

111TH CONGRESS
1ST SESSION

H. R. 4148

To amend the Richard B. Russell National School Lunch Act to improve and expand direct certification procedures for the national school lunch and school breakfast programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. LOEBSACK (for himself, Mrs. EMERSON, Mr. GRIJALVA, Mrs. DAVIS of California, Mr. POLIS of Colorado, Mr. MCGOVERN, Ms. CHU, Ms. MCCOLLUM, Ms. WOOLSEY, Mr. ANDREWS, Mr. SCOTT of Virginia, and Mr. AL GREEN of Texas) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Richard B. Russell National School Lunch Act to improve and expand direct certification procedures for the national school lunch and school breakfast programs, 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 “Hunger Free Schools
5 Act”.

1 **SEC. 2. IMPROVING DIRECT CERTIFICATION.**

2 (a) PERFORMANCE AWARDS.—Section 9(b)(4) of the
3 Richard B. Russell National School Lunch Act (42 U.S.C.
4 1758(b)(4)) is amended—

5 (1) in the paragraph heading, by striking
6 “FOOD STAMP” and inserting “SUPPLEMENTAL NU-
7 TRITION ASSISTANCE PROGRAM”; and

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

9 “(E) PERFORMANCE AWARDS.—

10 “(i) IN GENERAL.—Effective for each
11 of the schools years beginning July 1,
12 2010, July 1, 2011, and July 1, 2012, the
13 Secretary shall offer performance awards
14 to States to encourage the States to ensure
15 that all children eligible for direct certifi-
16 cation under this paragraph are certified in
17 accordance with this paragraph.

18 “(ii) REQUIREMENTS.—For each
19 school year described in clause (i), the Sec-
20 retary shall—

21 “(I) consider State data from the
22 prior school year, including estimates
23 contained in the report required under
24 section 4301 of the Food, Conserva-
25 tion, and Energy Act of 2008 (42
26 U.S.C. 1758a); and

1 “(II) make performance awards
2 to, as determined by the Secretary—

3 “(aa) 5 States that dem-
4 onstrate outstanding perform-
5 ance; and

6 “(bb) 5 States that dem-
7 onstrate substantial improve-
8 ment.

9 “(iii) FUNDING.—

10 “(I) IN GENERAL.—On October
11 1, 2010, and on each October 1 there-
12 after through October 1, 2012, out of
13 any funds in the Treasury not other-
14 wise appropriated, the Secretary of
15 the Treasury shall transfer to the Sec-
16 retary, to remain available until ex-
17 pended—

18 “(aa) \$2,000,000 to carry
19 out clause (ii)(II)(aa); and

20 “(bb) \$2,000,000 to carry
21 out clause (ii)(II)(bb).

22 “(II) RECEIPT AND ACCEPT-
23 ANCE.—The Secretary shall be enti-
24 tled to receive, shall accept, and shall
25 use to carry out this clause the funds

1 transferred under subclause (I), with-
2 out further appropriation.”.

3 (b) CONTINUOUS IMPROVEMENT PLANS.—Section
4 9(b)(4) of the Richard B. Russell National School Lunch
5 Act (42 U.S.C. 1758(b)(4)) (as amended by subsection
6 (a)) is amended by adding at the end the following:

7 “(F) CONTINUOUS IMPROVEMENT
8 PLANS.—

9 “(i) IN GENERAL.—Each school year,
10 the Secretary shall—

11 “(I) identify, using estimates
12 contained in the report required under
13 section 4301 of the Food, Conserva-
14 tion, and Energy Act of 2008 (42
15 U.S.C. 1758a), States that directly
16 certify less than 95 percent of the
17 total number of children in the State
18 who are eligible for direct certification
19 under this paragraph; and

20 “(II) require the States identified
21 under subclause (I) to implement a
22 corrective action plan to fully meet
23 the requirements of this paragraph.

24 “(ii) IMPROVING PERFORMANCE.—A
25 State may include in a corrective action

1 plan under clause (i)(II) methods to im-
2 prove direct certification required under
3 this paragraph or paragraph (15) and dis-
4 cretionary certification under paragraph
5 (5).

