:*** This section requires the Secretary to (1) establish a national UPC database for use in carrying out the WIC program and (2) make available, from appropriations, funds for support of the database.

### *Incentive items*

**Current law:** No provisions.

**Section 203:** This section bars State WIC agencies from authorizing or making payments to vendors that derive more than 50% of their annual revenue from the sale of food items obtained with WIC vouchers (food instruments) and provide “incentive items” or other free merchandise to program participants – except food or merchandise of nominal value (as determined by the Secretary) – unless the vendor provides proof that the vendor obtained the items at no cost.

### *“Spend-forward” authority*

**Current law:** State WIC agencies are authorized to “spend forward” up to 1% of their nutrition services and administration (NSA) funds in the following fiscal year. In addition, they may “spend forward” up to 1/2% of their NSA funds for the development of management information systems (including electronic benefit transfer systems) – with the prior approval of the Secretary.

[Sec. 17(i)(3)(A)(ii) of the CNA]

**Section 203:** This section raises the current 1% limit on spending forward NSA funds to 3%.

### *Migrant and community health centers initiative*

**Current law:** The Secretary and the Secretary of Health and Human Services are required to establish and carry out an initiative to provide supplemental foods and nutrition education through an increased number of migrant and community health centers. Several notifications to Congress on the progress of this initiative were required.

[Sec. 17(j) of the CNA]

**Section 203:** This section deletes out-of-date references to notifications to Congress.

***WIC farmers' market nutrition program***

***Current law:*** By regulation, roadside stands may participate in the WIC farmers' market nutrition program if approved through the Food and Nutrition Service. By law, States must provide (from State, local, or private funds) 30% of the *total cost* of the program in the State, and the value of the Federal share of benefits received by any recipient may not be more than \$20 per year. Appropriations for the farmers' market nutrition program were authorized at "such sums as may be necessary" through fiscal year 2003.

[Sec. 17(m) of the CNA]

***Section 203:*** This section (1) makes roadside stands eligible to participate in the WIC farmers' market nutrition program at State option, (2) requires that States provide 30% of the *administrative cost* of the program in the State, and (3) increases the limit on the Federal share of benefits to \$30 per year. It also extends the authorization of appropriations for the program through fiscal year 2009.

***Demonstration project to enroll children in health programs***

***Current law:*** The Secretary was required to establish a 1-State demonstration project to use the WIC program to identify and enroll children in Medicaid and State Children's Health Insurance programs. The authority for this demonstration project terminated September 30, 2003.

[Sec. 17(r) of the CNA and Sec. 12(p) of the NSLA]

***Section 203:*** This section deletes expired authority for the demonstration project to enroll children in health programs.

## Section 204. Local Wellness Policy

**Current law:** No provisions.

**Section 204:** Not later than the beginning of the 2006-2007 school year, this section requires local educational agencies participating in school meal programs to establish a local “school wellness policy” that, at a minimum:

- includes goals for nutrition education, physical activity, and other school-based activities designed to promote student wellness in a manner that the local educational agency determines appropriate;
- includes nutrition guidelines for all foods available on the school campus during the school day;
- provides an assurance that guidelines for school meals are not less restrictive than those set by the Secretary;
- establishes a plan for measuring implementation of the local wellness policy; and
- involves parents, students, and representatives of the school food authority, the school board, school administrators, and the public in development of the local wellness policy.

This section also requires the Secretary (in consultation with the Centers for Disease Control and Prevention) to make information and technical assistance available, on request, to local educational agencies, school food authorities, and State educational agencies. This information and technical assistance would be used to establish healthy school nutrition environments, reduce childhood obesity, and prevent diet-related chronic diseases, would be provided in a manner consistent with the needs and requirements of local agencies, and would be for guidance purposes only.

This section further provides mandatory funding to the Secretary to provide information and technical assistance – \$4 million to be available through fiscal year 2009.

## Section 205. Team Nutrition Network

### *Team nutrition network grants*

**Current law:** Authority to operate a Nutrition Education and Training (NET) program is provided in Section 19 of the CNA. Appropriations have not been provided for this program since FY1998. “Full funding” for the NET program would now equal about \$24 million a year (50 cents per enrolled child). However, funding typically did not exceed \$10 million.

Under the NET program, the Secretary is authorized to formulate a nutrition education and training program through grants to State educational agencies that provide: nutritional training of educational and food service personnel; training to school food service personnel in the principles and practices of food service management; nutrition education activities in schools and other institutions serving children; and nutrition education to parents and caregivers.

NET funds may be used to (1) employ nutrition education specialists to coordinate the State’s program, (2) undertake assessments of nutrition education needs, (3) develop a State nutrition education plan, (4) conduct pilot projects, (5) plan, develop, and conduct programs and workshops for food service and educational personnel, (6) coordinate and promote nutrition education and training activities in local school districts, (7) contract with public and private nonprofit educational institutions for the conduct of nutrition education instruction, (8) prepare and test nutrition education materials, and (9) carry out other appropriate activities as determined by the State. Each State must have a nutrition education specialist as State coordinator.

