

107TH CONGRESS
2D SESSION

S. 2821

To establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2002

Mr. FRIST (for himself, Mr. BINGAMAN, Mr. DODD, Mr. STEVENS, Mrs. CLINTON, Mr. WARNER, Mrs. MURRAY, Mr. DEWINE, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

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 “Improved Nutrition
5 and Physical Activity Act” or the “IMPACT Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) An estimated 61 percent of United States
2 adults and 13 percent of children and adolescents
3 are overweight or obese.

4 (2) The prevalence of obesity and being over-
5 weight is increasing among all age groups. There are
6 twice the number of overweight children and 3 times
7 the number of overweight adolescents as there were
8 29 years ago.

9 (3) An estimated 300,000 deaths a year are as-
10 sociated with being overweight or obese.

11 (4) Obesity and being overweight are associated
12 with increased risk for heart disease (the leading
13 cause of death), cancer (the second leading cause of
14 death), diabetes (the 6th leading cause of death),
15 and musculoskeletal disorders.

16 (5) Individuals who are obese have a 50 to 100
17 percent increased risk of premature death.

18 (6) The Healthy People 2010 goals identify
19 obesity and being overweight as one of the Nation's
20 leading health problems and include objectives of in-
21 creasing the proportion of adults who are at a
22 healthy weight, reducing the proportion of adults
23 who are obese, and reducing the proportion of chil-
24 dren and adolescents who are overweight or obese.

1 (7) Another goal of Healthy People 2010 is to
2 eliminate health disparities among different seg-
3 ments of the population. Obesity is a health problem
4 that disproportionately impacts medically underserved
5 populations.

6 (8) The United States Surgeon General’s report
7 “A Call To Action” lists the treatment and preven-
8 tion of obesity as a top national priority.

9 (9) The estimated direct and indirect annual
10 cost of obesity in the United States is
11 \$117,000,000,000, which exceeds the cost of to-
12 bacco-related illnesses and appears to be rising dra-
13 matically.

14 (10) Weight control programs should promote a
15 healthy lifestyle including regular physical activity
16 and healthy eating, as consistently discussed and
17 identified in a variety of public and private con-
18 sensus documents, including “A Call to Action” and
19 other documents prepared by the Department of
20 Health and Human Services and other agencies.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) **OBESE.**—The term “obese” means an adult
24 with a Body Mass Index (BMI) of 30 kg/m² or
25 greater.

1 “(b) GRANTS.—

2 “(1) IN GENERAL.—The Secretary may award
3 grants to qualified entities to train primary care
4 physicians and other licensed or certified health pro-
5 fessionals on how to identify, treat, and prevent obe-
6 sity and aid individuals who are overweight (as such
7 term is defined in section 3 of the Improved Nutri-
8 tion and Physical Activity Act).

9 “(2) APPLICATION.—An entity that desires a
10 grant under this subsection shall submit an applica-
11 tion at such time, in such form, and containing such
12 information as the Secretary may require, including
13 a plan for the use of funds that may be awarded and
14 an evaluation of the training that will be provided.

15 “(3) USE OF FUNDS.—An entity that receives
16 a grant under this subsection shall use the funds
17 made available through such grant to—

18 “(A) conduct educational conferences, in-
19 cluding Internet-based courses and telecon-
20 ferences, on—

21 “(i) how to treat and prevent obesity
22 and being overweight using nutritional
23 counseling, methods to increase physical
24 activity, pharmacological therapies, motiva-
25 tional counseling to promote positive

1 changes in health behaviors and to assist
2 patients in identifying potential barriers to
3 adhering to medical recommendations, and
4 other proven interventions;

5 “(ii) how to discuss varied strategies
6 to promote positive behavior change and
7 healthy lifestyles to avoid obesity, being
8 overweight, and other eating disorders;

9 “(iii) how to identify overweight and
10 obese patients and those who are at risk
11 for obesity and being overweight and there-
12 fore at risk for related serious and chronic
13 medical conditions;

14 “(iv) how to conduct a comprehensive
15 assessment of individual and familial
16 health risk factors, such as poor nutri-
17 tional status, physical inactivity, and per-
18 sonal and family history of obesity and re-
19 lated serious and chronic medical condi-
20 tions; and

21 “(v) how to educate patients and their
22 families about effective strategies to im-
23 prove dietary habits and establish appro-
24 priate levels of physical activity;

1 “(B) conduct training to enhance cultural
2 and linguistic competency and communication
3 skills needed to effectively interact with patients
4 from diverse populations regarding weight,
5 health, and nutritional status, including raising
6 awareness of issues regarding stigma and preju-
7 dice about obesity or being overweight;

8 “(C) evaluate the effectiveness of the train-
9 ing provided by such entity in increasing knowl-
10 edge and changing attitudes and behaviors of
11 trainees;

12 “(D) develop training materials and course
13 content using evidence-based findings or rec-
14 ommendations that pertain to obesity and over-
15 weight treatment and prevention ; and

16 “(E) collaborate with other training pro-
17 grams related to overweight and obesity preven-
18 tion and treatment.

19 “(4) EVALUATION.—

20 “(A) IN GENERAL.—An entity that re-
21 ceives a grant under this subsection shall sub-
22 mit to the Secretary an evaluation that de-
23 scribes the activities carried out by such entity
24 with funds received under this section.

1 appropriate agencies, shall award competitive grants to
2 cities, counties, tribes, and States to plan, implement, and
3 evaluate culturally and linguistically appropriate and com-
4 petent community-based programs and promote good nu-
5 trition and physical activity to prevent overweight, obesity
6 (as such terms are defined in section 3 of the Improved
7 Nutrition and Physical Activity Act), and related serious
8 and chronic medical conditions that may result from being
9 overweight or obese (as such terms are defined in section
10 3 of the Improved Nutrition and Physical Activity Act).

11 “(b) AWARD OF GRANTS.—A city, county, tribe, or
12 State desiring a grant under this section shall submit an
13 application to the Secretary at such time, in such form,
14 and containing such information as the Secretary may re-
15 quire, including a plan describing how funds received
16 through a grant under this section will be used and an
17 evaluation of the programs that will be provided. In
18 awarding grants under this section, the Secretary shall en-
19 sure that the proposed programs are coordinated in sub-
20 stance and format with programs currently funded
21 through other Federal agencies and operating within the
22 community.

23 “(c) USE OF FUNDS.—A city, county, tribe, or State
24 that receives a grant under this section shall use the funds

1 made available through the grant to carry out 3 or more
2 of the following activities:

3 “(1) Planning for and promotion of bike paths,
4 walking paths, or other similar or related environ-
5 mental changes that promote physical activity.

6 “(2) Forming partnerships and activities with
7 businesses and other entities to increase activity lev-
8 els at the workplace and while traveling to and from
9 the workplace, develop wellness programs that relate
10 to overweight and obesity, and to enhance nutri-
11 tional status by improving food options.

12 “(3) Establishing tax and other incentives for
13 businesses to increase the activity levels and improve
14 the nutrition of their employees by encouraging such
15 employees to—

16 “(A) walk or bike to work;

17 “(B) engage in other physical activity dur-
18 ing working hours; and

19 “(C) improve available food options.