6 “(iii) FAILURE TO MEET PERFORM-
7 ANCE STANDARD.—

8 “(I) IN GENERAL.—A State that
9 is required to implement a corrective
10 action plan under clause (i)(II) shall
11 be required to submit to the Sec-
12 retary, for the approval of the Sec-
13 retary, a direct certification improve-
14 ment plan for the following school
15 year.

16 “(II) REQUIREMENTS.—A direct
17 certification improvement plan under
18 subclause (I) shall include—

19 “(aa) specific measures that
20 the State will use to identify
21 more children who are eligible for
22 direct certification;

23 “(bb) a timeline for the
24 State to implement those meas-
25 ures; and

1 “(cc) goals for the State to
2 improve direct certification re-
3 sults.”.

4 (c) WITHOUT FURTHER APPLICATION.—Section
5 9(b)(4) of the Richard B. Russell National School Lunch
6 Act (42 U.S.C. 1758(b)(4)) (as amended by subsection
7 (b)) is amended by adding at the end the following:

8 “(G) WITHOUT FURTHER APPLICATION.—

9 “(i) IN GENERAL.—In this paragraph,
10 the term ‘without further application’
11 means that no action is required by the
12 household of the child.

13 “(ii) CLARIFICATION.—A requirement
14 that a household return a letter notifying
15 the household of eligibility for direct cer-
16 tification or eligibility for free school meals
17 does not meet the requirements of clause
18 (i).”.

19 **SEC. 3. REPORT ON USING STATEWIDE EDUCATION DATA-**
20 **BASES FOR DIRECT CERTIFICATION.**

21 (a) REPORT.—Not later than 2 years after the date
22 of enactment of this Act, the Secretary of Education shall
23 prepare and submit to Congress a report regarding how
24 statewide databases developed by States to track compli-
25 ance with the requirements of part A of title I of the Ele-

1 elementary and Secondary Education Act of 1965 (20 U.S.C.
2 6311 et seq.) can be used for purposes of direct certifi-
3 cation under section 9(b) of the Richard B. Russell Na-
4 tional School Lunch Act (42 U.S.C. 1758(b)).

5 (b) CONTENTS.—The report described in subsection
6 (a) shall—

7 (1) identify the States that have, as of the time
8 of the report, developed statewide databases to track
9 compliance with the requirements of part A of title
10 I of the Elementary and Secondary Education Act
11 of 1965 (20 U.S.C. 6311 et seq.);

12 (2) describe best practices regarding how such
13 statewide databases can be used for purposes of di-
14 rect certification under section 9(b) of the Richard
15 B. Russell National School Lunch Act (42 U.S.C.
16 1758(b));

17 (3) include case studies of States that have ex-
18 panded such statewide databases so that such state-
19 wide databases can be used for direct certification
20 purposes; and

21 (4) identify States with such statewide data-
22 bases that would be appropriate for expansion for di-
23 rect certification purposes.

24 (c) 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 \$500,000,
5 to remain available through September 30, 2013.

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.

11 **SEC. 4. EXPANDING DIRECT CERTIFICATION.**

12 (a) DIRECT CERTIFICATION FOR CHILDREN RECEIV-
13 ING MEDICAID OR SCHIP.—Section 9(b) of the Richard
14 B. Russell National School Lunch Act (42 U.S.C.
15 1758(b)) is amended by adding at the end the following:

16 “(14) DIRECT CERTIFICATION FOR CHILDREN
17 RECEIVING MEDICAID OR SCHIP.—

18 “(A) DEFINITION OF ELIGIBLE CHILD.—

19 In this paragraph, the term ‘eligible child’
20 means a child—

21 “(i)(I) who is eligible for and receiving
22 medical assistance under the State Med-
23 icaid program under title XIX of the Social
24 Security Act (42 U.S.C. 1396 et seq.) or
25 child health assistance under the State

1 children’s health insurance program under
2 title XXI of that Act (42 U.S.C. 1397aa et
3 seq.); and

4 “(II) whose family income, as used for
5 purposes of determining eligibility for the
6 relevant program in subclause (I), does not
7 exceed 133 percent of the poverty line (as
8 defined in section 673(2) of the Commu-
9 nity Services Block Grant Act (42 U.S.C.
10 9902(2), including any revision required by
11 such section)) applicable to a family of the
12 size used for purposes of determining that
13 eligibility; or

14 “(ii) a child who is a member of a
15 household (as that term is defined in sec-
16 tion 245.2 of title 7, Code of Federal Reg-
17 ulations (or successor provisions)) with a
18 child described in clause (i).

