

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5504
OFFERED BY MR. GEORGE MILLER OF
CALIFORNIA**

Page 39, beginning on line 21, amend clause (xiii)
to read as follows:

1 “(xiii) AUTHORIZATION OF APPRO-
2 PRIATIONS.—There are authorized to be
3 appropriated such sums as may be nec-
4 essary to carry clause (xii).”.

Page 46, line 10, insert “including the standards
and guidelines requiring a scientifically rigorous imple-
mentation plan to achieve an overall response rate of at
least 80 percent and an item response rate of at least 70
percent for any item in the survey used to determine
free- and reduced-price meal eligibility of students en-
rolled in the schools to which the results will be applied”.

Page 46, beginning on line 16, strike clause (iv).

Page 46, line 24, redesignate clause (v) as clause
(iv).

Page 47, beginning on line 2, strike “established” and insert “as determined”.

Page 47, line 4, redesignate clause (vi) as clause (v).

Page 47, beginning on line 4, strike “as established” and insert “as determined”.

Page 47, after line 5, insert the following:

1 “(3) FUNDING.—There are authorized such
2 funds as may be necessary to carry out this sub-
3 section.”.

Add at the end of section 104 of the Amendment,
the following:

4 (c) OUTREACH ON COMMUNITY ELIGIBILITY OP-
5 TIONS.—Section 11 of the Richard B. Russell National
6 School Lunch Act (42 U.S.C. 1759a) is amended by add-
7 ing at the end the following:

8 “(h) OUTREACH ON COMMUNITY ELIGIBILITY OP-
9 TIONS.—The Secretary, in consultation with the Secretary
10 of Education, shall provide information to local edu-
11 cational agencies and schools, including local educational
12 agencies and schools receiving funds for school improve-
13 ment under section 1003(g) of the Elementary and Sec-
14 ondary Education Act of 1965 (20 U.S.C. 6303(g)), with
15 respect to alternative methods of counting and claiming

1 available under this section to local educational agencies
2 and schools in which a significant proportion of enrolled
3 children are eligible for free or reduced price lunches
4 under this Act.”.

Page 48, line 21, insert “free” before “meals”.

Page 49, line 3, insert “free” before “supplements”.

Page 62, after line 2, insert the following:

5 “(E) FUNDING.—
6 “(i) IN GENERAL.—On October 1,
7 2010, and each October 1 thereafter, out
8 of any funds in the Treasury not otherwise
9 appropriated, the Secretary of the Treas-
10 ury shall transfer to the Secretary to carry
11 out this paragraph \$10,000,000, to remain
12 available until expended.
13 “(ii) RECEIPT AND ACCEPTANCE.—
14 The Secretary shall be entitled to receive,
15 shall accept, and shall use to carry out this
16 paragraph the funds transferred under
17 clause (i), without further appropriation.”.

In section 114 of the Amendment, strike paragraph
(3).

Page 71, after line 20, insert the following:

1 “(v) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated such sums as may be necessary to
4 carry out clause (iv).”.

 Insert after section 122 of the Amendment the fol-
 lowing:

5 **SECTION 123. AFTERSCHOOL MEALS FOR AT-RISK CHIL-**
6 **DREN.**

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

10 “(5) OPERATIONAL REQUIREMENTS.—Not later
11 than 180 days after the date of the enactment of the
12 Improving Nutrition for America’s Children Act, the
13 Secretary shall establish requirements and issue
14 guidance governing the operation of the program
15 under this subsection to ensure that afterschool
16 meals for at-risk children are provided under the
17 program in conformance with applicable operational
18 and oversight requirements.”.

 Amend section 24(k) of the Richard B. Russell Na-
 tional School Lunch Act (as proposed to be added by sec-
 tion 124 of the Amendment) to read as follows:

19 “(k) FUNDING.—

1 “(1) IN GENERAL.—On October 1, 2010, out of
2 any funds in the Treasury not otherwise appro-
3 priated, the Secretary of the Treasury shall transfer
4 to the Secretary to carry out this section
5 \$50,000,000, to remain available until expended.

6 “(2) RECEIPT AND ACCEPTANCE.—The Sec-
7 retary shall be entitled to receive, shall accept, and
8 shall use to carry out this section the funds trans-
9 ferred under paragraph (1), without further appro-
10 priation.”.

