

111TH CONGRESS
2D SESSION

S. 3144

To amend the Richard B. Russell National School Lunch Act to improve the health and well-being of school children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2010

Mrs. BOXER (for herself and Mrs. HAGAN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Richard B. Russell National School Lunch Act to improve the health and well-being of school children, 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 “Healthy Food in
5 Schools Act of 2010”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to establish a national
8 strategy to improve the nutritional quality of meals served
9 by schools participating in the national school lunch and

1 breakfast programs by increasing access to and the con-
2 sumption of fruits and vegetables by children enrolled in
3 the schools through—

4 (1) promoting the use of salad bars or fruit and
5 vegetable bars as a strategy to increase the fruit and
6 vegetable consumption of children;

7 (2) expanding the quantity of fruits and vegeta-
8 bles purchased by the Secretary for use in school
9 meals, emphasizing fruits and vegetables that are
10 popular with students;

11 (3) implementing effective training and tech-
12 nical assistance emphasizing best practices that—

13 (A) improve the implementation of the
14 fresh fruit and vegetable program under section
15 19 of the Richard B. Russell National School
16 Lunch Act (42 U.S.C. 1769a); and

17 (B) increase the availability and consump-
18 tion of fruits and vegetables in school meals;

19 (4) purchasing cafeteria equipment specifically
20 intended—

21 (A) to increase access to fruits and vegeta-
22 bles;

23 (B) to improve the quality of school food
24 service meals; and

1 (C) to meet the most recent Dietary
2 Guidelines for Americans published under sec-
3 tion 301 of the National Nutrition Monitoring
4 and Related Research Act of 1990 (7 U.S.C.
5 5341); and
6 (5) improving the quality of school meals.

7 **SEC. 3. DEFINITION.**

8 In this Act, the term “Secretary” means the Sec-
9 retary of Agriculture.

10 **SEC. 4. INCREASING ACCESS TO FRUITS AND VEGETABLES**
11 **IN SCHOOL CAFETERIAS.**

12 Section 18 of the Richard B. Russell National School
13 Lunch Act (42 U.S.C. 1769) is amended—

14 (1) by redesignating subsections (h) and (i) as
15 subsections (i) and (j), respectively;

16 (2) in subsection (g), by striking “(g) ACCESS
17 TO LOCAL FOODS AND SCHOOL GARDENS.—” and
18 all that follows through “(3) PILOT PROGRAM FOR
19 HIGH-POVERTY SCHOOLS.—” and inserting the fol-
20 lowing:

21 “(g) ACCESS TO LOCAL FOODS: FARM TO SCHOOL
22 PROGRAM.—

23 “(1) DEFINITION OF ELIGIBLE SCHOOL.—In
24 this subsection, the term ‘eligible school’ means a
25 school or institution that participates in a program

1 under this Act or the school breakfast program es-
2 tablished under section 4 of the Child Nutrition Act
3 of 1966 (42 U.S.C. 1773).

4 “(2) PROGRAM.—The Secretary shall carry out
5 a program to assist eligible schools, State and local
6 agencies, Indian tribal organizations, agricultural
7 producers or groups of agricultural producers, and
8 nonprofit entities through grants and technical as-
9 sistance to implement farm to school programs that
10 improve access to local foods in eligible schools.

11 “(3) GRANTS.—

12 “(A) IN GENERAL.—The Secretary shall
13 award competitive grants under this subsection
14 to be used for—

15 “(i) training;

16 “(ii) supporting operations;

17 “(iii) planning;

18 “(iv) purchasing equipment;

19 “(v) developing school gardens;

20 “(vi) developing partnerships; and

21 “(vii) implementing farm to school
22 programs.

23 “(B) REGIONAL BALANCE.—In making
24 awards under this subsection, the Secretary

1 shall, to the maximum extent practicable, en-
2 sure—

3 “(i) geographical diversity; and

4 “(ii) equitable treatment of urban,
5 rural, and tribal communities.

6 “(C) MAXIMUM AMOUNT.—The total
7 amount provided to a grant recipient under this
8 subsection shall not exceed \$100,000.

9 “(4) FEDERAL SHARE.—

10 “(A) IN GENERAL.—The Federal share of
11 costs for a project funded through a grant
12 awarded under this subsection shall not exceed
13 75 percent of the total cost of the project.