20 “(4) Forming partnerships with public and pri-
21 vate entities including schools, faith-based entities,
22 and other facilities providing recreational services to
23 establish programs that use their facilities for after-
24 school and weekend activities for the community.

1 “(5) Establishing tax or other incentives for re-
2 tail food stores, grocery stores, and other retail food
3 outlets that offer nutritious foods, to encourage such
4 stores and outlets to locate in economically de-
5 pressed areas to improve the nutritional status of
6 the community.

7 “(6) Forming partnerships with senior centers
8 and nursing homes to establish programs for older
9 people to foster physical activity and improved nutri-
10 tion, including strength, flexibility, and aerobic class-
11 es.

12 “(7) Providing educational activities targeting
13 healthier eating, such as cooking and shopping dem-
14 onstrations, onsite consultation by nutrition profes-
15 sionals at restaurants, and community educational
16 outreach using evidence-based nutrition rec-
17 ommendations.

18 “(8) Forming partnerships with day care facili-
19 ties to establish programs that promote improved
20 nutritional status and physical activity.

21 “(9) Providing training and supervision of com-
22 munity health workers by health professionals to—

23 “(A) educate families regarding the rela-
24 tionship between nutrition, eating habits, phys-
25 ical activity, and obesity;

1 “(B) educate families about effective strat-
2 egies to improve nutrition, establish healthy
3 eating patterns, and establish appropriate levels
4 of physical activity;

5 “(C) educate and guide parents regarding
6 the ability to model and communicate positive
7 health behaviors; and

8 “(D) educate and refer individuals to ap-
9 propriate health care agencies and community-
10 based programs and organizations in order to
11 increase access to quality health care services,
12 including preventive health services.

13 “(10) Other activities as deemed appropriate by
14 the Secretary.

15 “(d) EVALUATION.—A city, county, tribe, or State
16 that receives a grant under this section shall submit to
17 the Secretary an evaluation, in collaboration with an aca-
18 demic health center or other qualified community-based
19 entity, that describes activities carried out with funds re-
20 ceived under this section, the long-term effectiveness of
21 such activities in increasing physical activity, improving
22 nutrition, and preventing individuals from becoming over-
23 weight or obese, and such other information as the Sec-
24 retary may require.

1 “(e) MATCHING FUNDS.—In awarding grants under
2 subsection (a), the Secretary may give priority to appli-
3 cants who provide matching funds.

4 “(f) TECHNICAL ASSISTANCE.—The Secretary may
5 set aside an amount not to exceed 15 percent of the total
6 amount appropriated for a fiscal year under subsection (g)
7 to permit the Director of the Centers for Disease Control
8 and Prevention to—

9 “(1) provide grantees with technical support in
10 the development, implementation, and evaluation of
11 programs under this section; and

12 “(2) disseminate culturally and linguistically
13 appropriate and competent information about strate-
14 gies and interventions in preventing and treating
15 obesity through the promotion of good nutrition and
16 physical activity.

17 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated to carry out this section
19 \$40,000,000 for fiscal year 2003, and such sums as may
20 be necessary for each of fiscal years 2004 through 2007.”.

1 **TITLE III—SCHOOL HEALTH**
2 **PROGRAM**

3 **SEC. 301. ESTABLISHMENT OF A COORDINATED SCHOOL**
4 **HEALTH PROGRAM.**

5 Part Q of title III of the Public Health Service Act
6 (42 U.S.C. 280h et seq.) is amended by striking section
7 399W and inserting the following:

8 **“SEC. 399W. GRANTS.**

9 “(a) STATE EDUCATIONAL GRANTS.—The Secretary,
10 acting through the Director of the Centers for Disease
11 Control and Prevention and in consultation with the Ad-
12 ministrator of the Health Resources and Services Admin-
13 istration, the Secretary of Education, the Secretary of Ag-
14 riculture, and the Secretary of the Interior, shall, as part
15 of the Centers for Disease Control and Prevention’s co-
16 ordinated school health program currently operated pursu-
17 ant to the Director’s general authority, award competitive
18 grants to State, tribal, and local educational agencies
19 (where applicable) to—

20 “(1) develop and disseminate school-based cur-
21 ricula or programs that focus on a healthy lifestyle
22 that includes promotion of balanced dietary patterns
23 and physical activity to prevent becoming overweight
24 or obese and related, serious, and chronic medical
25 conditions that are associated with being overweight

1 or obese (as such terms are defined in section 3 of
2 the Improved Nutrition and Physical Activity Act);

3 “(2) provide education and training to edu-
4 cation professionals, including health education,
5 physical education, and food service professionals;

6 “(3) develop and implement policies that create
7 a healthy school environment in relation to nutrition
8 and physical activity; and

9 “(4) evaluate activities conducted under para-
10 graphs (1) through (3).

11 “(b) LOCAL EDUCATIONAL GRANTS.—

12 “(1) IN GENERAL.—The Secretary, acting
13 through the Director of the Centers for Disease
14 Control and Prevention and in consultation with the
15 Secretary of Education, the Secretary of Agriculture,
16 and the Secretary of the Interior, shall award com-
17 petitive grants to local educational agencies to plan,
18 implement, and evaluate culturally and linguistically
19 appropriate and competent programs to promote a
20 healthy lifestyle, including programs that, in collabo-
21 ration with statewide coordinated school health pro-
22 grams, when applicable, increase physical activity
23 and improve the nutritional status of the students at
24 elementary and secondary schools.

1 “(2) AWARD OF GRANTS.—A local educational
2 agency desiring a grant under this subsection shall
3 submit an application to the Secretary at such time,
4 in such manner, and containing such information as
5 the Secretary may require, including a plan describ-
6 ing how funds received under this section will be
7 used and an evaluation of the program.

8 “(3) USE OF FUNDS.—A local educational
9 agency that receives a grant under this subsection
10 shall use the funds made available through the grant
11 to carry out 4 or more of the following activities:

12 “(A) Planning and implementing a healthy
13 lifestyle curriculum or program with an empha-
14 sis on nutrition and physical activity for each
15 grade level.

16 “(B) Planning and implementing a phys-
17 ical education and activity curriculum or pro-
18 gram for each grade level and purchasing ap-
19 propriate equipment, with no more than 15 per-
20 cent of a grant award used for purchasing such
21 equipment.

22 “(C) Planning and implementing healthy
23 lifestyle classes or programs for parents and
24 guardians, with an emphasis on nutrition and
25 physical activity.

1 “(D) Planning and implementing after-
2 hours physical activity programs.

3 “(E) Creating opportunities for students to
4 choose foods to improve nutritional status.

5 “(F) Training teachers and staff, including
6 food service workers, on how to teach good nu-
7 trition and physical activity practices.

8 “(G) Other activities as deemed appro-
9 priate by the Secretary.

10 “(4) EVALUATION.—An agency that receives a
11 grant under this subsection shall submit to the Sec-
12 retary an evaluation, in collaboration with an aca-
13 demic department or other qualified community-
14 based entity, describing the activities carried out
15 under the grant, the effectiveness of the activities in
16 increasing physical activity, improving nutrition, and
17 preventing individuals from becoming overweight
18 and obese, and such other information as the Sec-
19 retary may require.