Page 90, after line 20, insert the following:

11 “(F) AUTHORIZATION OF APPROPRIA-
12 TIONS.—There are authorized to be appro-
13 priated such sums as may be necessary to carry
14 out subparagraph (C).”.

Page 96, beginning on line 16, amend paragraph (7)
to read as follows:

15 “(7) FUNDING.—
16 “(A) IN GENERAL.—On October 1, 2010,
17 and each succeeding October 1 through October
18 1, 2014, out of any funds in the Treasury not
19 otherwise appropriated, the Secretary of the
20 Treasury shall transfer to the Secretary to
21 carry out this subsection \$10,000,000.

1 “(B) RECEIPT AND ACCEPTANCE.—The
2 Secretary shall be entitled to receive, shall ac-
3 cept, and shall use to carry out this subsection
4 the funds transferred under subparagraph (A),
5 without further appropriation.”.

Page 111, after line 13, insert the following:

6 “(C) addresses how local educational agen-
7 cies can use local school wellness policies for
8 childhood obesity prevention and preventing
9 diet-related chronic disease;”.

Page 111, line 14, redesignate subparagraph (C) as
subparagraph (D).

Page 111, line 17, redesignate subparagraph (D) as
subparagraph (E).

Page 117, after line 2, insert the following:

10 “(6) AUTHORIZATION OF APPROPRIATIONS.—
11 There are authorized to be appropriated such sums
12 as may be necessary to carry out this subsection.”.

In section 5(b)(2)(B) of the Richard B. Russell Na-
tional School Lunch Act, as proposed to be amended by
section 207 of the Amendment—

(1) strike “and” at the end of clause (iv);

(2) redesignate clause (v) as clause (vi); and

(3) add after clause (iv) the following:

1 “(v) promote parental involvement in
2 encouraging healthy eating and physical
3 activity in school, child care, and at home;
4 and”.

Page 119, line 9, strike “and”.

Page 119, after line 13, insert the following:

5 “(vi) in consultation with the Sec-
6 retary of Health and Human Services, sup-
7 port the development of nutrition edu-
8 cation and wellness programs that assist
9 students with diabetes and those students
10 at risk of developing diabetes, with an em-
11 phasis on adolescents, through better man-
12 agement and prevention; and”.

In section 18(i)(2) of the Richard B. Russell Na-
tional School Lunch Act, as proposed to be added by sec-
tion 208(4) of the Amendment—

(1) strike “and” at the end of subparagraph
(A);

(2) strike the period at the end of subpara-
graph (B); and

(3) insert at the end the following:

1 “(C) a voluntary listing of agriculture pro-
2 ducers or groups of producers that are inter-
3 ested in engaging with schools for farm-to-
4 school activities under subsection (g).”.

Page 141, after line 15, insert the following:

5 “(D) CONSULTATION.—In providing the
6 technical assistance under this subsection, the
7 Secretary shall, as appropriate, take into con-
8 sideration—
9 “(i) relevant resources from the heads
10 of other Federal agencies, including the
11 Secretary of Health and Human Services;
12 and
13 “(ii) existing guidelines developed by
14 nationally recognized nonprofit organiza-
15 tions with an expertise in child care, nutri-
16 tion, physical activity, and wellness stand-
17 ards.”.

Page 141, line 16, redesignate subparagraph (D) as
subparagraph (E).

Page 148, beginning on line 18, amend subsection
(c) to read as follows:

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated \$8,000,0000 to carry

1 out this section for fiscal year 2011 through 2015, to re-
2 main available until expended.

In section 12(m) of the Richard B. Russell National
School Lunch Act, as proposed to be amended by section
242 of the Amendment—

(1) redesignate paragraph (5) as paragraph (6);
and

(2) insert after paragraph (4), the following:

3 “(5) LOCAL PROCUREMENT.—Activities carried
4 out under paragraph (1) shall include technical as-
5 sistance to promote cost-effective strategies for pro-
6 curing foods from local vendors, as determined by
7 the Secretary, for use in the school meal programs
8 under this Act and the Child Nutrition Act of 1966
9 (42 U.S.C. 1771 et seq.).”.