14 “(B) FEDERAL MATCHING.—As a condi-
15 tion of receiving a grant under this subsection,
16 a grant recipient shall provide matching sup-
17 port in the form of cash or in-kind contribu-
18 tions, including facilities, equipment, or services
19 provided by State and local governments, non-
20 profit organizations, and private sources.

21 “(5) CRITERIA FOR SELECTION.—To the max-
22 imum extent practicable, in providing assistance
23 under this subsection, the Secretary shall give the
24 highest priority to funding projects that, as deter-
25 mined by the Secretary—

1 “(A) benefit local small- and medium-sized
2 farms;

3 “(B) make local food products available on
4 the menu of the eligible school;

5 “(C) serve a high proportion of children
6 who are eligible for free or reduced price
7 lunches;

8 “(D) incorporate experiential nutrition
9 education activities in curriculum planning that
10 encourage the participation of school children in
11 farm and garden-based agricultural education
12 activities;

13 “(E) demonstrate collaboration between el-
14 igible schools, nongovernmental and community-
15 based organizations, agricultural producer
16 groups, and other community partners;

17 “(F) include adequate and participatory
18 evaluation plans;

19 “(G) demonstrate the potential for long-
20 term program sustainability; and

21 “(H) meet any other criteria that the Sec-
22 retary determines appropriate.

23 “(6) EVALUATION.—As a condition of receiving
24 a grant under this subsection, each grant recipient

1 shall agree to cooperate in an evaluation by the Sec-
2 retary of the program carried out using grant funds.

3 “(7) TECHNICAL ASSISTANCE.—The Secretary
4 shall provide technical assistance and information to
5 assist eligible schools, State and local agencies, In-
6 dian tribal organizations, and nonprofit entities—

7 “(A) to facilitate the coordination and
8 sharing of information and resources in the De-
9 partment that may be applicable to the farm to
10 school program;

11 “(B) to collect and share information on
12 best practices; and

13 “(C) to disseminate research and data on
14 existing farm to school programs and the poten-
15 tial for programs in underserved areas.

16 “(8) FUNDING.—

17 “(A) IN GENERAL.—On October 1, 2010,
18 out of any funds in the Treasury not otherwise
19 appropriated, the Secretary of the Treasury
20 shall transfer to the Secretary to carry out this
21 subsection \$50,000,000, to remain available
22 until expended.

23 “(B) RECEIPT AND ACCEPTANCE.—The
24 Secretary shall be entitled to receive, shall ac-
25 cept, and shall use to carry out this subsection

1 the funds transferred under subparagraph (A),
2 without further appropriation.

3 “(h) PILOT PROGRAM FOR HIGH-POVERTY
4 SCHOOLS.—

5 “(1) IN GENERAL.—”;

6 (3) in subsection (h) (as redesignated by para-
7 graph (2))—

8 (A) in subparagraph (F) of paragraph (1)
9 (as so redesignated), by striking “in accordance
10 with paragraph (1)(H)” and inserting “carried
11 out by the Secretary”; and

12 (B) by redesignating paragraph (4) as
13 paragraph (2); and

14 (4) by adding at the end the following:

15 “(k) ESTABLISHING SALAD BARS AND FRUIT AND
16 VEGETABLE BARS.—

17 “(1) IN GENERAL.—Not later than 90 days
18 after the date of enactment of the Healthy Food in
19 Schools Act of 2010, the Secretary shall carry out
20 a plan to promote the use of salad bars or fruit and
21 vegetable bars in schools participating in the school
22 lunch program established under this Act (referred
23 to in this subsection as ‘the plan’).

24 “(2) TRAINING AND TECHNICAL ASSISTANCE.—

1 “(A) IN GENERAL.—In carrying out the
2 plan, the Secretary shall provide training and
3 technical assistance to State educational agen-
4 cies and schools on the best manner in which to
5 offer salad bars or fruit and vegetable bars.

6 “(B) COMPREHENSIVE GUIDANCE.—In
7 providing the training and technical assistance
8 described in subparagraph (A), the Secretary
9 may use relevant guidance provided in the pub-
10 lication of the Secretary entitled ‘Fruits and
11 Vegetables Galore: Helping Kids Eat More’ and
12 dated 2004.

