

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3874

To amend the Child Nutrition Act of 1966 to make improvements to the special supplemental nutrition program for women, infants, and children and to extend the authority of that program through fiscal year 2003.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1998

Mr. CASTLE (for himself and Mr. RIGGS) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Child Nutrition Act of 1966 to make improvements to the special supplemental nutrition program for women, infants, and children and to extend the authority of that program through fiscal year 2003.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “WIC Reauthorization  
5       Amendments of 1998”.

1 **SEC. 2. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM**  
2 **FOR WOMEN, INFANTS, AND CHILDREN.**

3 (a) ADDITIONAL REQUIREMENTS FOR APPLI-  
4 CANTS.—

5 (1) PHYSICAL PRESENCE REQUIREMENT.—Sec-  
6 tion 17(d)(3) of the Child Nutrition Act of 1966 (42  
7 U.S.C. 1786(d)(3)) is amended by adding at the end  
8 the following:

9 “(C)(i) Except as provided in clause (ii), each appli-  
10 cant to the program shall be physically present at each  
11 certification determination in order to determine eligibility  
12 under the program.

13 “(ii) A local agency may waive the requirement of  
14 clause (i)—

15 “(I) if required to do so by requirements under  
16 the Americans with Disabilities Act; or

17 “(II) with respect to a child who was present at  
18 the initial certification visit and who is receiving on-  
19 going health care from a provider other than such  
20 local agency, if the agency determines that the re-  
21 quirement of clause (i) would present a barrier to  
22 participation.”.

23 (2) INCOME DOCUMENTATION REQUIREMENT.—  
24 Section 17(d)(3) of the Child Nutrition Act of 1966  
25 (42 U.S.C. 1786(d)(3)), as amended by paragraph

1 (1), is further amended by adding at the end the fol-  
2 lowing:

3 “(D)(i) Except as provided in clause (ii), in order to  
4 be eligible for the program, each applicant to the program  
5 shall provide—

6 “(I) documentation of household income; or

7 “(II) documentation of participation in a pro-  
8 gram described in clauses (ii) and (iii) of paragraph  
9 (2)(A).

10 “(ii)(I) A State agency may waive the requirement  
11 of clause (i)—

12 “(aa) with respect to an applicant for whom the  
13 necessary documentation is not available; or

14 “(bb) with respect to an applicant, such as  
15 homeless women or children, for whom the agency  
16 determines the requirement of clause (i) would  
17 present a barrier to participation.

18 “(II) The Secretary shall prescribe regulations to  
19 carry out division (aa).”.

20 (b) DISTRIBUTION OF NUTRITION EDUCATION MA-  
21 TERIALS TO STATE AGENCIES ADMINISTERING THE COM-  
22 MODIFY SUPPLEMENTAL FOOD PROGRAM.—Section  
23 17(e)(3) of such Act (42 U.S.C. 1786(e)(3)) is amended—

24 (1) by redesignating paragraphs (4) and (5) as  
25 paragraphs (5) and (6), respectively; and

1           (2) by inserting after paragraph (3) the follow-  
2           ing:

3           “(4) The Secretary may provide nutrition education  
4 materials, including breastfeeding promotion materials,  
5 developed with funds appropriated to carry out the pro-  
6 gram under this section in bulk quantity to State agencies  
7 administering the commodity supplemental food program  
8 authorized under sections 4(a) and 5 of the Agriculture  
9 and Consumer Protection Act of 1973 at no cost to that  
10 program.”.

11           (c) REAUTHORIZATION OF PROGRAM.—Section  
12 17(g)(1) of such Act (42 U.S.C. 1786(g)(1)) is amended  
13 in the first sentence by striking “1995 through 1998” and  
14 inserting “1999 through 2003”.

15           (d) PURCHASE OF BREAST PUMPS.—Section  
16 17(h)(1)(C) of such Act (42 U.S.C. 1786(h)(1)(C)) is  
17 amended—

18           (1) by striking “(C)” and inserting “(C)(i)”;

19           and

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

21           “(ii)(I) Notwithstanding any other provision of this  
22 section, with respect to fiscal year 2000 and subsequent  
23 fiscal years, a State agency may use amounts made avail-  
24 able under clause (i) for the purchase of breast pumps.

