

FOOD AND NUTRITION SERVICE, USDA

PENNSYLVANIA RURAL AREA ELGIBILITY PILOT

OMB NO. 0584-NEW

LEGISLATION SUMMARIES

PUBLIC LAW 108–265—JUNE 30, 2004

118 STAT. 729

**Public Law 108–265
108th Congress**

An Act

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; Table of contents.

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

Sec. 101. Nutrition promotion.

Sec. 102. Nutrition requirements.

Sec. 103. Provision of information.

Sec. 104. Direct certification.

Sec. 105. Household applications.

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

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

Sec. 108. Certification by local educational agencies.

Sec. 109. Exclusion of military housing allowances.

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

Sec. 111. Food safety.

Sec. 112. Purchases of locally produced foods.

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Sec. 113. Special assistance.

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

Sec. 115. Procurement training.

Sec. 116. Summer food service program for children.

Sec. 117. Commodity distribution program.

- Sec. 118. Notice of irradiated food products.
- Sec. 119. Child and adult care food program.
- Sec. 120. Fresh fruit and vegetable program.
- Sec. 121. Summer food service residential camp eligibility.
- Sec. 122. Access to local foods and school gardens.
- Sec. 123. Year-round services for eligible entities.
- Sec. 124. Free lunch and breakfast eligibility.
- Sec. 125. Training, technical assistance, and food service management institute.
- Sec. 126. Administrative error reduction.
- Sec. 127. Compliance and accountability.
- Sec. 128. Information clearinghouse.
- Sec. 129. Program evaluation.

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SEC. 116. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

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

“(8) SEAMLESS SUMMER OPTION.—Except as otherwise determined by the Secretary, a service institution that is a public or private nonprofit school food authority may provide summer or school vacation food service in accordance with applicable provisions of law governing the school lunch program established under this Act or the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).”

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

“(D) SEAMLESS SUMMER REIMBURSEMENTS.—A service institution described in subsection (a)(8) shall be reimbursed for meals and meal supplements in accordance with the applicable provisions under this Act (other than subparagraphs (A), (B), and (C) of this paragraph and paragraph (4)) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), as determined by the Secretary.”

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

“(9) EXEMPTION.—

“(A) IN GENERAL.—For each of calendar years 2005 and 2006 in rural areas of the State of Pennsylvania (as determined by the Secretary), the threshold for determining ‘areas in which poor economic conditions exist’ under paragraph (1)(C) shall be 40 percent.

“(B) EVALUATION.—

“(i) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall evaluate the impact of the eligibility criteria described in subparagraph (A) as compared to the eligibility criteria described in paragraph (1)(C).

“(ii) IMPACT.—The evaluation shall assess the impact of the threshold in subparagraph (A) on—

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“(I) the number of sponsors offering meals through the summer food service program;

“(II) the number of sites offering meals through the summer food service program;

“(III) the geographic location of the sites;

“(IV) services provided to eligible children; and

“(V) other factors determined by the Secretary.

“(iii) REPORT.—Not later than January 1, 2008, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation under this subparagraph.

“(iv) FUNDING.—

“(I) IN GENERAL.—On January 1, 2005, out Effective date. of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this subparagraph \$400,000, to remain available until expended.

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

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

“(10) SUMMER FOOD SERVICE RURAL TRANSPORTATION.—

“(A) IN GENERAL.—The Secretary shall provide grants, Grants, through not more than 5 eligible State agencies selected by the Secretary, to not more than 60 eligible service institutions selected by the Secretary to increase participation at congregate feeding sites in the summer food service program for children authorized by this section through innovative approaches to limited transportation in rural areas.

“(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph—

“(i) a State agency shall submit an application to the Secretary, in such manner as the Secretary shall establish, and meet criteria established by the Secretary; and

“(ii) a service institution shall agree to the terms and conditions of the grant, as established by the Secretary.

“(C) DURATION.—A service institution that receives a grant under this paragraph may use the grant funds during the 3-fiscal year period beginning in fiscal year 2005.

“(D) REPORTS.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

“(i) not later than January 1, 2007, an interim report that describes—

“(I) the use of funds made available under this paragraph; and

“(II) any progress made by using funds from each grant provided under this paragraph; and

“(ii) not later than January 1, 2008, a final report that describes—

“(I) the use of funds made available under this paragraph;

“(II) any progress made by using funds from each grant provided under this paragraph;

“(III) the impact of this paragraph on participation in the summer food service program for children authorized by this section; and

“(IV) any recommendations by the Secretary concerning the activities of the service institutions receiving grants under this paragraph.

“(E) FUNDING.—

Effective dates. “(i) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this paragraph—

“(I) on October 1, 2005, \$2,000,000; and

“(II) on October 1, 2006, and October 1, 2007, \$1,000,000.

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

“(iii) AVAILABILITY OF FUNDS.—Funds transferred under clause (i) shall remain available until expended.

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

(e) REAUTHORIZATION.—Section 13(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking “June 30, 2004” and inserting “September 30, 2009”.

(f) SIMPLIFIED SUMMER FOOD PROGRAMS.—

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

“(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term ‘eligible State’ means—

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

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

“(i) the percentage obtained by dividing—

“(I) the sum of—

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

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

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

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

“(I) the sum of—

“(aa) the average daily number of children attending the summer food service program in all States in July 2003; and “(bb) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 2003; by

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

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

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

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

“(6) REPORT.—Not later than April 30, 2007, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes—

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

“(B) any recommendations of the Secretary concerning the programs.”.

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

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

“(f) SIMPLIFIED SUMMER FOOD PROGRAMS.—”;

(B) in paragraph (2)—

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

“(2) PROGRAMS.—”;

(ii) by striking “pilot project” and inserting “program”;

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

(D) in paragraph (5)—

(i) in the paragraph heading by striking “PILOT PROJECTS” and inserting

“PROGRAMS”; and

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

ANALYSIS OF

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

Title1. – Amendments to the Richard B. Russell National School Lunch Act (NSLA)

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).