20 “(c) COMMUNITY EDUCATIONAL GRANTS.—

21 “(1) IN GENERAL.—The Secretary, acting
22 through the Centers for Disease Control and Preven-
23 tion, shall award competitive grants to universities,
24 colleges, or community-based nonprofit organizations
25 to develop, implement, and evaluate programs to

1 promote healthy eating and physical activity in
2 youth and to conduct effectiveness reports to iden-
3 tify programs that have demonstrated effectiveness
4 in improving nutritional status and physical activity
5 in youth.

6 “(2) AWARD OF GRANTS.—A university, college,
7 or qualified community-based nonprofit entity desir-
8 ing a grant under this subsection shall submit an
9 application to the Secretary at such time, in such
10 manner, and containing such information as the Sec-
11 retary may require.

12 “(3) INFORMATION AVAILABILITY.—Informa-
13 tion about programs funded with grants authorized
14 under this subsection shall be made available to
15 State, tribal, and local educational agencies and may
16 be used in planning and implementing programs de-
17 scribed in subsections (a) and (b).

18 “(d) TECHNICAL ASSISTANCE.—The Secretary may
19 set aside an amount not to exceed 15 percent of the total
20 amount appropriated for a fiscal year under subsection (e)
21 to permit the Director of the Centers for Disease Control
22 and Prevention to—

23 “(1) provide grantees with technical support in
24 the development, implementation, and evaluation of
25 programs under this section; and

1 “(2) disseminate culturally and linguistically
2 appropriate and competent information about strate-
3 gies and interventions in preventing and treating
4 obesity through the promotion of good nutrition and
5 physical activity.

6 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
7 is authorized to be appropriated to carry out this section
8 \$40,000,000 for fiscal year 2003, and such sums as may
9 be necessary for each of fiscal years 2004 through 2007.”.

10 **SEC. 302. NATIONAL CENTER FOR HEALTH STATISTICS.**

11 Section 306 of the Public Health Service Act (42
12 U.S.C. 242k) is amended by striking subsection (n) and
13 inserting the following:

14 “(n)(1) The Secretary, acting through the Center,
15 may provide for the—

16 “(A) collection of data for determining the fit-
17 ness levels of children and youth; and

18 “(B) analysis of data collected as part of the
19 National Health and Nutrition Examination Survey
20 and other data sources.

21 “(2) In carrying out paragraph (1), the Secretary,
22 acting through the Center, may make grants to states,
23 public and nonprofit entities.

24 “(3) The Secretary, acting through the Center, may
25 provide technical assistance, standards, and methodologies

1 to grantees supported by this subsection in order to maxi-
2 mize the data quality and comparability with other stud-
3 ies.”.

4 **TITLE IV—INSTITUTE OF** 5 **MEDICINE STUDY**

6 **SEC. 401. STUDY OF THE FOOD SUPPLEMENT AND NUTRI-**
7 **TION PROGRAMS OF THE DEPARTMENT OF**
8 **AGRICULTURE.**

9 (a) IN GENERAL.—The Secretary of Agriculture shall
10 request that the Institute of Medicine conduct, or contract
11 with another entity to conduct, a study on the food and
12 nutrition assistance programs run by the Department of
13 Agriculture.

14 (b) CONTENT.—Such study shall—

15 (1) investigate whether the nutrition programs
16 and nutrition recommendations are based on the lat-
17 est scientific evidence;

18 (2) investigate whether the food assistance pro-
19 grams contribute to either preventing or enhancing
20 obesity and being overweight in children, adoles-
21 cents, and adults;

22 (3) investigate whether the food assistance pro-
23 grams can be improved or altered to contribute to
24 the prevention of obesity and becoming overweight;

1 (4) identify obstacles that prevent or hinder the
2 programs from achieving their objectives; and

3 (5) suggest an evaluation and research agenda
4 for the National Nutrition Foundation established
5 under title XI of this Act.

6 (c) REPORT.—Not later than 24 months after the
7 date of enactment of this Act, the Secretary of Agriculture
8 shall submit to the appropriate committees of Congress
9 a report containing the results of the Institute of Medicine
10 study authorized under this section.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to carry out this section
13 \$750,000 for fiscal years 2003 and 2004.

14 **TITLE V—AGENCY FOR**
15 **HEALTHCARE RESEARCH**
16 **AND QUALITY STUDIES**

17 **SEC. 501. EVIDENCE REPORT ON WEIGHT REDUCTION PRO-**
18 **GRAMS.**

19 (a) IN GENERAL.—The Secretary, acting through the
20 Director of the Agency for Healthcare Research and Qual-
21 ity, shall conduct or support an evidence report on the ef-
22 fectiveness of weight reduction programs.

23 (b) CONTENT.—The study described in subsection (a)
24 shall evaluate the available scientific evidence regarding
25 the safety and effectiveness of the programs, including

1 programs that use dietary supplements, behavior modifica-
2 tion, and other weight loss methods, and how successful
3 the programs are in helping individuals achieve short-term
4 weight loss and sustain long-term weight maintenance.

5 (c) REPORT.—The Secretary shall, not later than 18
6 months after the date of enactment of this Act, prepare
7 and submit to the relevant committees of Congress a re-
8 port that describes the results of the evidence report de-
9 scribed in this section. Such report shall be made available
10 on the web site of the Agency for Healthcare Research
11 and Quality.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section,
14 \$500,000 for fiscal year 2003.

15 **SEC. 502. HEALTH DISPARITIES REPORT.**

16 Not later than 18 months after the date of enactment
17 of this Act, and annually thereafter, the Director of the
18 Agency for Healthcare Research and Quality shall review
19 all research that results from the activities outlined in this
20 Act and determine if particular information may be impor-
21 tant to the report on health disparities required by section
22 903(c)(3) of the Public Health Service Act (42 U.S.C.
23 299a–1(c)(3)).

1 **TITLE VI—PREVENTIVE HEALTH**
 2 **AND HEALTH SERVICES**
 3 **BLOCK GRANT**

4 **SEC. 601. USE OF ALLOTMENTS.**

5 Section 1904(a)(1) of title XIX of the Public Health
 6 Service Act (42 U.S.C. 300w-3(a)(1)) is amended by add-
 7 ing at the end the following:

8 “(H) Activities and community education pro-
 9 grams designed to address and prevent overweight,
 10 obesity, and eating disorders through effective pro-
 11 grams to promote healthy eating, and exercise habits
 12 and behaviors.”.

13 **TITLE VII—MEDICARE NUTRI-**
 14 **TION THERAPY DEMONSTRA-**
 15 **TION PROJECT**

16 **SEC. 701. DEMONSTRATION PROJECT TO REDUCE OBESITY**
 17 **AND OTHER CHRONIC DISEASE RISKS.**

18 (a) DEMONSTRATION.—The Secretary, in consulta-
 19 tion with the Administrator of the Centers for Medicare
 20 & Medicaid Services, shall conduct a demonstration
 21 project to develop a comprehensive and systematic model
 22 for improving the health of older Americans.