13 “(3) INFRASTRUCTURE INVESTMENT.—

14 “(A) IN GENERAL.—In carrying out the
15 plan, the Secretary shall develop a program to
16 provide grants to State educational agencies to
17 encourage schools to purchase equipment and
18 modify facilities for the purpose of setting up
19 and operating salad bars or fruit and vegetable
20 bars.

21 “(B) ALLOCATION TO STATE EDU-
22 CATIONAL AGENCIES.—

23 “(i) IN GENERAL.—The Secretary
24 shall allocate funds to each State edu-

1 cational agency in accordance with a for-
2 mula developed by the Secretary.

3 “(ii) UNUSED FUNDS.—The formula
4 developed in accordance with clause (i)
5 shall provide for the reallocation of unused
6 funds after the end of each fiscal year.

7 “(C) APPLICATION.—To receive a grant
8 under this subsection, a State educational agen-
9 cy shall submit to the Secretary an application
10 at such time, in such manner, and containing
11 such information as the Secretary may require.

12 “(D) STATE EDUCATIONAL AGENCY RE-
13 QUIRED USES OF FUNDS.—As a condition on
14 the receipt of a grant under this subsection,
15 each State educational agency that receives a
16 grant shall agree—

17 “(i) to use the grant funds to award
18 schools in the State educational agency a
19 1-time payment equal to the lesser of—

20 “(I) the anticipated cost of set-
21 ting up and operating a salad bar or
22 fruit and vegetable bar; and

23 “(II) \$7,500; and

24 “(ii) to impose appropriate auditing
25 and reporting requirements and such other

1 procedures as the Secretary may require to
2 ensure that—

3 “(I) schools receiving a grant
4 under this subsection properly use the
5 funds; and

6 “(II) the agency recovers any un-
7 used funds.

8 “(4) EVALUATION AND REPORT.—

9 “(A) IN GENERAL.—Not later than 18
10 months after the implementation of the plan,
11 the Secretary shall submit a report to—

12 “(i) the Committee on Appropriations
13 and the Committee on Agriculture, Nutri-
14 tion, and Forestry, of the Senate; and

15 “(ii) the Committee on Education and
16 Labor, the Committee on Agriculture, and
17 the Committee on Appropriations, of the
18 House of Representatives.

19 “(B) CONTENTS.—The report submitted
20 under subparagraph (A) shall include a descrip-
21 tion of—

22 “(i) the manner in which the plan has
23 been implemented; and

1 “(ii) the number of schools that have
2 new salad bars or fruit and vegetable bars
3 as a result of the plan.

4 “(5) FUNDING.—

5 “(A) MANDATORY FUNDING.—On October
6 1, 2010, and October 1, 2011, out of any funds
7 in the Treasury not otherwise appropriated, the
8 Secretary of the Treasury shall transfer to the
9 Secretary to carry out this section \$10,000,000,
10 to remain available until expended.

11 “(B) AUTHORIZATION OF APPROPRIA-
12 TIONS.—In addition to the amounts provided
13 under subparagraph (A), there are authorized
14 to be appropriated to carry out this subsection
15 such sums as are necessary, to remain available
16 until expended.”.

17 **SEC. 5. IDENTIFYING AND REMOVING BARRIERS TO THE**
18 **PURCHASE OF PERISHABLE FRUITS AND**
19 **VEGETABLES.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, the Secretary shall carry
22 out a plan to identify and remove barriers to the equitable
23 purchase of fruits and vegetables in the procurement and
24 distribution systems administered by the Secretary, acting

1 through the Administrator of the Agricultural Marketing
2 Service.

3 (b) **PROCUREMENT AND DISTRIBUTION SYSTEMS IN-**
4 **CLUDED.**—In developing the plan under subsection (a),
5 the Secretary shall identify and remove barriers to the eq-
6 uitable purchase of fruits and vegetables at all levels of
7 the procurement and distribution systems, including any
8 barriers related to the initial surveys, bidding, transpor-
9 tation, handling, storage, and delivery to schools.

10 (c) **EVALUATION AND REPORT.**—Not later than 1
11 year after the date of the enactment of this Act, the Sec-
12 retary shall submit to the appropriate committees of Con-
13 gress a report containing recommendations to reduce or
14 eliminate the barriers identified under subsection (a).