1 “(II) A State agency that exercises the authority of  
2 subclause (I) shall expend from amounts allocated for nu-  
3 trition services and administration an amount for the pur-  
4 chase of breast pumps that is not less than the amount  
5 expended for the purchase of breast pumps for the prior  
6 fiscal year.”.

7 (e) NUTRITION SERVICES AND ADMINISTRATION.—

8 (1) ALLOCATION OF AMOUNTS.—Section  
9 17(h)(2)(A) of such Act (42 U.S.C. 1786(h)(2)(A))  
10 is amended in the first sentence by striking “1995  
11 through 1998” and inserting “1999 through 2003”.

12 (2) LEVEL OF PER PARTICIPANT EXPENDI-  
13 TURE.—Section 17(h)(2)(B)(ii) of such Act (42  
14 U.S.C. 1786(h)(2)(B)(ii)) is amended by striking  
15 “15 percent” and inserting “10 percent (except that  
16 the Secretary may establish a higher percentage for  
17 small State agencies)”.

18 (f) CONVERSION OF AMOUNTS FOR FOOD BENEFITS  
19 TO AMOUNTS FOR NUTRITION SERVICES AND ADMINIS-  
20 TRATION.—Section 17(h)(5)(A) of such Act (42 U.S.C.  
21 1786(h)(5)(A)) is amended in the matter preceding clause  
22 (i) by striking “achieves” and all that follows through  
23 “such State agency may” and inserting “submits a plan  
24 to reduce average food costs per participant and to in-  
25 crease participation above the level estimated for such

1 State agency, such State agency may, with the approval  
2 of the Secretary,”.

3 (g) INFANT FORMULA PROCUREMENT.—Section  
4 17(h)(8)(A) of such Act (42 U.S.C. 1786(h)(8)(A)) is  
5 amended by adding at the end the following:

6 “(iii) A State agency using a competitive bidding sys-  
7 tem for infant formula shall award contracts to the bidder  
8 offering the lowest net price unless the State agency dem-  
9 onstrates to the satisfaction of the Secretary that the  
10 weighted average retail price for different brands of infant  
11 formula in the State does not vary by more than five per-  
12 cent.”.

13 (h) INFRASTRUCTURE AND BREASTFEEDING PRO-  
14 MOTION/SUPPORT ACTIVITIES.—Section 17(h)(10)(A) of  
15 such Act (42 U.S.C. 1786(h)(10)(A)) is amended by strik-  
16 ing “For each of fiscal years 1995 through 1998,” and  
17 inserting “For each fiscal year through 2003,”.

18 (i) CONSIDERATION OF PRICE LEVELS OF RETAIL  
19 STORES FOR PARTICIPATION IN THE PROGRAM.—Section  
20 17(h) of such Act (42 U.S.C. 1786(h)) is amended by add-  
21 ing at the end the following:

22 “(11)(A) For the purpose of promoting efficiency and  
23 to contain costs under the program, a State agency shall,  
24 in selecting a retail store for participation in the program,  
25 take into consideration the prices that the store charges

1 for foods under the program as compared to the prices  
2 that other stores charge for such foods.

3 “(B) The State agency shall establish procedures to  
4 insure that a retail store selected for participation in the  
5 program does not subsequently raise prices to levels that  
6 would otherwise make the store ineligible for selection in  
7 the program.”.

8 (j) USE OF FUNDS IN PRECEDING AND SUBSEQUENT  
9 FISCAL YEARS.—

10 (1) IN GENERAL.—Clauses (i) and (ii) of sec-  
11 tion 17(i)(3)(A) of such Act (42 U.S.C.  
12 1786(i)(3)(A)(i) and (ii)) are amended to read as  
13 follows:

14 “(i) not more than 1 percent (except as pro-  
15 vided in subparagraph (C)) of the amount of funds  
16 allocated to a State agency under this section for  
17 supplemental foods for a fiscal year, and not more  
18 than 1 percent of the amount of funds allocated to  
19 a State agency under this section for nutrition serv-  
20 ices and administration for a fiscal year, may be ex-  
21 pended by the State agency for allowable expenses  
22 incurred under this section for supplemental foods  
23 and nutrition services and administration, respec-  
24 tively, during the preceding fiscal year; and