[Sec. 19 of the CNA]

**Section 205:** This section replaces current-law provisions for a NET program with new provisions for a *Team Nutrition Network* (“a statewide multidisciplinary program for children to promote healthy eating and physical activity based on scientifically valid information and sound educational, social, and marketing principles”).

Subject to the availability of funds (and in addition to any funds normally made available for “team nutrition” purposes by appropriations laws), the Secretary is authorized to make grants to State agencies to establish team nutrition networks to promote nutrition education through the use of “team nutrition messages” and the promotion of active lifestyles. **Note:** Approximately \$10 million a year is now provided for a “team nutrition” school meals initiative through the appropriations process.

For each fiscal year, the total amount made available may not be more than  $\frac{1}{2}$  cent x the number of lunches reimbursed (subsidized) through the school lunch program, the child and adult care food program, and the summer food service program. At current lunch service rates, this would total to approximately \$34 million. This could be supplemented with funds received by the Secretary from nongovernmental sources.

To be eligible to receive team nutrition grants, which may be competitive grants, State agencies must appoint a team nutrition network coordinator and submit plans for approval that include (1) a description of the State's goals and its plan for addressing the health and other consequences to children who are at risk of becoming overweight or obese (including how it will promote healthy eating and physical activity), (2) an analysis of the means by which the agency will use and disseminate team nutrition messages developed by the Secretary, (3) a description of the ways in which the State's team nutrition messages will be coordinated with other health promotion and education activities, (4) a description of the consultative process used in developing model nutrition and physical activity programs, (5) a description of how the State agency will evaluate the effectiveness of its programs, (6) an annual summary of team nutrition network activities, (7) a description of how the "total school environment" will support healthy eating and physical activity, and (8) a description of how all team nutrition network communications to parents will be in an understandable and uniform format in a language that parents can understand.

Grants may be used to (1) collect, analyze, and disseminate data regarding the extent to which children and youths are overweight, physically inactive, or suffering from nutrition-related deficiencies or disease conditions, (2) identify programs and services, (3) implement model curricula, (4) implement pilot projects, (5) improve access to local foods, (6) implement State health guidelines and emphasize regular physical activity during school hours, (7) establish healthy eating and lifestyle policies in schools, provide training and technical assistance, and (8) collaborate with public and private organizations to develop nutrition and physical education programs targeting lower income children, ethnic minorities, and youth at a greater risk of obesity.

### ***Local nutrition and physical activity grants***

***Current law:*** No provisions.

***Section 205:*** Subject to the availability of funds, this section requires the Secretary (in consultation with the Secretary of Education) to provide assistance to local educational agencies to create healthy school nutrition environments, promote healthy eating habits, and increase physical activity among elementary and secondary students.

To be eligible to receive local nutrition and physical activity grants, a local educational agency's application must include (1) a description of its need for a nutrition and physical activity program, (2) a description of how its proposed project will improve health and nutrition, (3) a description of how the project will be aligned with the local wellness policy (see section 204), (4) a description of how the funds will be coordinated with other child nutrition programs, (5) a statement of measurable goals, (6) a description of the procedures to be used to assess and report progress toward meeting its goals, (7) and a stipulation that all communications to parents will be in an understandable and uniform format in a language that parents can understand. Projects are to be conducted for a period of 3 successive school years.

Grants must be used to (1) promote healthy eating through nutrition education programs and curricula based on the Dietary Guidelines for Americans and (2) increase opportunities for physical activity through after-school programs, athletics, intramural activities, and recess. Grants may be used to (1) educate parents and students about the relationship of a poor diet and inactivity to obesity and other health problems, (2) develop and implement physical education programs, (3) provide training and technical assistance, (4) incorporate nutrition education into physical education, health education, and after-school programs, (5) involve parents, nutrition professionals, food services staff, educators, community leaders, and others in establishing an action plan to promote a balanced and healthy diet, (6) provide nutrient content information on school meals, (7) encourage the increased consumption of healthy foods, (8) offer healthy food choices outside school meal programs, and (9) provide nutrition education (including sports nutrition education).

A report on the accomplishments of the local nutrition and physical activity grants is required no later than 18 months after completion of the projects.

### ***Nutrition education support and materials***

***Current law:*** No provisions.

***Section 205:*** In support of nutrition education goals, this section generally authorizes the Secretary to provide technical assistance and grants to improve the quality of school meals and access to local foods in schools. It also requires that all nutrition education materials prepared with funding from the team nutrition network or local nutrition and physical activity grants regarding agricultural commodities, food, or beverages be factual and without bias.

*Evaluation*

*Current law:* No provisions.

*Section 205:* Subject to the availability of funds, this section requires an independent evaluation of the existing team nutrition school meals initiative (funded through the appropriations process) and the team nutrition network established in this law – due not later than 3 years after funds are made available.

*Appropriations authorization*

*Current law:* Appropriations for the Nutrition Education and Training program (replaced in this law) are authorized at “such sums as are necessary.”

*Section 205:* This section authorizes “such sums as are necessary” to be appropriated for the team nutrition network and local nutrition and physical activity grants.