19 “(B) AGREEMENT.—Subject to subpara-
20 graph (D), each State agency shall enter into
21 an agreement with the State agency conducting
22 eligibility determinations for the programs de-
23 scribed in subparagraph (A)(i).

24 “(C) PROCEDURES.—Subject to subpara-
25 graph (D) and paragraph (6), the agreement

1 shall establish procedures under which an eligi-
2 ble child shall be certified for free lunches
3 under this Act and free breakfasts under sec-
4 tion 4 of the Child Nutrition Act of 1966 (42
5 U.S.C. 1773), without further application (as
6 defined in paragraph (4)(G)).

7 “(D) CERTIFICATION.—Subject to sub-
8 paragraph (D) and paragraph (6), under the
9 agreement, the local educational agency con-
10 ducting eligibility determinations for a school
11 lunch program under this Act and a school
12 breakfast program under the Child Nutrition
13 Act of 1966 (42 U.S.C. 1771 et seq.) shall cer-
14 tify an eligible child as eligible for free lunches
15 under this Act and free breakfasts under the
16 Child Nutrition Act of 1966 (42 U.S.C. 1771 et
17 seq.), without further application (as defined in
18 paragraph (4)(G)).

19 “(E) APPLICABILITY.—This paragraph ap-
20 plies to—

21 “(i) in the case of the school year be-
22 ginning July 1, 2010, any State or local
23 educational agency that elects to partici-
24 pate in direct certification under this para-
25 graph;

1 “(ii) in the case of the school year be-
2 ginning July 1, 2011, a local educational
3 agency that had an enrollment of 25,000
4 students or more in the preceding school
5 year;

6 “(iii) in the case of the school year be-
7 ginning July 1, 2012, a local educational
8 agency that had an enrollment of 10,000
9 students or more in the preceding school
10 year; and

11 “(iv) in the case of the school year be-
12 ginning July 1, 2013, and each subsequent
13 school year, each local educational agency.

14 “(F) GRANTS.—

15 “(i) IN GENERAL.—The Secretary
16 shall provide grants to State agencies that
17 carry out child nutrition programs (as de-
18 fined in section 25(b)) or conduct eligibility
19 determinations for the programs described
20 in subparagraph (A)(i) for activities associ-
21 ated with implementing this paragraph, in-
22 cluding—

23 “(I) computer system upgrades;

24 “(II) reprogramming to allow for
25 data matches; and

1 “(III) training local educational
2 agency staff.

3 “(ii) REQUIREMENT.—The Secretary
4 shall use funds made available under this
5 subparagraph to provide—

6 “(I) initial grants of \$50,000 to
7 each State agency; and

8 “(II) the remainder of the funds
9 through competitive grants based on
10 criteria established by the Secretary.

11 “(iii) FUNDING.—

12 “(I) IN GENERAL.—On October
13 1, 2010, out of any funds in the
14 Treasury not otherwise appropriated,
15 the Secretary of the Treasury shall
16 transfer to the Secretary to carry out
17 this subparagraph \$15,000,000, to re-
18 main available until expended.

19 “(II) RECEIPT AND ACCEPT-
20 ANCE.—The Secretary shall be enti-
21 tled to receive, shall accept, and shall
22 use to carry out this subparagraph
23 the funds transferred under subclause
24 (I), without further appropriation.”.