In section 246 of the Amendment, amend subsection
(b) to read as follows:

10 (b) APPLICATIONS.—

11 (1) GRANTS.—In order to receive a grant under
12 this section, a State agency shall submit an applica-
13 tion at such time, in such manner, and containing
14 such information as the Secretary may require.

15 (2) SUBGRANTS.—In order to receive a
16 subgrant under this section, a school food authority

1 shall submit an application to the appropriate State
2 agency at such time, in such manner, and containing
3 such information as the State agency may require,
4 including—

5 (A) a description of the schools in which
6 the environmental improvements described in
7 subsection (c)(2) will be made using the
8 subgrant funds;

9 (B) a proposed work plan for making the
10 environmental improvements, including a de-
11 scription of the uses of the funds;

12 (C) an assessment of the expected environ-
13 mental, economic, and educational benefits of
14 the environmental improvements;

15 (D) a cost estimate of the proposed uses of
16 the funds;

17 (E) the proposed use of private financing
18 for the environmental improvements; and

19 (F) an assurance that schools receiving the
20 funds will not use food service products made
21 with polystyrene foam.

Insert after section 247 of the Amendment the fol-
lowing:

1 **SEC. 248. STUDY ON ACCESS TO CAFETERIA EQUIPMENT TO**
2 **PROVIDE HEALTHY SCHOOL MEALS.**

3 (a) IN GENERAL.—The Secretary shall assess the
4 adequacy of cafeteria equipment commonly used by
5 schools participating in the school lunch program estab-
6 lished under the Richard B. Russell National School
7 Lunch Act (42 U.S.C. 1751 et seq.) to store, prepare, and
8 serve fruits, vegetables, and other foods encouraged by the
9 Dietary Guidelines for Americans published under section
10 301 of the National Nutrition Monitoring and Related Re-
11 search Act of 1990 (7 U.S.C. 5341) (in this section re-
12 ferred to as the “Dietary Guidelines”).

13 (b) REPORT.—Not later than 1 year after the first
14 year fiscal year for which funds are appropriated under
15 subsection (c) to carry out this section, the Secretary shall
16 submit to the Committee on Education and Labor of the
17 House of Representatives and the Committee on Agri-
18 culture, Nutrition, and Forestry of the Senate, a report
19 describing—

20 (1) the types of cafeteria equipment most com-
21 monly used by schools to store, prepare, and serve
22 foods under the school lunch program that are en-
23 couraged by the most recent Dietary Guidelines;

24 (2) the types of cafeteria equipment commonly
25 identified by schools as being necessary to effectively
26 and efficiently store, prepare, and serve foods under

1 the school lunch program that meet the minimum
2 nutrition requirements under section 9 of the Rich-
3 ard B. Russell National School Lunch Act (42
4 U.S.C 1758);

5 (3) the barriers identified by schools for acquir-
6 ing the cafeteria equipment identified under para-
7 graph (2); and

8 (4) the types and average cost of equipment
9 most commonly purchased by schools with funds
10 provided—

11 (A) under the heading “Food and Nutri-
12 tion Service Child Nutrition Programs” in title
13 I of division A of the American Recovery and
14 Reinvestment Act of 2009 (Public Law 111–5);
15 and

16 (B) under this Act.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated such sums as may be
19 necessary to carry out this section for the period of fiscal
20 year 2011 through 2015, to be available until expended.

21 **SEC. 249. MERCURY IN FOODS.**

22 (a) IN GENERAL.—The Secretary of Agriculture shall
23 ensure that any school, local educational agency, school
24 food authority, institution, or other entity receiving funds
25 under the Richard. B. Russell National School Lunch Act

1 (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of
2 1966 (42 U.S.C. 1771 et seq.) shall have timely and sci-
3 entific information on the levels of mercury in foods served
4 through these programs.

5 (b) CONSULTATION.—On an ongoing basis, the Sec-
6 retary of Agriculture shall monitor scientific information,
7 guidance, and recommendations published by the Commis-
8 sioner of Food and Drugs and the Administrator of the
9 Environmental Protection Agency on the appropriate lev-
10 els of mercury in foods in the food supply.