23 (b) CONTENT.—The demonstration project described
 24 in subsection (a) shall—

1 (1) identify, through self-assessment, behavioral
2 risk factors, such as obesity and overweight, poor
3 nutrition, physical inactivity, alcohol use, tobacco
4 use, and mental health problems among those target
5 individuals;

6 (2) identify, through self-assessment, needed
7 medicare clinical preventive and screening benefits
8 among those target individuals;

9 (3) identify, through self-assessment, functional
10 and self-management information the Secretary de-
11 termines to be appropriate;

12 (4) provide ongoing support to reduce risk fac-
13 tors and promote the appropriate use of preventive
14 and screening benefits; and

15 (5) improve health outcomes, satisfaction, qual-
16 ity of life, and appropriate use of medicare-covered
17 services among those target individuals.

18 (c) DEFINITIONS.—

19 In this section:

20 (1) TARGET INDIVIDUALS.—The term “target
21 individuals” means individuals who are medicare
22 beneficiaries under title XVIII of the Social Security
23 Act (42 U.S.C. 1395 et seq.) who shall include dif-
24 ferent segments of the population including racial
25 and ethnic minority groups and persons of lower so-

1 cioeconomic status. The demonstration is completely
2 voluntary on the part of target individuals.

3 (2) SELF-ASSESSMENT.—The term “self-assess-
4 ment” means a form delivered by the Secretary to
5 each target individual that—

6 (A) includes questions regarding—

7 (i) behavioral risk factors;

8 (ii) needed preventive and screening
9 services; and

10 (iii) target individuals’ preferences for
11 receiving followup information; and

12 (B) is then assessed using such computer
13 generated assessment programs and provides
14 ongoing support to the individual as the Sec-
15 retary determines appropriate.

16 (3) ONGOING SUPPORT.—The term “ongoing
17 support” means—

18 (A) to provide target individuals with in-
19 formation, feedback, health coaching, and rec-
20 ommendations regarding—

21 (i) the results of the self-assessment;

22 (ii) behavior modification based on the
23 self-assessment; and

1 (iii) any need for clinical preventive
2 and screening services or treatment includ-
3 ing medical nutrition therapy;

4 (B) to provide target individuals with re-
5 ferrals to community resources and programs
6 (such as senior centers) available to assist the
7 target individual in reducing health risks;

8 (C) information on available volunteer op-
9 portunities to promote active engagement in the
10 community; and

11 (D) to provide the information described in
12 subparagraph (A) to a health care provider, if
13 designated by the target individual to receive
14 such information.

15 (d) PROGRAM DESIGN.—

16 (1) INITIAL DESIGN.—Not later than 1 year
17 after the date of enactment of this Act, the Sec-
18 retary shall design the demonstration project. The
19 demonstration should draw upon promising, innova-
20 tive models and incentives to reduce behavioral risk
21 factors. The Administrator of the Centers for Medi-
22 care & Medicaid Services shall consult with the Di-
23 rector of the Centers for Disease Control and Pre-
24 vention, the Director of the Office of Minority
25 Health, and the heads other agencies in the Depart-

1 ment of Health and Human Services, and profes-
2 sional organizations, as the Secretary determines to
3 be appropriate on the design, conduct, and evalua-
4 tion of the demonstration.

5 (2) NUMBER AND PROJECT AREAS.—Not later
6 than 2 years after the date of enactment of this Act,
7 the Secretary shall implement 1 demonstration
8 project designed to determine whether similar pro-
9 grams should be implemented for the general medi-
10 care population.

11 (e) REPORT TO CONGRESS.—Not later than 3 years
12 after the date the Secretary implements the demonstration
13 project under this section, the Secretary shall submit to
14 Congress a report that describes the project, evaluates the
15 effectiveness and cost effectiveness of the project, evalu-
16 ates the beneficiary satisfaction under the project, and in-
17 cludes any other information the Secretary determines to
18 be appropriate.

19 (f) WAIVER AUTHORITY.—The Secretary shall waive
20 compliance with the requirements of title XVIII of the So-
21 cial Security Act (42 U.S.C. 1395 et seq.) to such extent
22 and for such period as the Secretary determines is nec-
23 essary to conduct the demonstration project under this
24 section.

1 (g) FUNDING.—The Secretary shall provide for the
 2 transfer from the Federal Hospital Insurance Trust Fund
 3 and the Federal Supplementary Insurance Trust Fund
 4 under title XVIII of the Social Security Act (42 U.S.C.
 5 1395 et seq.) an amount not to exceed \$25,000,000 for
 6 the costs of designing, implementing, and evaluating the
 7 demonstration project under this section.

8 **TITLE VIII—OVERWEIGHT AND**
 9 **OBESITY TREATMENT AND**
 10 **PREVENTION DEMONSTRATION**
 11 **PROJECTS**

12 **SEC. 801. GRANTS TO LOCAL HEALTHCARE DELIVERY SYS-**
 13 **TEMS.**

14 Title III of the Public Health Service Act (42 U.S.C.
 15 241 et seq.) as amended in section 201, is further amend-
 16 ed by adding at the end the following:

17 **“SEC. 399BB. GRANTS TO LOCAL HEALTHCARE DELIVERY**
 18 **SYSTEMS.**

19 “(a) IN GENERAL.—The Secretary shall award
 20 grants to eligible entities to implement demonstration
 21 overweight and obesity (as such terms are defined in sec-
 22 tion 3 of the Improved Nutrition and Physical Activity
 23 Act) treatment and prevention programs using evidence-
 24 based recommendations.

1 “(b) ELIGIBLE ENTITY.—In this section, the term
2 ‘eligible entity’ means a federally qualified health center
3 (as defined in section 1861(aa)(4) of the Social Security
4 Act (42 U.S.C. 1395x(aa)(4)), rural health clinic, health
5 department, Indian Health Service hospital or clinic, In-
6 dian tribal health facility, urban Indian facility, or other
7 health care service provider, as determined appropriate by
8 the Secretary.

9 “(c) AWARD OF GRANTS.—An eligible entity desiring
10 a grant under this section shall submit an application to
11 the Secretary at such time, in such manner, and con-
12 taining such information as the Secretary may require, in-
13 cluding a plan for the use of funds awarded under the
14 grant and an evaluation of the program.

15 “(d) USE OF FUNDS.—An eligible entity that receives
16 a grant under this section shall use the funds made avail-
17 able through the grant to carry out 3 or more of the fol-
18 lowing activities in a culturally and linguistically appro-
19 priate and competent manner:

20 “(1) Providing nutrition and physical activity
21 services by a health professional to treat or prevent
22 overweight and obesity.

23 “(2) Providing patient education and counseling
24 to increase physical activity and improve nutrition.

1 “(3) Providing community education on nutri-
2 tion and physical activity by a health professional to
3 provide better understanding of the relationship be-
4 tween diet, physical activity, and obesity.

5 “(4) Training health professionals on how to
6 identify and treat obese and overweight individuals
7 which may include nutrition and physical activity
8 counseling.

9 “(5) Providing education and referring individ-
10 uals to appropriate health care agencies and commu-
11 nity-based programs and organizations in order to
12 increase access to quality health care services, in-
13 cluding preventive health services.