1 (b) DIRECT CERTIFICATION PILOT PROGRAM.—Sec-
2 tion 9(b) of the Richard B. Russell National School Lunch
3 Act (42 U.S.C. 1758(b)) (as amended by subsection (a))
4 is amended by adding at the end the following:

5 “(15) DIRECT CERTIFICATION PILOT PRO-
6 GRAM.—

7 “(A) IN GENERAL.—For the school year
8 beginning July 1, 2010, the Secretary shall
9 carry out a pilot program to evaluate the use of
10 program data, including data relating to med-
11 ical assistance under the State Medicaid pro-
12 gram under title XIX of the Social Security Act
13 (42 U.S.C. 1396 et seq.) or child health assist-
14 ance under the State children’s health insur-
15 ance program under title XXI of that Act (42
16 U.S.C. 1397aa et seq.), for direct certification
17 of children for reduced price school meals.

18 “(B) REQUIREMENTS.—The evaluation
19 shall include—

20 “(i) an analysis of the number of chil-
21 dren directly certified for reduced price
22 meals;

23 “(ii) an assessment of—

24 “(I) the workload reduction for
25 school districts associated with proc-

1 essing fewer paper applications and
2 having a smaller verification sample;
3 and

4 “(II) the workload associated
5 with directly certifying children for re-
6 duced price meals;

7 “(iii) an analysis of the number of
8 children made eligible for reduced price
9 meals who would have been eligible for
10 paid meals or free meals if a paper appli-
11 cation had been submitted on behalf of the
12 child; and

13 “(iv) testing of various mechanisms to
14 ensure that no child receives a lower level
15 of benefits as a result of the pilot than the
16 child would have received had a paper ap-
17 plication been submitted and approved.

18 “(C) REPORT.—Not later than December
19 31, 2011, the Secretary shall submit to the
20 Committee on Agriculture, Nutrition, and For-
21 estry of the Senate and the Committee on Edu-
22 cation and Labor of the House of Representa-
23 tives a report describing the results of the pilot
24 program under this paragraph.

25 “(D) FUNDING.—

1 “(i) IN GENERAL.—On October 1,
2 2010, out of any funds in the Treasury not
3 otherwise appropriated, the Secretary of
4 the Treasury shall transfer to the Sec-
5 retary to carry out this paragraph
6 \$4,000,000, to remain available until ex-
7 pended.

8 “(ii) RECEIPT AND ACCEPTANCE.—
9 The Secretary shall be entitled to receive,
10 shall accept, and shall use to carry out this
11 paragraph the funds transferred under
12 clause (i), without further appropriation.”.

13 (c) DIRECT CERTIFICATION OF CHILDREN OF MILI-
14 TARY PERSONNEL.—Section 9(b) of the Richard B. Rus-
15 sell National School Lunch Act (42 U.S.C. 1758(b)) (as
16 amended by subsection (b)) is amended by adding at the
17 end the following:

18 “(16) DIRECT CERTIFICATION OF CHILDREN OF
19 MILITARY PERSONNEL.—Subject to paragraph (6),
20 any local educational agency may certify any child as
21 eligible for free lunches or breakfasts, without fur-
22 ther application (as defined in paragraph (4)(G)), by
23 directly communicating with the appropriate com-
24 mander at the military installation or facility con-
25 cerned to obtain documentation of the status of the

1 child as a member of a household that is eligible for
2 a supplemental subsistence allowance for low-income
3 members with dependents under section 402a of title
4 37, United States Code.”.

5 (d) AGREEMENT FOR DIRECT CERTIFICATION AND
6 COOPERATION BY STATE MEDICAID AND CHIP AGEN-
7 CIES.—

8 (1) IN GENERAL.—Section 1902(a)(7) of the
9 Social Security Act (42 U.S.C. 1396a(a)(7)) is
10 amended—

11 (A) by redesignating subparagraphs (A)
12 and (B) as clauses (i) and (ii), respectively, and
13 realigning the left margins accordingly;

14 (B) in clause (ii) (as so redesignated)—

15 (i) by striking “at State option,”;

16 (ii) by inserting “certify or” before
17 “verify the certification of eligibility”; and

18 (iii) by adding “and” after the semi-
19 colon;

20 (C) by striking “provide safeguards” and
21 inserting “provide—

22 “(A) safeguards”; and

23 (D) by adding at the end the following:

24 “(B) that, notwithstanding the option
25 under subsection (e)(13) (relating to Express