11 (c) GUIDANCE AND TECHNICAL ASSISTANCE.—
12 Based on the guidance and recommendations monitored
13 under section (b), the Secretary shall issue guidance and
14 provide technical assistance materials, as appropriate, to
15 the entities described in subsection (a) to help ensure that
16 foods and meals provided under the Richard B. Russell
17 National School Lunch Act (42 U.S.C. 1751 et seq.) and
18 the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)
19 are safe with respect to mercury levels.

20 **SEC. 250. HEALTHIER US SCHOOL CHALLENGE INITIATIVE.**

21 Section 18 of the Richard B. Russell National School
22 Lunch Act is amended by adding at the end the following:

23 “(m) HEALTHIER US SCHOOL CHALLENGE INITIA-
24 TIVE.—

1 “(1) IN GENERAL.—From the amounts appro-
2 priated under paragraph (3), the Secretary shall
3 carry out a pilot program under which the Secretary
4 awards grants to schools described in paragraph (2)
5 to encourage the consumption, outside of the school
6 meal programs under this Act and section 4 of the
7 Child Nutrition Act of 1966 (42 U.S.C. 1773), of
8 fluid milk that meets the nutrition requirements of
9 section 10 by children enrolled in such schools.

10 “(2) SCHOOLS.—Schools described in this para-
11 graph are nonprofit schools of high school grade and
12 under that, as of the date of the enactment of the
13 Improving Nutrition for America’s Children Act,
14 meet the requirements of the Healthier US School
15 Challenge Initiative established by the Secretary or
16 similar requirements, as established by the Sec-
17 retary.

18 “(3) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated such sums
20 as may be necessary to carry out this subsection.”.

Page 187, after line 23, insert the following:

21 “(4) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated such sums
23 as may be necessary to carry out this subsection.”.

Insert after section 311 of the Amendment the following:

1 **SEC. 312. PROCESSING OF COMMODITIES.**

2 Section 14 of the Richard B. Russell National School
3 Lunch Act (42 U.S.C. 1762a) is amended by adding at
4 the end the following:

5 “(i) PROCESSING OF COMMODITIES.—

6 “(1) IN GENERAL.—In providing assistance
7 under this Act for school lunch programs, the Sec-
8 retary may—

9 “(A) retain title to commodities delivered
10 to a processor on behalf of a State distributing
11 agency or recipient agencies, until such time as
12 finished end products containing such commod-
13 ities are delivered to the State distributing
14 agency or to recipient agencies; and

15 “(B) promulgate regulations necessary to
16 ensure maximum accountability for such com-
17 modities provided to a processor, especially in
18 the event of a food safety issue, and to facilitate
19 the processing of such commodities into end
20 products for use by recipient agencies, including
21 regulations providing that—

22 “(i) a processor that receives commod-
23 ities for processing into end products, or

1 provides a service with respect to such
2 commodities or end products, in accord-
3 ance with its agreement with a State dis-
4 tributing agency or recipient agency, pro-
5 vide to the Secretary a performance bond
6 or other means of financial protection to
7 protect the value of such commodities;

8 “(ii) the Secretary takes action on the
9 bond or other means of financial protection
10 in the event that the processor’s lack of
11 compliance with Federal requirements, or
12 with the terms of its agreement with the
13 State distributing agency or recipient
14 agency, results in a loss of commodities re-
15 ceived on such agency’s behalf; and

16 “(iii) the Secretary provide to the ap-
17 propriate State distributing agency or re-
18 cipient agency the proceeds obtained from
19 the bond or other means of financial pro-
20 tection.

21 “(2) DEFINITIONS.—For purposes of this sub-
22 section:

23 “(A) COMMODITY.—The term ‘commodity’
24 means an agricultural commodity and its prod-

1 ucts that are donated by the Secretary for use
2 by recipient agencies.

3 “(B) END PRODUCT.—The term ‘end
4 product’ means a food product that contains
5 processed commodities.

6 “(C) PROCESSOR.—The term ‘processor’
7 has the meaning given the term in section
8 250.3 of title 7, Code of Federal Regulations
9 (or successor regulations).

10 “(D) RECIPIENT AGENCY.—The term ‘re-
11 cipient agency’ has the meaning given the term
12 in section 250.3 of title 7, Code of Federal Reg-
13 ulations (or successor regulations).”.

