

111TH CONGRESS
1ST SESSION

H. R. 2690

To create a universal, paperless school meal program that is nationally available.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2009

Mr. SESTAK (for himself and Mr. BRALEY of Iowa) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To create a universal, paperless school meal program that is nationally available.

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 “School Meal Enhance-
5 ment Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ELIGIBLE SCHOOL.**—The term “eligible
9 school” means any school that is—

1 (A) eligible to participate in the National
2 School Lunch Program established under the
3 Richard B. Russell National School Lunch Act
4 (42 U.S.C. 1751) and the National School
5 Breakfast Program established under the Child
6 Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

7 (B) meets the participation threshold de-
8 scribed in section 3(a); and

9 (C) agrees to provide free meals to all en-
10 rolled students through the school-wide
11 paperless free school meal program.

12 (2) ESTIMATED ELIGIBILITY RATE.—The term
13 “estimated eligibility rate” means the percentage of
14 a school’s enrolled students eligible for free or re-
15 duced price meals under the Child Nutrition Act of
16 1966 (42 U.S.C. 1771 et seq.) and the Richard B.
17 Russell National School Lunch Act (42 U.S.C. 1751
18 et seq.) determined—

19 (A) in accordance with the guidance issued
20 by the Secretary under section 3(a)(2)(B)(ii);
21 or

22 (B) through a method for determining the
23 number of students eligible for free or reduced
24 price meals approved within the last 4 years
25 under section 18(c) of the Richard B. Russell

1 National School Lunch Act (42 U.S.C.
2 1769(c)).

3 (3) SCHOOL-WIDE PAPERLESS FREE SCHOOL
4 MEAL PROGRAM.—The term “school-wide paperless
5 free school meal program” means a program to pro-
6 vide, to all enrolled students in a participating
7 school, without requiring the use of paper applica-
8 tions to determine eligibility for—

9 (A) free or reduced price school breakfasts
10 under the Child Nutrition Act of 1966 (42
11 U.S.C. 1771 et seq.); and

12 (B) free or reduced price school lunches
13 under the Richard B. Russell National School
14 Lunch Act (42 U.S.C. 1751 et seq.).

15 (4) LOCAL EDUCATIONAL AGENCY.—The term
16 “local educational agency” has the meaning given
17 such term under section 12 of the Richard B. Rus-
18 sell National School Lunch Act (42 U.S.C. 1760).

19 (5) PARTICIPATING SCHOOL.—The term “par-
20 ticipating school” means an eligible school that has
21 been selected to participate in the school-wide
22 paperless free school meal program by its local edu-
23 cational agency in accordance with the guidance
24 issued under section 3(a).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 **SEC. 3. THE SCHOOL-WIDE PAPERLESS FREE SCHOOL**
4 **MEAL PROGRAM.**

5 (a) DUTIES OF THE SECRETARY.—

6 (1) PROGRAM IMPLEMENTATION.—Not later
7 than the July 1 following date of publication of the
8 final guidance issued under this subsection, the Sec-
9 retary shall implement the school-wide paperless free
10 school meal program in accordance with the require-
11 ments of this Act.

12 (2) GUIDANCE.—

13 (A) IN GENERAL.—The Secretary shall
14 publish in the Federal Register and post on the
15 website of the Department of Agriculture—

16 (i) not later than 6 months after the
17 date of enactment of this Act, for comment
18 draft guidance for local educational agen-
19 cies and participating schools on the re-
20 quirements for carrying out the school-
21 wide paperless free price school meal pro-
22 gram; and

23 (ii) not later than 9 months after the
24 date of the enactment of this Act, final
25 guidance for carrying out such program.