1           “(ii)(I) a State agency may expend, from  
2 amounts allocated to the agency for nutrition serv-  
3 ices and administration, an amount equal to not  
4 more than 1 percent of the total amount of funds al-  
5 located to the agency under this section for a fiscal  
6 year for allowable expenses incurred under this sec-  
7 tion for nutrition services and administration during  
8 the subsequent fiscal year; and

9           “(II) with the prior approval of the Secretary,  
10 a State agency may expend, from amounts allocated  
11 to the agency for nutrition services and administra-  
12 tion, an amount equal to not more than one-half of  
13 1 percent of the total amount of funds allocated to  
14 the agency under this section for a fiscal year for  
15 the development of a management information sys-  
16 tem, including an electronic benefit transfer system,  
17 during the subsequent fiscal year.”.

18           (2) CONFORMING AMENDMENTS.—Section 17 of  
19 such Act (42 U.S.C. 1786) is amended—

20           (A) in subsection (h)(10)(A) (as amended  
21 by this Act), by inserting after “nutrition serv-  
22 ices and administration funds” the following:  
23 “and food benefit funds”; and

24           (B) in subsection (i)—

1 (i) by striking subparagraphs (C)  
2 through (G); and

3 (ii) by redesignating subparagraph  
4 (H) as subparagraph (C).

5 (k) FARMERS MARKET NUTRITION PROGRAM.—

6 (1) MATCHING FUND REQUIREMENT.—Section  
7 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is  
8 amended in both the first and second sentences by  
9 striking “total” each place it appears and inserting  
10 “administrative”.

11 (2) RANKING CRITERIA FOR STATE PLANS.—  
12 Section 17(m)(6) of such Act (42 U.S.C.  
13 1786(m)(6)) is amended—

14 (A) by striking subparagraph (F); and

15 (B) by redesignating subparagraph (G) as  
16 subparagraph (F).

17 (3) REAUTHORIZATION OF PROGRAM.—Section  
18 17(m)(9)(A) of such Act (42 U.S.C. 1786(m)(9)(A))  
19 is amended by striking “1996 through 1998” and  
20 inserting “1999 through 2003”.

21 (l) DISQUALIFICATION OF CERTAIN VENDORS.—

22 (1) IN GENERAL.—Section 17 of such Act (42  
23 U.S.C. 1786) is amended by adding at the end the  
24 following:

1           “(o) DISQUALIFICATION OF VENDORS CONVICTED OF  
2 TRAFFICKING OR ILLEGAL SALES.—

3           “(1) IN GENERAL.—Except as provided in para-  
4 graph (5), the State agency shall permanently dis-  
5 qualify a vendor convicted of trafficking in food in-  
6 struments (including any voucher, draft, check, or  
7 access device, including an electronic benefit transfer  
8 card or personal identification number, issued in lieu  
9 of a food instrument pursuant to the provisions of  
10 this section), or selling firearms, ammunition, explo-  
11 sives, or controlled substances (as defined in section  
12 102 of the Controlled Substances Act) in exchange  
13 for food instruments.

14           “(2) NOTICE OF DISQUALIFICATION.—The  
15 State agency shall provide the vendor with notifica-  
16 tion of the disqualification and shall make such dis-  
17 qualification effective on the date of receipt of the  
18 notice of disqualification.

19           “(3) PROHIBITION ON RECEIPT OF LOST REVE-  
20 NUES.—A vendor shall not be entitled to receive any  
21 compensation for revenues lost as a result of the dis-  
22 qualification under this subsection.

23           “(4) HARDSHIP EXCEPTION IN LIEU OF DIS-  
24 QUALIFICATION.—

1           “(A) IN GENERAL.— A State agency may  
2 permit a vendor that would otherwise be dis-  
3 qualified under paragraph (1) to continue to re-  
4 deem food instruments or otherwise provide  
5 supplemental foods to participants if the State  
6 agency determines, in its sole discretion accord-  
7 ing to criteria established by the Secretary, dis-  
8 qualification of the vendor would cause hard-  
9 ship to participants in the program authorized  
10 under this section.