14 **SEC. 313. EXAMINATION OF CHARTER SCHOOL ACCESS TO**
15 **THE SCHOOL NUTRITION PROGRAMS.**

16 (a) IN GENERAL.—The Secretary, in consultation
17 with the Secretary of Education, shall conduct an exam-
18 ination of policies and practices of States regarding par-
19 ticipation of charter schools in the school meal programs
20 under the Richard B. Russell National School Program
21 (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of
22 1966 (42 U.S.C. 1771 et seq.).

23 (b) SCOPE.—The examination carried out under sub-
24 section (a) shall include—

1 (1) an assessment of State policies and prac-
2 tices regarding the participation of charter schools
3 in the school meal programs;

4 (2) an identification of policies and practices
5 that may create barriers to the participation of char-
6 ter schools in the school meal programs;

7 (3) an identification of best practices by States
8 for accommodating charter schools in the school
9 meal programs; and

10 (4) such other information as determined by the
11 Secretary.

12 (c) REPORT.—Not later than 1 year after an appro-
13 priation of funds to carry out this section, the Secretary
14 shall submit to the Committee on Education and Labor
15 of the House of Representatives and the Committee on
16 Agriculture, Nutrition, and Forestry a report that de-
17 scribes the findings of the examination carried out sub-
18 section (a).

19 (d) GUIDANCE.—Not later than 1 year after the first
20 fiscal year in which funds are appropriated under sub-
21 section (e) to carry out this section, the Secretary shall
22 issue guidance to States, as applicable, about best prac-
23 tices identified under the examination and methods for re-
24 sponding to the concerns of charter schools with respect

1 to the participation in and operation of the school meal
2 programs.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section for fiscal year 2011
6 through 2015, to be available until expended.

Insert after section 322 of the Amendment the fol-
lowing:

7 **SEC. 323. SUMMER FOOD SERVICE PROGRAM HEALTH IN-**
8 **SPECTIONS.**

9 Section 13 (k)(3) of the Richard B. Russell National
10 School Lunch Act (42 U.S.C. 1761)(k)(3)) is amended by
11 striking “1 percent” and inserting “2 percent”.

Insert after section 336 of the Amendment the fol-
lowing:

12 **SEC. 337. FUNDS FOR CHILD AND ADULT CARE FOOD PRO-**
13 **GRAM SPONSORS.**

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

16 (1) in paragraph (4), by inserting “, except as
17 specified in paragraph (5),” in the first sentence
18 after “to each approved institution”; and

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

1 “(5) At the request of a sponsoring organiza-
2 tion and upon approval by a State, the State shall,
3 by the first day of each month of operation, provide
4 advance payments to each approved family or group
5 day care home sponsoring organization in the State
6 in an amount that reflects the full level of valid
7 claims customarily received from such organization
8 for one month’s operation. In the case of a newly
9 participating family or group day care home spon-
10 soring organization, the amount of the advance shall
11 reflect the State’s best estimate of the level of valid
12 claims such organization will submit. If the State
13 has reason to believe that a family or group day care
14 home sponsoring organization will not be able to
15 submit a valid claim covering the period for which
16 such an advance has been made, the subsequent
17 month’s advance payment for such organization
18 shall be withheld until the State receives a valid
19 claim. Payments advanced to family or group day
20 care home sponsoring organizations that are not
21 subsequently deducted from a valid claim for reim-
22 bursement shall be repaid upon demand by the
23 State. Any prior payment that is under dispute may
24 be subtracted from an advance payment.”.

After section 408 of the Amendment, insert the following:

1 **SEC. 409. SUPPORTING ADEQUATE SCHOOL FOOD SERVICE**
2 **REVENUES.**

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

6 “(r) ADEQUATE REVENUE FOR PROVIDING NUTRI-
7 TIOUS SCHOOL LUNCHES.—

8 “(1) REVENUE FROM FEDERAL AND NON-FED-
9 ERAL SOURCES.—

10 “(A) IN GENERAL.—For each school year
11 beginning July 2011 through the school year
12 beginning July 2020, a school food authority
13 participating in the lunch program under this
14 Act shall ensure that the average per meal rev-
15 enue from Federal and non-Federal sources
16 with respect to a reimbursable lunch equals or
17 exceeds the Federal reimbursement for a free
18 lunch, in accordance with the requirements of
19 this subsection.