14 “(6) Training and supervising community
15 health workers by qualified health professionals to—

16 “(A) educate families regarding the rela-
17 tionship between nutrition, eating habits, phys-
18 ical activity, and obesity;

19 “(B) educate families about effective strat-
20 egies to improve nutrition, establish healthy
21 eating patterns and establish appropriate levels
22 of physical activity; and

23 “(C) educate and guide parents regarding
24 the ability to model and communicate positive
25 health behaviors.

1 “(7) Other activities that are deemed appro-
2 priate by the Secretary.

3 “(e) EVALUATION.—An eligible entity that receives a
4 grant under this section shall, in collaboration with an
5 academic health center or other qualified community-
6 based entity, submit to the Secretary a report describing
7 the activities carried out under the grant, the effectiveness
8 of the activities in increasing physical activity, improving
9 nutrition, and preventing overweight and obesity, and such
10 other information as the Secretary may require.

11 “(f) TECHNICAL ASSISTANCE.—The Secretary may
12 set aside an amount not to exceed 15 percent of the total
13 amount appropriated for a fiscal year under subsection (g)
14 to—

15 “(1) provide grantees with technical support in
16 the development, implementation, and evaluation of
17 programs under this section; and

18 “(2) disseminate culturally and linguistically
19 appropriate and competent information about strate-
20 gies and interventions in preventing and treating
21 obesity through the promotion of good nutrition and
22 physical activity.

23 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section,

1 \$40,000,000 for fiscal year 2003, and such sums as may
 2 be necessary for each of fiscal years 2004 through 2007.”.

3 **TITLE IX—RESEARCH ON**
 4 **OBESITY**

5 **SEC. 901. REPORT ON OBESITY RESEARCH.**

6 (a) IN GENERAL.—Not later than 1 year after the
 7 date of enactment of this Act, the Secretary shall submit
 8 to the Committee on Health, Education, Labor, and Pen-
 9 sions of the Senate and the Committee on Energy and
 10 Commerce of the House of Representatives a report on
 11 research on causes and health implications of obesity and
 12 being overweight.

13 (b) CONTENT.—The report described in subsection
 14 (a) shall contain—

15 (1) descriptions on the status of relevant, cur-
 16 rent, ongoing research being conducted in the de-
 17 partment including—

18 (A) the types and numbers of studies com-
 19 pleted or being conducted by the National Insti-
 20 tutes of Health on—

21 (i) mechanisms responsible for obesity
 22 (including nutrition, physical activity, ge-
 23 netic causes such as syndrome X), the pre-
 24 vention of and the treatment for obesity
 25 and related, serious, and chronic medical

1 conditions (including diabetes and cardio-
2 vascular disease); and

3 (ii) psychosocial aspects of obesity;

4 (B) the types and number of studies com-
5 pleted or being conducted by the Centers for
6 Disease Control and Prevention on individual
7 and community interventions to prevent individ-
8 uals from becoming overweight or obese;

9 (C) the types of studies completed or being
10 conducted by the Agency for Healthcare Re-
11 search and Quality on the treatment and pre-
12 vention of overweight and obesity;

13 (D) the types of studies being conducted
14 by the Health Resources and Services Adminis-
15 tration on the prevention of overweight and obe-
16 sity; and

17 (E) what these studies have shown about
18 the causes of, prevention of, and treatment of
19 overweight and obesity; and

20 (2) recommendations on further research that
21 is needed, including research among diverse popu-
22 lations, the department's plan for conducting such
23 research, and how current knowledge can be dissemi-
24 nated.

1 **TITLE X—YOUTH MEDIA**
2 **CAMPAIGN**

3 **SEC. 1001. GRANTS AND CONTRACTS FOR A NATIONAL CAM-**
4 **PAIGN TO CHANGE CHILDREN'S HEALTH BE-**
5 **HAVIORS.**

6 Section 399Y of the Public Health Service Act (42
7 U.S.C. 280h–2) is amended by striking subsection (b) and
8 inserting the following:

9 “(b) GRANTS.—

10 “(1) IN GENERAL.—As part of the campaign
11 described in subsection (a), the Secretary, acting
12 through the Director of the Centers for Disease
13 Control and Prevention, shall award grants or con-
14 tracts to eligible entities to design and implement
15 culturally and linguistically appropriate and com-
16 petent campaigns to change children’s health behav-
17 iors.

18 “(2) ELIGIBLE ENTITY.—In this subsection, the
19 term ‘eligible entity’ means a marketing, public rela-
20 tions, advertising, or other appropriate entity.

21 “(3) CONTENT.—An eligible entity that receives
22 a grant under this subsection shall use funds re-
23 ceived through such grant or contract to utilize mar-
24 keting and communication strategies to—

1 “(A) communicate messages to help young
2 people develop habits that will foster good
3 health over a lifetime;

4 “(B) provide young people with motivation
5 to engage in sports and other physical activi-
6 ties;

7 “(C) influence youth to develop good
8 health habits such as regular physical activity
9 and good nutrition;

10 “(D) educate parents of young people on
11 the importance of physical activity and improv-
12 ing nutrition, how to maintain healthy behav-
13 iors for the entire family, and how to encourage
14 children to develop good nutrition and physical
15 activity habits; and

16 “(E) discourage stigmatization and dis-
17 crimination based on body size or shape.

18 “(4) REPORT.—The Secretary shall evaluate
19 the effectiveness of the campaign described in para-
20 graph (1) in changing children’s behaviors and re-
21 port such results to the Committee on Health, Edu-
22 cation, Labor, and Pensions of the Senate and the
23 Committee on Energy and Commerce of the House
24 of Representatives.

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
 2 is authorized to be appropriated to carry out this section,
 3 \$125,000,000 for fiscal year 2003, and such sums as nec-
 4 essary for each of fiscal years 2004 through 2007.”.

5 **TITLE XI—DEPARTMENT OF**
 6 **AGRICULTURE ACTIVITIES**

7 **SEC. 1101. NATIONAL NUTRITION FOUNDATION.**

8 (a) AMENDMENT.—Subtitle D of the Department of
 9 Agriculture Reorganization Act of 1994 (7 U.S.C. 6951
 10 et seq.) is amended by adding at the end the following:

11 **“SEC. 242. NATIONAL NUTRITION FOUNDATION.**

12 “(a) IN GENERAL.—There shall be established a non-
 13 profit private corporation to be known as the National Nu-
 14 trition Foundation for the Department of Agriculture (in
 15 this section referred to as the ‘Foundation’). The Founda-
 16 tion shall not be an agency or instrumentality of the Fed-
 17 eral Government, and officers, employees, and members
 18 of the board of the Foundation shall not be officers or
 19 employees of the Federal Government.

20 “(b) PURPOSE OF FOUNDATION.—The purpose of
 21 the Foundation shall be to support and carry out research
 22 and dissemination pertaining to the nutrition and food as-
 23 sistance programs in the Department, including research
 24 and dissemination on the nutritional effects of readily
 25 available, competing foods at schools with school meal pro-

1 grams, and other activities related to improving the nutri-
2 tional status of the public.