15 **SEC. 6. BEST PRACTICES TO IMPROVE EFFECTIVENESS OF**
16 **FRESH FRUIT AND VEGETABLE PROGRAM.**

17 Section 19(i)(6) of the Richard B. Russell National
18 School Lunch Act (42 U.S.C. 1769a(i)(6)) is amended by
19 striking subparagraph (A) and inserting the following:

20 “(A) **IN GENERAL.**—Of funds made avail-
21 able to carry out this section for a fiscal year,
22 the Secretary may use not more than \$500,000
23 for the administrative costs of carrying out the
24 program, including—

1 “(i) carrying out national and regional
2 training conferences that emphasize shar-
3 ing best practices, including conferences
4 intended to increase access to fresh fruits
5 and vegetables in other school meals pro-
6 grams; and

7 “(ii) providing technical assistance.”.

8 **SEC. 7. IMPROVING THE QUALITY OF SCHOOL MEALS.**

9 Not later than October 20, 2011, the Secretary shall
10 promulgate a final rule updating the nutrition standards
11 and meal requirements for school meal programs in a
12 manner consistent with the findings of the review con-
13 ducted by the Institute of Medicine and published in the
14 document entitled “School Meals: Building Blocks for
15 Healthy Children” and dated October 20, 2009.

16 **SEC. 8. EQUIPMENT ASSISTANCE GRANTS.**

17 (a) DEFINITION OF EQUIPMENT.—In this section,
18 the term “equipment” means any equipment needed to
19 prepare, process, and store food for the school lunch pro-
20 gram established under the Richard B. Russell National
21 School Lunch Act (42 U.S.C. 1751 et seq.).

22 (b) GRANTS.—From the amounts made available
23 under subsection (g), the Secretary shall provide funds to
24 States in accordance with the allocation formula described
25 in subsection (d).

1 (c) PURPOSE.—As a condition on the receipt of
2 funds, each State that receives funds under this section
3 shall award grants on a competitive basis to school food
4 authorities to assist with the purchase of equipment for
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.).

8 (d) ALLOCATION FORMULA.—

9 (1) IN GENERAL.—From the amounts made
10 available under subsection (g), the Secretary shall
11 allocate funds to States in a manner proportional
12 with the administrative expense allocation of each
13 State under section 7(a)(2) of the Child Nutrition
14 Act of 1966 (42 U.S.C. 1776(a)(2)).

15 (2) REALLOCATION.—If a State does not re-
16 ceive funds under this subsection, the Secretary shall
17 reallocate the funds that would have been allocated
18 to that State to other States in such amounts as the
19 Secretary determines appropriate.

20 (e) APPLICATIONS.—

21 (1) STATES.—To be eligible to receive funding
22 under this section, a State shall submit an applica-
23 tion to the Secretary at such time, in such manner,
24 and containing such information as the Secretary
25 may require.

1 (2) SCHOOL FOOD AUTHORITIES.—To be eligi-
2 ble to receive a grant described in subsection (c), a
3 school food authority shall submit an application to
4 the applicable State at such time, in such manner,
5 and containing such information as the State may
6 require, including assurances that the school food
7 authority serves schools that have a need for equip-
8 ment assistance.

9 (f) PRIORITY.—In awarding grants described in sub-
10 section (c), a State shall give priority to school food au-
11 thorities that have jurisdiction over schools in which not
12 less than 50 percent of the students are eligible for free
13 or reduced price lunches under the school lunch program
14 established under Richard B. Russell National School
15 Lunch Act (42 U.S.C. 1751 et seq.).

16 (g) FUNDING.—On October 1, 2010, out of any funds
17 in the Treasury not otherwise appropriated, the Secretary
18 of the Treasury shall transfer to the Secretary to carry
19 out this section \$100,000,000, to remain available until
20 expended.

21 **SEC. 9. BUDGETARY EFFECTS.**

22 The budgetary effects of this Act, for the purpose of
23 complying with the Statutory Pay-As-You-Go Act of 2010,
24 shall be determined by reference to the latest statement
25 titled “Budgetary Effects of PAYGO Legislation” for this

1 Act, submitted for printing in the Congressional Record
2 by the Chairman of the Senate Budget Committee, pro-
3 vided that such statement has been submitted prior to the
4 vote on passage.

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