**Section 206. Review of Best Practices in the Breakfast Program**

*Current law:* No provisions.

*Section 206:* Subject to the availability of funds, requires the Secretary to enter into an agreement with a research organization to collect and disseminate a review of “best practices” so as to assist schools in addressing impediments that hinder the growth of the school breakfast program. The review would describe model breakfast programs and offer recommendations for schools to overcome obstacles such as the length of the school day, bus schedules, and increased costs. The results of the review would be disseminated not later than 1 year after enactment. “Such sums as are necessary” are authorized to be appropriated for this purpose.

### **Title III. Commodity Distribution Programs**

#### **Section 301. Commodity Distribution Programs.**

***Current law:*** The Secretary is permitted to use "Section 32" funds to remove and dispose of unsafe foods donated to child nutrition programs by the Agriculture Department. This authority expired September 30, 2003.

***Section 301:*** This section makes permanent the Secretary's authority to use "Section 32" funds to remove and dispose of unsafe foods donated to child nutrition programs by the Agriculture Department.

### **Title IV. Miscellaneous**

#### **Section 401. Sense of Congress Regarding Efforts to Prevent and Reduce Childhood Obesity**

***Current law:*** No provisions.

***Section 401:*** This section states that it is the sense of Congress that the State of Arkansas, in partnership with the University of Arkansas and the Arkansas Center for Health Improvement, should be commended for its leadership in combating childhood obesity, and that the efforts of the State of Arkansas to implement a statewide initiative to combat and prevent childhood obesity are exemplary and could serve as a model for other States.

## **Title V. Implementation**

### **Section 501. Guidance and Regulations**

This section requires the Secretary to issue guidance to implement certain amendments made by this Act as soon as practicable after enactment. It also requires the Secretary to promulgate final regulations for these amendments not later than 2 years after enactment and permits the Secretary to promulgate interim final regulations to implement them.

The amendments affected by these directives are:

- Section 102 (nutrition requirements)
- Section 103 (provision of information)
- Section 104 (direct certification);
- Section 105 (household applications);
- Section 106 (duration of eligibility for free and reduced price meals);
- Section 107 (runaway, homeless, and migrant youth);
- Section 111 (food safety);
- Section 116 (summer food service program for children);
- Section 119(c) (disregarded overpayments in the child and adult care food program);
- Section 119(g) (age limits in emergency shelters in the child and adult care food program)
- Section 120 (fresh fruit and vegetable program);
- Section 126(b) and (c) (additional administrative review requirements, State plan requirements, State training requirements, funding);
- Section 201 (severe need assistance)
- Section 203(a)(3) (WIC definition changes);
- Section 203(b) (WIC certification period for breastfeeding women, physical presence requirement);
- Section 203(c)(5) (notification of WIC vendor violations);
- Section 203(e)(3) (size of WIC State alliances);
- Section 203(e)(4) (primary contract infant formula)
- Section 203(e)(5) (counting units for infant formula rebates in the WIC program);

- Section 203(e)(6) (uncoupling milk-based and soy-based infant formula bids in the WIC program);
- Section 203(e)(7) (cent-for-cent adjustments to infant formula rebates in the WIC program);
- Section 203(e)(10) (vendor cost containment in the WIC program); and
- Section 203(h)(1) (WIC farmers' market nutrition program, roadside stands).

### **Section 502. Effective Dates**

This section makes most provisions effective on the date of enactment. Special effective dates are:

July 1, 2004 for:

- Section 106 (duration of eligibility for free and reduced price meals);
- Section 107 (runaway, homeless, and migrant youth);
- Section 126(c) (State plan requirements, State training requirements, funding); and
- Section 201 (severe need assistance).

October 1, 2004 for:

- Section 119(c) (child and adult care food program, disregarded overpayments);
- Section 119(g) (child and adult care food program, age limits);
- Section 202(a) (State administrative expenses, minimum State grants);
- Section 203(a) (WIC definition changes);
- Section 203(b) (WIC certification of breastfeeding women, physical presence);
- Section 203(c)(1) (accelerated approval of WIC vendors);
- Section 203(c)(5) (notification of WIC vendor violations);
- Section 203(e)(5) (counting units for infant formula rebates in the WIC program);
- Section 203(e)(8) (lists of infant formula providers in the WIC program);
- Section 203(e)(10) (WIC vendor cost containment);
- Section 203(e)(13) (incentive items in the WIC program);

- Section 203(f) (spend-forward authority in the WIC program); and
- Section 203 (h)(1) and (2) (WIC farmers' market nutrition program, roadside stands and matching requirement).

January 1, 2005 for: Section 116(f)(1) and (f)(3) (the simplified summer food program).

July 1, 2005 for:

- Section 102 (nutrition requirements)
- Section 104 (direct certification);
- Section 105 (household applications);
- Section 111 (food safety); and
- Section 126(b) (additional administrative review requirements).

October 1, 2005 for:

- Section 116(d) (summer food service rural transportation)
- Section 203(e)(9) (WIC earmarked funds)