1 Lane eligibility), not later than July 1, 2010,
2 the State shall enter into an agreement with the
3 State agency administering the school lunch
4 program established under the Richard B. Rus-
5 sell National School Lunch Act under which the
6 State shall establish procedures to ensure
7 that—

8 “(i) any child receiving medical assist-
9 ance under the State plan under this title
10 or child health assistance under a State
11 child health plan under title XXI whose
12 family income does not exceed 133 percent
13 of the poverty line (as defined in section
14 673(2) of the Community Services Block
15 Grant Act, including any revision required
16 by such section) applicable to a family of
17 the size involved, shall be certified as eligi-
18 ble for free lunches under the Richard B.
19 Russell National School Lunch Act and
20 free breakfasts under the Child Nutrition
21 Act of 1966 without further application;
22 and

23 “(ii) the State agencies responsible for
24 administering the State plan under this
25 title, the State child health plan under title

1 XXI, and for carrying out child nutrition
2 programs (as defined in section 25(b) of
3 the Richard B. Russell National School
4 Lunch Act) cooperate in carrying out para-
5 graphs (3)(F) and (14) of section 9(b) of
6 that Act;”.

7 (2) EFFECTIVE DATE.—

8 (A) IN GENERAL.—Except as provided in
9 paragraph (2), the amendments made by this
10 subsection take effect on the date of enactment
11 of this Act.

12 (B) EXTENSION OF EFFECTIVE DATE FOR
13 STATE LAW AMENDMENT.—In the case of a
14 State plan under title XIX of the Social Secu-
15 rity Act (42 U.S.C. 1396 et seq.) which the
16 Secretary of Health and Human Services deter-
17 mines requires State legislation in order for the
18 plan to meet the additional requirements im-
19 posed by the amendments made by this section,
20 the State plan shall not be regarded as failing
21 to comply with the requirements of the amend-
22 ments made by this section solely on the basis
23 of its failure to meet such additional require-
24 ments before the first day of the first calendar
25 quarter beginning after the close of the first

1 regular session of the State legislature that be-
2 gins after the date of the enactment of this Act.
3 For purposes of the previous sentence, in the
4 case of a State that has a 2-year legislative ses-
5 sion, each year of the session is considered to
6 be a separate regular session of the State legis-
7 lature.

8 **SEC. 5. HUNGER FREE SCHOOLS.**

9 (a) **ELIGIBILITY.**—Section 11(a)(1) of the Richard B.
10 Russell National School Lunch Act (42 U.S.C.
11 1759a(a)(1)) is amended by adding at the end the fol-
12 lowing:

13 “(F) **DATA-BASED ELIGIBILITY.**—

14 “(i) **IN GENERAL.**—A school or local
15 educational agency may elect to receive
16 special assistance payments under clause
17 (ii) in lieu of special assistance payments
18 otherwise made available under this para-
19 graph based on applications for free and
20 reduced price lunches if the school or local
21 educational agency—

22 “(I) elects to serve all children in
23 the school or local educational agency
24 free lunches and breakfasts under the
25 school lunch program and school

1 breakfast program established under
2 section 4 of the Child Nutrition Act of
3 1966 (42 U.S.C. 1773), during a pe-
4 riod of 5 successive school years; and
5 “(II) pays, from sources other
6 than Federal funds, the costs of serv-
7 ing the lunches or breakfasts that are
8 in excess of the value of assistance re-
9 ceived under this Act and the Child
10 Nutrition Act of 1966 (42 U.S.C.
11 1771 et seq.).