3 “(c) ENDOWMENT FUND.—

4 “(1) IN GENERAL.—In carrying out subsection
5 (b), the Foundation shall establish a fund for pro-
6 viding endowments for positions that are associated
7 with the Department and dedicated to the purpose
8 described in such subsection. Subject to subsection
9 (f)(1)(B), the fund shall consist of such donations as
10 may be provided by non-Federal entities and such
11 non-Federal assets of the Foundation (including
12 earnings of the Foundation and the fund) as the
13 Foundation may elect to transfer to the fund.

14 “(2) AUTHORIZED EXPENDITURES OF FUND.—

15 The provision of endowments under paragraph (1)
16 shall be the exclusive function of the fund estab-
17 lished under such paragraph. Such endowments may
18 be expended only for the compensation of individuals
19 holding the positions, for staff, equipment, quarters,
20 travel, and other expenditures that are appropriate
21 in supporting the positions, and for recruiting indi-
22 viduals to hold the positions endowed by the fund.

23 “(d) CERTAIN ACTIVITIES OF FOUNDATION.—In car-
24 rying out subsection (b), the Foundation may provide for

1 the following with respect to the purpose described in such
2 subsection:

3 “(1) Programs of fellowships for State and local
4 public health officials and nutritionists to work and
5 study in association with the Department.

6 “(2) Studies, projects, and research (which may
7 include applied research on the effectiveness of pre-
8 vention activities, demonstration projects, and pro-
9 grams and projects involving international, Federal,
10 State, and local governments).

11 “(3) Forums for government officials and ap-
12 propriate private entities to exchange information.
13 Participants in such forums may include institutions
14 of higher education and appropriate international or-
15 ganizations.

16 “(4) Meetings, conferences, courses, and train-
17 ing workshops.

18 “(5) Programs to improve the collection and
19 analysis of data on the health and nutrition status
20 of diverse populations.

21 “(6) Programs for appropriately disseminating
22 information.

23 “(7) Other activities to carry out the purpose
24 described in subsection (b) of this section.

1 “(e) GENERAL STRUCTURE OF FOUNDATION; NON-
2 PROFIT STATUS.—

3 “(1) BOARD OF DIRECTORS.—The Foundation
4 shall have a board of directors (referred to in this
5 section as the ‘Board’), which shall be established
6 and conducted in accordance with subsection (f) of
7 this section. The Board shall establish the general
8 policies of the Foundation for carrying out sub-
9 section (b), including the establishment of the by-
10 laws of the Foundation.

11 “(2) EXECUTIVE DIRECTOR.—The Foundation
12 shall have an executive director (referred to in this
13 section as the ‘Director’), who shall be appointed by
14 the Board, who shall serve at the pleasure of the
15 Board, and for whom the Board shall establish the
16 rate of compensation. Subject to the policies and by-
17 laws established by the Board pursuant to para-
18 graph (1), the Director shall be responsible for the
19 daily operations of the Foundation in carrying out
20 subsection (b).

21 “(3) NONPROFIT STATUS.—In carrying out
22 subsection (b), the Board shall establish such poli-
23 cies and bylaws under paragraph (1), and the Direc-
24 tor shall carry out such activities under paragraph

1 (2), as may be necessary to ensure that the Founda-
2 tion maintains status as an organization that—

3 “(A) is described in section 501(c)(3) of
4 the Internal Revenue Code of 1986; and

5 “(B) is exempt from taxation under section
6 501(a) of the Internal Revenue Code of 1986.

7 “(f) BOARD OF DIRECTORS.—

8 “(1) CERTAIN BYLAWS.—

9 “(A) In establishing bylaws under sub-
10 section (e)(1), the Board shall ensure that the
11 bylaws of the Foundation include bylaws for the
12 following:

13 “(i) Policies for the selection of the
14 officers, employees, agents, and contractors
15 of the Foundation.

16 “(ii) Policies, including ethical stand-
17 ards, for the acceptance and disposition of
18 donations to the Foundation and for the
19 disposition of the assets of the Foundation.

20 “(iii) Policies for the conduct of the
21 general operations of the Foundation.

22 “(B) In establishing bylaws under sub-
23 section (e)(1), the Board shall ensure that the
24 bylaws of the Foundation (and activities carried
25 out under the bylaws) do not—

1 “(i) undermine the ability of the
2 Foundation, or the Department, to carry
3 out its responsibilities or official duties in
4 a fair and objective manner; or

5 “(ii) compromise, or appear to com-
6 promise, the integrity of any governmental
7 program or any officer or employee in-
8 volved in such program.

9 “(2) COMPOSITION.—The Board shall be com-
10 posed of no less than 7 individuals, appointed in ac-
11 cordance with paragraph (4), who collectively pos-
12 sess education or experience appropriate for rep-
13 resenting the general field of public health nutrition,
14 the general field of international nutrition, and the
15 general public. Each such individual shall be a vot-
16 ing member of the Board.

17 “(3) CHAIRPERSON.—The Board shall, from
18 among the members of the Board, designate an indi-
19 vidual to serve as the chairperson of the Board (in
20 this subsection referred to as the ‘Chair’).

21 “(4) APPOINTMENTS, VACANCIES, AND
22 TERMS.—Subject to subsection (j) of this section
23 (regarding the initial membership of the Board), the
24 following shall apply to the Board:

1 “(A) Any vacancy in the membership of
2 the Board shall be filled by appointment by the
3 Board, after consideration of suggestions made
4 by the Chair and the Director regarding the ap-
5 pointments. Any such vacancy shall be filled not
6 later than the expiration of the 180-day period
7 beginning on the date on which the vacancy oc-
8 curs.

9 “(B) The term of office of each member of
10 the Board appointed under subparagraph (A)
11 shall be 5 years. A member of the Board may
12 continue to serve after the expiration of the
13 term of the member until the expiration of the
14 180-day period beginning on the date on which
15 the term of the member expires.

16 “(C) A vacancy in the membership of the
17 Board shall not affect the power of the Board
18 to carry out the duties of the Board. If a mem-
19 ber of the Board does not serve the full term
20 applicable under subparagraph (B), the indi-
21 vidual appointed to fill the resulting vacancy
22 shall be appointed for the remainder of the
23 term of the predecessor of the individual.

24 “(5) COMPENSATION.—Members of the Board
25 may not receive compensation for service on the

1 Board. The members may be reimbursed for travel,
2 subsistence, and other necessary expenses incurred
3 in carrying out the duties of the Board.

4 “(g) CERTAIN RESPONSIBILITIES OF EXECUTIVE DI-
5 RECTOR.—In carrying out subsection (e)(2), the Director
6 shall carry out the following functions:

7 “(1) Hire, promote, compensate, and discharge
8 officers and employees of the Foundation, and define
9 the duties of the officers and employees.

10 “(2) Accept and administer donations to the
11 Foundation, and administer the assets of the Foun-
12 dation.

13 “(3) Establish a process for the selection of
14 candidates for holding endowed positions under sub-
15 section (c).

16 “(4) Enter into such financial agreements as
17 are appropriate in carrying out the activities of the
18 Foundation.