1 (B) REQUIREMENTS OF THE GUIDANCE.—

2 (i) PARTICIPATION THRESHOLD.—The
3 Secretary shall issue guidance that de-
4 scribes how a local educational agency
5 shall demonstrate to the Secretary that an
6 eligible school meets the participation
7 threshold of—

8 (I) at least 65 percent estimated
9 eligibility rate for free meals under
10 the Richard B. Russell National
11 School Lunch Act (42 U.S.C. 1751 et
12 seq.) and the Child Nutrition Act of
13 1966 (42 U.S.C. 1771 et seq.); or

14 (II) at least 75 percent estimated
15 eligibility rate for free and reduced
16 price meals under the Richard B.
17 Russell National School Lunch Act
18 (42 U.S.C. 1751 et seq.).

19 (ii) GUIDANCE ON ESTIMATED ELIGI-
20 BILITY RATE.—The Secretary shall issue
21 guidance that establishes an alternate,
22 paperless method of determining an esti-
23 mated eligibility rate. In issuing such guid-
24 ance, the Secretary shall balance cost-ef-
25 fectiveness with obtaining an accurate esti-

1 mated eligibility rate and take into ac-
2 count—

3 (I) the number of students who
4 are certified as eligible for free meals
5 under section 9(b)(4) of the Richard
6 B. Russell School Lunch Act (42
7 U.S.C. 1758(b)(4)) at each eligible
8 school;

9 (II) the number of students de-
10 termined to be eligible for free or re-
11 duced price meals at each eligible
12 school within the last 3 years on the
13 basis of completed household applica-
14 tions (as defined in section 9(b)(3)(A)
15 of the Richard B. Russell School
16 Lunch Act 1758(b)(3)(A));

17 (III) the most recent income and
18 poverty data available from reliable
19 data sources, including—

20 (aa) income and poverty sta-
21 tistics provided by the Small
22 Area Income and Poverty Esti-
23 mates program of the Bureau of
24 the Census of the Department of
25 Commerce;

1 (bb) data provided by the
2 American Community Survey of
3 the Bureau of the Census of the
4 Department of Commerce;

5 (cc) determinations under
6 section 1124(c)(2) of the Ele-
7 mentary and Secondary Edu-
8 cation Act (20 U.S.C.
9 6333(c)(2));

10 (dd) data from other Fed-
11 eral, State, or local means-tested
12 programs, such as the supple-
13 mental nutrition assistance pro-
14 gram established under the Food
15 and Nutrition Act of 2008 (7
16 U.S.C. 2011 et seq.) or the State
17 Medicaid program under title
18 XIX of the Social Security Act
19 (42 U.S.C. 1396 et seq.); and

20 (ee) other data sources the
21 Secretary deems to be reliable;
22 and

23 (IV) any local educational agen-
24 cy-wide data that the Secretary deter-
25 mines can be used to make statis-

1 tically sound assumptions regarding
2 the estimated eligibility rates for
3 schools under its jurisdiction.

4 (iii) SURVEY.—The guidance issued
5 under clause (ii) may also provide for
6 phone and door to door sampling to be re-
7 quired when determining the estimated eli-
8 gibility rate in order to increase the accu-
9 racy rate of the estimate. Any phone and
10 door to door sampling requirement shall
11 not be more than what is required for the
12 estimated eligibility rate to reach a 95 per-
13 cent statistical confidence interval about
14 the estimate of no more than plus or
15 minus 2 percentage points. This limitation
16 shall not restrict local education agencies
17 from choosing to conduct higher percent-
18 ages of phone and door to door sampling.

19 (iv) EVALUATION OF THE ELIGIBILITY
20 RATE.—The Secretary shall issue guid-
21 ance—

22 (I) requiring each local edu-
23 cational agency participating in the
24 program to evaluate the estimated eli-

1 gibility rate at least every 4 years in
2 each participating school; and
3 (II) on how to conduct such eval-
4 uation.