20 “(B) AVERAGE PER MEAL REVENUE.—In
21 accordance with procedures established by the
22 Secretary under paragraph (2), each school
23 food authority shall, for each school year—

1 “(i) determine the average per meal
2 revenue provided to the nonprofit school
3 food service account of the authority from
4 Federal and non-Federal sources with re-
5 spect to a reimbursable lunch; and

6 “(ii) determine the difference, if any,
7 between the Federal reimbursement for a
8 free lunch, and the average per meal rev-
9 enue from Federal and non-Federal
10 sources with respect to a reimbursable
11 lunch, during the preceding school year.

12 “(C) LOWER PER MEAL REVENUE.—For
13 each school year a school food authority that
14 determines under subparagraph (B) that the
15 average per meal revenue from Federal and
16 non-Federal sources with respect to a reimburs-
17 able lunch is less than the Federal reimburse-
18 ment for a free lunch, the school food authority
19 shall ensure that an increase in the average per
20 meal revenue in an amount described in sub-
21 paragraph (D), at a minimum, is provided to
22 the nonprofit school food service account from
23 non-Federal sources in accordance with the re-
24 quirements of this subsection.

1 “(D) LIMITATIONS.—The Secretary shall
2 limit the average per meal revenue increase
3 from non-Federal sources for reimbursable
4 lunches required under subparagraph (C) for a
5 school year to an amount equal to the lesser
6 of—

7 “(i) the average per meal revenue
8 from non-Federal sources for reimbursable
9 paid lunches during the preceding school
10 year multiplied by the sum of—

11 “(I) 2 percent; and

12 “(II) the most recent annual
13 change in the food away from home
14 series of the Consumer Price Index
15 for All Urban Consumers published by
16 the Bureau of Labor Statistics of the
17 Department of Labor; or

18 “(ii) 10 cents.

19 “(E) ASSURANCE.—The Secretary shall
20 ensure that school food authorities carry out
21 the requirements of this subsection in a manner
22 that does not impede children’s access to paid
23 lunches.

24 “(2) IMPLEMENTATION.—

1 “(A) PROPOSED REGULATIONS.—Not later
2 than 1 year after the date of enactment of this
3 subsection, the Secretary shall promulgate pro-
4 posed regulations to carry out paragraph (1).

5 “(B) EFFECTIVE DATE.—Not later than 1
6 year after promulgating proposed regulations,
7 the Secretary shall promulgate interim final
8 regulations to carry out paragraph (1) that
9 shall take effect at the beginning of the school
10 year that is not earlier than 3 months following
11 the date on which the interim final regulations
12 are published in the Federal Register.

13 “(C) APPLICATION.—Not later than 1 year
14 after the date of the enactment of this sub-
15 section, the Secretary shall—

16 “(i) establish procedures to collect and
17 publish the prices that school food authori-
18 ties charge for paid lunches on an annual
19 basis; and

20 “(iii) provide school food authorities
21 with guidance on setting appropriate prices
22 for paid lunches to meet student and pro-
23 gram needs.

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

4 “(4) REPORT.—

5 “(A) IN GENERAL.—Not later than 4 years
6 after the effective date of the regulations pro-
7 mulgated under paragraph (2)(B), the Sec-
8 retary shall submit to the Committee on Edu-
9 cation and Labor of the House of Representa-
10 tives and the Committee on Agriculture, Nutri-
11 tion, and Forestry of the Senate a report de-
12 scribing—

13 “(i) the implementation of this sub-
14 section;

15 “(ii) the compliance with this sub-
16 section; and

17 “(iii) the impact of this subsection on
18 school lunch program administration, in-
19 cluding school food service finances, meal
20 quality, and student participation in the
21 school lunch program.

22 “(B) AUTHORIZATION OF APPROPRIA-
23 TIONS.—There are authorized to be appro-
24 priated such sums as may be necessary to carry
25 out this paragraph.