19 “(5) Take such action as may be necessary to
20 acquire patents and licenses for devices and proce-
21 dures developed by the Foundation and the employ-
22 ees of the Foundation.

23 “(6) Adopt, alter, and use a corporate seal,
24 which shall be judicially noticed.

1 “(7) Commence and respond to judicial pro-
2 ceedings in the name of the Foundation.

3 “(8) Other functions that are appropriate in the
4 determination of the Director.

5 “(h) GENERAL PROVISIONS.—

6 “(1) AUTHORITY FOR ACCEPTING FUNDS.—The
7 Secretary may accept and utilize, on behalf of the
8 Federal Government, any gift, donation, bequest, or
9 devise of real or personal property from the Founda-
10 tion for the purpose of aiding or facilitating the
11 work of such Department. Funds may be accepted
12 and utilized by such Secretary under the preceding
13 sentence without regard to whether the funds are
14 designated as general-purpose funds or special-pur-
15 pose funds.

16 “(2) AUTHORITY FOR ACCEPTANCE OF VOL-
17 UNTARY SERVICES.—

18 “(A) IN GENERAL.—The Secretary may
19 accept on behalf of the Federal Government,
20 any voluntary services provided to such Depart-
21 ment by the Foundation for the purpose of aid-
22 ing or facilitating the work of such Department.
23 In the case of an individual, the Secretary may
24 accept the services provided under the pre-

1 ceding sentence by the individual for not more
2 than 2 years.

3 “(B) APPLICATION OF PROVISION.—The
4 limitation established in subparagraph (A) re-
5 garding the period of time in which services
6 may be accepted applies to each individual who
7 is not an employee of the Federal Government
8 and who serves in association with the Depart-
9 ment pursuant to financial support from the
10 Foundation.

11 “(3) ADMINISTRATIVE CONTROL.—No officer,
12 employee, or member of the Board of the Founda-
13 tion may exercise any administrative or managerial
14 control over any Federal employee.

15 “(4) APPLICABILITY OF CERTAIN STANDARDS
16 TO NON-FEDERAL EMPLOYEES.—In the case of any
17 individual who is not an employee of the Federal
18 Government and who serves in association with the
19 Department pursuant to financial support from the
20 Foundation, the Foundation shall negotiate a memo-
21 randum of understanding with the individual and
22 the Secretary specifying that the individual—

23 “(A) shall be subject to the ethical and
24 procedural standards regulating Federal em-
25 ployment, scientific investigation, and research

1 findings (including publications and patents)
2 that are required of individuals employed by the
3 Department, including standards under this
4 subtitle, the Ethics in Government Act, and the
5 Technology Transfer Act; and

6 “(B) shall be subject to such ethical and
7 procedural standards under chapter 11 of title
8 18, United States Code, (relating to conflicts of
9 interest), as the Secretary determines is appro-
10 priate, except such memorandum may not pro-
11 vide that the individual shall be subject to the
12 standards of section 209 of title 18, United
13 States Code.

14 “(5) FINANCIAL CONFLICTS OF INTEREST.—

15 Any individual who is an officer, employee, or mem-
16 ber of the Board of the Foundation may not directly
17 or indirectly participate in the consideration or de-
18 termination by the Foundation of any question
19 affecting—

20 “(A) any direct or indirect financial inter-
21 est of the individual; or

22 “(B) any direct or indirect financial inter-
23 est of any business organization or other entity
24 of which the individual is an officer or employee

1 or in which the individual has a direct or indi-
2 rect financial interest.

3 “(6) AUDITS; AVAILABILITY OF RECORDS.—The
4 Foundation shall—

5 “(A) provide for biennial independent au-
6 dits of the financial condition of the Founda-
7 tion; and

8 “(B) make such audits, and all other
9 records, documents, and other papers of the
10 Foundation, available to the Secretary and the
11 Comptroller General of the United States for
12 examination or audit.

13 “(7) REPORTS.—

14 “(A) IN GENERAL.—Not later than Feb-
15 ruary 1 of each fiscal year, the Foundation
16 shall publish a report describing the activities of
17 the Foundation during the preceding fiscal
18 year. Each such report shall include for the fis-
19 cal year involved a comprehensive statement of
20 the operations, activities, financial condition,
21 and accomplishments of the Foundation.

22 “(B) CONTENTS.—With respect to the fi-
23 nancial condition of the Foundation, each re-
24 port under subparagraph (A) shall include the
25 source, and a description of, all gifts to the

1 Foundation of real or personal property, and
2 the source and amount of all gifts to the Foun-
3 dation of money. Each such report shall include
4 a specification of any restrictions on the pur-
5 poses for which gifts to the Foundation may be
6 used.

7 “(C) AVAILABILITY.—The Foundation
8 shall make copies of each report submitted
9 under subparagraph (A) available for public in-
10 spection, and shall upon request provide a copy
11 of the report to any individual for a charge not
12 exceeding the cost of providing the copy.

13 “(8) LIAISON FROM DEPARTMENT OF AGRI-
14 CULTURE.—The Secretary shall serve as the liaison
15 representative of the Department to the Board and
16 the Foundation.

17 “(i) FEDERAL FUNDING.—

18 “(1) AUTHORITY FOR ANNUAL GRANTS.—

19 “(A) IN GENERAL.—The Secretary shall—

20 “(i) for fiscal year 2003, make a
21 grant to an entity described in subsection
22 (j)(9) of this section (relating to the estab-
23 lishment of a committee to establish the
24 Foundation);

1 “(ii) for fiscal year 2004, make a
2 grant to the committee established under
3 such subsection, or if the Foundation has
4 been established, to the Foundation; and

5 “(iii) for fiscal year 2005 and each
6 subsequent fiscal year, make a grant to the
7 Foundation.

8 “(B) USE OF FUNDS.—A grant under sub-
9 paragraph (A) may be expended—

10 “(i) in the case of an entity receiving
11 the grant under subparagraph (A)(i), only
12 for the purpose of carrying out the duties
13 established in subsection (j)(9) of this sec-
14 tion for the entity;

15 “(ii) in the case of the committee es-
16 tablished under such subsection, only for
17 the purpose of carrying out the duties es-
18 tablished in subsection (j) for the com-
19 mittee; and

20 “(iii) in the case of the Foundation,
21 only for the purpose of the administrative
22 expenses of the Foundation.

23 “(C) LIMITATION.—A grant under sub-
24 paragraph (A) may not be expended to provide

1 amounts for the fund established under sub-
2 section (c).

3 “(D) UNOBLIGATED FUNDS.—For the pur-
4 poses described in subparagraph (B)—

5 “(i) any portion of the grant made
6 under subparagraph (A)(i) for fiscal year
7 2003 that remains unobligated after the
8 entity receiving the grant completes the
9 duties established in subsection (j)(9) for
10 the entity shall be available to the com-
11 mittee established under such subsection;
12 and

13 “(ii) any portion of a grant under
14 subparagraph (A) made for fiscal year
15 2003 or 2004 that remains unobligated
16 after such committee completes the duties
17 established in such subsection for the com-
18 mittee shall be available to the Foundation.