11           “(B) CIVIL MONEY PENALTY.—Whenever a  
12 State agency authorizes a vendor that would  
13 otherwise be disqualified to redeem food instru-  
14 ments or provide supplemental foods in accord-  
15 ance with subparagraph (A), the State agency  
16 shall assess the vendor a civil money penalty in  
17 lieu of a disqualification.

18           “(C) AMOUNT.— The State agency shall  
19 determine the amount of the civil penalty ac-  
20 cording to criteria established by the Sec-  
21 retary.”.

22           “(2) REGULATIONS.—The provisions of this sub-  
23 section shall not take effect until the Secretary  
24 issues final regulations that include the criteria for  
25 determining the amount of civil money penalties in

1        lieu of disqualification and for making hardship de-  
2        terminations.

3        (m) STUDY AND REPORT BY ECONOMIC RESEARCH  
4 SERVICE.—Section 17 of such Act (42 U.S.C. 1786), as  
5 amended by this Act, is further amended by adding at the  
6 end the following:

7        “(p) STUDY AND REPORT BY ECONOMIC RESEARCH  
8 SERVICE.—

9            “(1) STUDY.—The Secretary, acting through  
10        the Administrator of the Economic Research Service,  
11        shall conduct a study on the effect of cost contain-  
12        ment practices established by States under the pro-  
13        gram for the selection of vendors and approved food  
14        items (other than infant formula) on the following:

15            “(A) Program participation.

16            “(B) Access and availability of prescribed  
17        foods.

18            “(C) Voucher redemption rates and actual  
19        food selections by participants.

20            “(D) Participants on special diets or with  
21        specific food allergies.

22            “(E) Participant use and satisfaction of  
23        prescribed foods.

24            “(F) Achievement of positive health out-  
25        comes.

1                   “(G) Program costs.

2                   “(2) REPORT.—Not later than 3 years after the  
3                   date of the enactment of the WIC Reauthorization  
4                   Amendments of 1998, the Administrator shall sub-  
5                   mit to the Secretary of Agriculture, the Committee  
6                   on Education and the Workforce of the House of  
7                   Representatives, and the Committee on Agriculture,  
8                   Nutrition, and Forestry of the Senate a report con-  
9                   taining the results of the study conducted under  
10                  paragraph (1).”.

11                  (n) COLLECTION AND USE OF PENALTIES FROM  
12                  VENDOR AND RECIPIENT FRAUD AND ABUSE.—Section  
13                  17 of such Act (42 U.S.C. 1786), as amended by this Act,  
14                  is further amended by adding at the end the following:

15                  “(q) USE OF PENALTIES FROM VENDOR AND RECIP-  
16                  IENT FRAUD AND ABUSE.—

17                  “(1) IN GENERAL.—Amounts collected from  
18                  penalties from vendors and recipients relating to vio-  
19                  lations of any provision of this section (including any  
20                  regulation established to carry out this section) for  
21                  fraud and abuse under the program may be used for  
22                  nutrition services and administration and food bene-  
23                  fits only for the 1-year period beginning on the date  
24                  on which amounts under the penalty are received.”.

1           (o) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIO-  
2 LATIONS UNDER THE PROGRAM.—Section 17 of such Act  
3 (42 U.S.C. 1786), as amended by this Act, is further  
4 amended by adding at the end the following:

5           “(r) MAXIMUM AMOUNT OF FINE FOR CERTAIN VIO-  
6 LATIONS UNDER THE PROGRAM.—The maximum amount  
7 of a fine with respect to the embezzlement, willful  
8 misapplication, stealing, obtaining by fraud, or trafficking  
9 in food instruments of funds, assets, or property that are  
10 of a value of \$100 or more under the program shall be  
11 \$25,000.”.

12 **SEC. 3. EFFECTIVE DATE.**

13           Except as provided in section 2(l)(2), this Act, and  
14 the amendments made by this Act, shall take effect on  
15 October 1, 1998, or the date of the enactment of this Act,  
16 whichever occurs later.

○