1 “(5) DEFINITIONS.—For purposes of this sub-
2 section:

3 “(A) PAID LUNCH.—The term ‘paid lunch’
4 means a reimbursable lunch served to students
5 who are not certified as eligible to receive free
6 or reduced price meals.

7 “(B) NON-FEDERAL SOURCES.—The term
8 ‘non-Federal sources’ when used in relation to
9 revenue—

10 “(i) includes—

11 “(I) funding (other than in-kind
12 contributions) from State, local, public
13 or private sources, including funds
14 from household payments for paid
15 lunches;

16 “(II) revenue accrued to the non-
17 profit school food service account for
18 nonprofit meal service activities that
19 do not compete with the lunch pro-
20 gram.

21 “(ii) does not include revenue from
22 the sale of foods sold in competition with
23 meals served under the school lunch pro-
24 gram under this Act or the school break-
25 fast program established under section 4 of

1 the Child Nutrition Act of 1966 (42
2 U.S.C. 1773).”.

After section 424 of the Amendment, insert the following:

3 **SEC. 425. REVIEW OF AVAILABLE SUPPLEMENTAL FOODS.**

4 Subparagraph (D) of section 17(f)(11) of the Child
5 Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended to
6 read as follows:

7 “(D) REVIEW OF AVAILABLE SUPPLE-
8 MENTAL FOODS.—

9 “(i) IN GENERAL.—As frequently as
10 determined by the Secretary to be necessary to reflect the most recent scientific
11 knowledge, but not less than every 10
12 years, the Secretary shall review the supplemental foods available under the pro-
13 gram.
14 gram.

15 “(ii) FURTHER REVIEW.—As part of a
16 review under clause (i), or as part of an
17 independent review as needed, the Secretary shall contract for an independent
18 scientific review of the benefits of any new
19 or emerging ingredient of potential public
20 health significance that is added or may be
21 health significance that is added or may be
22 health significance that is added or may be

1 added to supplemental foods available
2 under the program, which shall include—

3 “(I) a framework describing the
4 scientific approach for conducting the
5 review to be completed not later than
6 March 31, 2012;

7 “(II) an assessment of the cur-
8 rent nutrition science related to the
9 nutritional benefit of a new or emerg-
10 ing ingredient of potential public
11 health significance;

12 “(III) a determination of the
13 strength of the evidence of any nutri-
14 tional or public health benefit identi-
15 fied as part of such an assessment;

16 “(IV) recommendations regard-
17 ing whether any nutritional or public
18 health benefits may be conferred to
19 program participants from making
20 available under the program a supple-
21 mental food with such an ingredient;
22 and

23 “(V) any other considerations as
24 determined by the Secretary.

1 “(iii) AUTHORIZED SUPPLEMENTAL
2 FOODS.—The Secretary shall amend the
3 supplemental foods authorized for program
4 issuance, as necessary, to reflect current
5 nutrition science, public health concerns,
6 and cultural eating patterns and shall con-
7 sider—

8 “(I) relevant findings and rec-
9 ommendations resulting from inde-
10 pendent scientific reviews conducted
11 under clause (i) or (ii) of this sub-
12 paragraph; and

13 “(II) relevant nutritional or pub-
14 lic health recommendations related to
15 supplemental foods made by other
16 regulatory agencies.

17 “(iv) INFORMATION SHARING.—The
18 Secretary shall coordinate with the Sec-
19 retary of Health and Human Services, as
20 necessary, to—

21 “(I) engage in interagency com-
22 munications to share the most recent
23 nutrition science, public health con-
24 cerns, and cultural eating patterns re-
25 lated to the population participating

1 in the program under this section or
2 the scientific reviews conducted under
3 clause (i) or (ii); and

4 “(II) provide to the public in
5 brief, plain-language format, the rel-
6 evant nutritional or public health rec-
7 ommendations resulting from sci-
8 entific reviews conducted under clause
9 (i) or (ii).

10 “(v) PUBLIC INVOLVEMENT.—The
11 Secretary shall ensure that prior to the
12 completion of a review conducted under
13 clause (i) or (ii) there is an opportunity for
14 public comment.

15 “(vi) FUNDING.—There are author-
16 ized to be appropriated \$5,000,000 to
17 carry out this paragraph for fiscal year
18 2012.”.