19 “(2) FUNDING FOR GRANTS.—

20 “(A) IN GENERAL.—For the purpose of
21 grants under paragraph (1), there is authorized
22 to be appropriated \$500,000 for each fiscal
23 year.

24 “(B) AVAILABILITY OF OTHER FUNDS.—
25 For the purpose of grants under paragraph (1),

1 the Secretary may for each fiscal year make
2 available not more than \$500,000 from the
3 amounts appropriated for the fiscal year for the
4 programs of the Department. Such amounts
5 may be made available without regard to wheth-
6 er amounts have been appropriated under sub-
7 paragraph (A).

8 “(3) CERTAIN RESTRICTION.—If the Founda-
9 tion receives Federal funds for the purpose of serv-
10 ing as a fiscal intermediary between Federal agen-
11 cies, the Foundation may not receive such funds for
12 the indirect costs of carrying out such purpose in an
13 amount exceeding 10 percent of the direct costs of
14 carrying out such purpose. The preceding sentence
15 may not be construed as authorizing the expenditure
16 of any grant under paragraph (1) for such purpose.

17 “(j) COMMITTEE FOR ESTABLISHMENT OF FOUNDA-
18 TION.—

19 “(1) IN GENERAL.—There shall be established
20 in accordance with this subsection a committee to
21 carry out the functions described in paragraph (2)
22 (referred to in this subsection as the ‘Committee’).

23 “(2) FUNCTIONS.—The functions referred to in
24 paragraph (1) for the Committee are as follows:

1 “(A) To carry out such activities as may
2 be necessary to incorporate the Foundation
3 under the laws of the State involved, including
4 serving as incorporators for the Foundation.
5 Such activities shall include ensuring that the
6 articles of incorporation for the Foundation re-
7 quire that the Foundation be established and
8 operated in accordance with the applicable pro-
9 visions of this subtitle (or any successor to this
10 subtitle).

11 “(B) To ensure that the Foundation quali-
12 fies for and maintains the status described in
13 subsection (e)(3) of this section (regarding tax-
14 ation).

15 “(C) To establish the general policies and
16 initial bylaws of the Foundation, which bylaws
17 shall include the bylaws described in subsections
18 (e)(3) and (f)(1) of this section.

19 “(D) To provide for the initial operation of
20 the Foundation, including providing for quar-
21 ters, equipment, and staff.

22 “(E) To appoint the initial members of the
23 Board in accordance with the requirements es-
24 tablished in subsection (f)(2)(A) of this section
25 for the composition of the Board, and in ac-

1 cordance with such other qualifications as the
2 Committee may determine to be appropriate re-
3 garding such composition. Of the members so
4 appointed—

5 “(i) 2 shall be appointed to serve for
6 a term of 3 years;

7 “(ii) 2 shall be appointed to serve for
8 a term of 4 years; and

9 “(iii) 3 shall be appointed to serve for
10 a term of 5 years.

11 “(3) COMPLETION OF FUNCTIONS OF COM-
12 MITTEE; INITIAL MEETING OF BOARD.—

13 “(A) IN GENERAL.—The Committee shall
14 complete the functions required in paragraph
15 (1) not later than 2 years after the date of en-
16 actment of the Improved Nutrition and Physical
17 Activity Act. The Committee shall terminate
18 upon the expiration of the 30-day period begin-
19 ning on the date on which the Secretary deter-
20 mines that the functions have been completed.

21 “(B) INITIAL MEETING.—The initial meet-
22 ing of the Board shall be held not later than 1
23 year after the date of enactment of the Im-
24 proved Nutrition and Physical Activity Act.

1 “(4) COMPOSITION.—The Committee shall be
2 composed of 5 members, each of whom shall be a
3 voting member. Of the members of the Committee—

4 “(A) no fewer than 2 shall have broad,
5 general experience in public health nutrition;
6 and

7 “(B) no fewer than 2 shall have broad,
8 general experience in nonprofit private organi-
9 zations (without regard to whether the individ-
10 uals have experience in public health).

11 “(5) CHAIR.—The Committee shall, from
12 among the members of the Committee, designate an
13 individual to serve as the chair of the Committee.

14 “(6) TERMS; VACANCIES.—The term of mem-
15 bers of the Committee shall be for the duration of
16 the Committee. A vacancy in the membership of the
17 Committee shall not affect the power of the Com-
18 mittee to carry out the duties of the Committee. If
19 a member of the Committee does not serve the full
20 term, the individual appointed to fill the resulting
21 vacancy shall be appointed for the remainder of the
22 term of the predecessor of the individual.

23 “(7) COMPENSATION.—Members of the Com-
24 mittee may not receive compensation for service on
25 the Committee. Members of the Committee may be

1 reimbursed for travel, subsistence, and other nec-
2 essary expenses incurred in carrying out the duties
3 of the Committee.

4 “(8) COMMITTEE SUPPORT.—The Secretary
5 may, from amounts available to the Secretary for
6 the general administration of the Department, pro-
7 vide staff and financial support to assist the Com-
8 mittee with carrying out the functions described in
9 paragraph (2). In providing such staff and support,
10 the Secretary may both detail employees and con-
11 tract for assistance.

12 “(9) GRANT FOR ESTABLISHMENT OF COM-
13 MITTEE.—

14 “(A) IN GENERAL.—With respect to a
15 grant under paragraph (1)(A)(i) of subsection
16 (i) for fiscal year 2003, an entity described in
17 this paragraph is a private nonprofit entity with
18 significant experience in domestic and inter-
19 national issues of public health and nutrition.
20 Not later than 180 days after the date of enact-
21 ment of the Improved Nutrition and Physical
22 Activity Act, the Secretary shall make the grant
23 to such an entity (subject to the availability of
24 funds under paragraph (2) of such subsection).

1 “(B) REQUIRED AGREEMENTS.—The grant
2 referred to in subparagraph (A) may be made
3 to an entity only if the entity agrees that—

4 “(i) the entity will establish a com-
5 mittee that is composed in accordance with
6 paragraph (4); and

7 “(ii) the entity will not select an indi-
8 vidual for membership on the Committee
9 unless the individual agrees that the Com-
10 mittee will operate in accordance with each
11 of the provisions of this subsection that re-
12 late to the operation of the Committee.

13 “(C) USE OF FUNDS.—The Secretary may
14 make a grant referred to in subparagraph (A)
15 only if the applicant for the grant makes an
16 agreement that the grant will not be expended
17 for any purpose other than carrying out sub-
18 paragraph (B). Such a grant may be made only
19 if an application for the grant is submitted to
20 the Secretary containing such agreement, and
21 the application is in such form, is made in such
22 manner, and contains such other agreements
23 and such assurances and information as the
24 Secretary determines to be necessary to carry
25 out this paragraph.”.

1 (b) CONFORMING AMENDMENT.—Section 296(b) of
2 the Department of Agriculture Reorganization Act of
3 1994 (7 U.S.C. 7014(b)) is amended—

4 (1) in paragraph (3) by striking “or” at the
5 end;

6 (2) in paragraph (4) by striking the period and
7 inserting “; or”; and

8 (3) by adding at the end the following:

9 “(5) the establishment of the National Nutri-
10 tion Foundation for the Department of Agriculture
11 under section 242.”.

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