5 (b) REIMBURSEMENT.—The reimbursement to each
6 school food service authority of each local education agen-
7 cy that participates in the program under this Act shall
8 be for each month of participation, in an amount equal
9 to the sum of the product obtained by—

10 (1) multiplying the total number lunches of
11 served in the school lunches by—

12 (A) the estimated eligibility rate of enrolled
13 students in the school eligible for free meals;
14 and

15 (B) the special assistance factor for free
16 lunches prescribed by the Secretary under sec-
17 tion 11(a)(3)(A) of the Richard B. Russell Na-
18 tional School Lunch Act (42 U.S.C.
19 1759a(a)(3)(A));

20 (2) multiplying the total number of breakfasts
21 served in the school by—

22 (A) the estimated eligibility rate of enrolled
23 students in the school eligible for free meals;
24 and

1 (B) the national average payment rate for
2 free breakfasts established under section 4(b) of
3 the Child Nutrition Act of 1966 (42 U.S.C.
4 1773(b));

5 (3) multiplying the total number of lunches
6 served in the school by—

7 (A) by the estimated eligibility rate of en-
8 rolled students in the school eligible for reduced
9 price meals; and

10 (B) by the special assistance factor for re-
11 duced price lunches established under section
12 11(a) of the Richard B. Russell National School
13 Lunch Act (42 U.S.C. 1759a(b));

14 (4) multiplying the total number of breakfasts
15 served in the school by—

16 (A) the estimated eligibility rate of enrolled
17 students in the school eligible for reduced price
18 meals; and

19 (B) the national average payment rate for
20 reduced price breakfasts established under sec-
21 tion 4(b) of the Child Nutrition Act of 1966
22 (42 U.S.C. 1773(b));

23 (5) multiplying the number of students not eli-
24 gible for free or reduced price lunches in the school
25 by the national average payment rate for lunches es-

1 established under section 4 of the Richard B. Russell
2 National School Lunch Act (42 U.S.C. 1753);

3 (6) multiplying the number of students not eli-
4 gible for free or reduced price breakfasts in the
5 school by the national average payment rate for each
6 breakfast served to a child not eligible for free or re-
7 duced price meals established under section 4(b) of
8 the Child Nutrition Act of 1966 (42 U.S.C.
9 1773(b)); and

10 (7) multiplying the total number of lunches
11 served in the school by the commodity assistance
12 rate established under section 6(c) of the Richard B.
13 Russell School Lunch Act (42 U.S.C. 1755(c)).

14 (c) NUMBER OF STUDENTS NOT ELIGIBLE FOR
15 FREE OR REDUCED PRICE LUNCHES.—The number of
16 students not eligible for free or reduced price lunches is
17 equal to the difference obtained by subtracting the number
18 of free and reduced price lunches served in the school
19 (based on the estimated eligibility rate of enrolled student
20 eligible for free and reduce priced meals in the school)
21 from the total number of lunches served in the school.

22 (d) NUMBER OF STUDENTS NOT ELIGIBLE FOR
23 FREE OR REDUCED PRICE BREAKFASTS.—The number
24 of students not eligible for free or reduced price breakfasts
25 is equal to the difference obtained by subtracting the num-

1 ber of free and reduced price breakfasts served in the
2 school (based on the estimated eligibility rate of enrolled
3 student eligible for free and reduce priced meals in the
4 school) from the total number of breakfasts served in the
5 school.

6 **SEC. 4. REPORT TO CONGRESS.**

7 Not later than 2 years after implementing the pro-
8 gram under this Act, the Secretary shall submit a report
9 to Congress that shall include—

10 (1) the increase in the number of students who
11 are eligible to receive free or reduced meals under
12 the Child Nutrition Act of 1966 (42 U.S.C. 1771 et
13 seq.) and Richard B. Russell National School Lunch
14 Act (42 U.S.C. 1751 et seq.) receiving such meals
15 as a result of the program; and

16 (2) recommendations for legislation to increase
17 the number of children eligible to participate in the
18 program, while reducing waste and cost for schools
19 and local educational agencies, including rec-
20 ommendations for increasing direct certification.

21 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to the Sec-
23 retary such sums as may be necessary to carry out this
24 Act.

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