12 “(ii) ALTERNATIVE DATA SOURCES.—
13 Subject to criteria established by the Sec-
14 retary not later than December 31, 2010,
15 special assistance payments under clause
16 (i) may be based on an estimate of the
17 number of children eligible for free and re-
18 duced price lunches under section
19 9(b)(1)(A) derived from recent data other
20 than applications, including—

21 “(I) a socioeconomic survey of a
22 representative sample of households of
23 students, which may exclude students
24 who have been directly certified under

1 paragraphs (4), (5), (14), (15), and
2 (16) of section 9(b);

3 “(II) data from the American
4 Community Survey of the Bureau of
5 the Census;

6 “(III) data on receipt of income-
7 tested public benefits by students or
8 the households of students or income
9 data collected by public benefit pro-
10 grams, including—

11 “(aa) the supplemental nu-
12 trition assistance program estab-
13 lished under the Food and Nutri-
14 tion Act of 2008 (7 U.S.C. 2011
15 et seq.);

16 “(bb) the medical assistance
17 program under the State Med-
18 icaid program under title XIX of
19 the Social Security Act (42
20 U.S.C. 1396 et seq.);

21 “(cc) the supplemental secu-
22 rity income program established
23 under title XVI of that Act (42
24 U.S.C. 1381 et seq.); and

1 “(dd) the program of block
2 grants to States for temporary
3 assistance for needy families es-
4 tablished under part A of title IV
5 of that Act (42 U.S.C. 601 et
6 seq.); or

7 “(IV) other data, including State
8 or local survey data and State or local
9 tax records.

10 “(iii) REVIEW AND APPROVAL.—The
11 Secretary shall—

12 “(I) review any proposal sub-
13 mitted by a school or local educational
14 agency that relies on the alternative
15 data sources described in clause (ii) to
16 develop an estimate of the number of
17 children eligible for free and reduced
18 price lunches under section
19 9(b)(1)(A); and

20 “(II) approve the proposals that
21 meet the criteria established under
22 clause (ii).

23 “(iv) PAYMENTS.—

24 “(I) FREE MEALS.—For each
25 month of the period during which a

1 school or local educational agency de-
2 scribed in clause (i) serves free
3 lunches or breakfasts to all enrolled
4 children, special assistance payments
5 at the rate for free meals shall be
6 made for a percentage of all reimburs-
7 able meals served that is equal to the
8 percentage of students estimated to be
9 eligible for free meals.

10 “(II) REDUCED PRICE MEALS.—

11 For each month of the period during
12 which the school or local educational
13 agency serves free lunches or break-
14 fasts to all enrolled children, special
15 assistance payments at the rate for
16 reduced price meals shall be made for
17 a percentage of all reimbursable meals
18 served that is equal to the percentage
19 of students estimated to be eligible for
20 reduced price meals.

21 “(III) OTHER MEALS.—For each

22 month of the period during which the
23 school or local educational agency
24 serves free lunches or breakfasts to all
25 enrolled children, special assistance

1 payments at the rate provided under
2 section 4 shall be made for the re-
3 mainder of the reimbursable meals
4 served.

5 “(v) RENEWALS.—

6 “(I) IN GENERAL.—A school or
7 local educational agency described in
8 clause (i) may reapply to the Sec-
9 retary at the end of the period de-
10 scribed in clause (i), and at the end of
11 each period thereafter for which the
12 school or local educational agency re-
13 ceives special assistance payments
14 under this subparagraph, for the pur-
15 pose of continuing to receive the reim-
16 bursements and assistance for a sub-
17 sequent 5-school-year period.

18 “(II) APPROVAL.—The Secretary
19 shall approve an application under
20 this clause if available socioeconomic
21 data demonstrate that the income
22 level of the population of the school or
23 local educational agency has remained
24 consistent with or below the income
25 level of the population of the school or

1 local educational agency in the last
2 year in which reimbursement rates
3 were determined under clause (ii).

4 “(III) DATA.—Not later than
5 December 31, 2010, the Secretary
6 shall establish criteria regarding the
7 socioeconomic data that may be used
8 by a school or local educational agen-
9 cy when applying for a renewal of the
10 special assistance payments for a sub-
11 sequent 5-school-year period.

12 “(G) HIGH-POVERTY AREAS.—

13 “(i) IN GENERAL.—A school or local
14 educational agency may elect to receive
15 special assistance payments under clause
16 (ii) in lieu of special assistance payments
17 otherwise made available under this para-
18 graph based on applications for free and
19 reduced price lunches if the school or local
20 educational agency—

21 “(I) during a period of 2 succes-
22 sive school years, selects to serve all
23 children in the school or local edu-
24 cational agency free lunches and
25 breakfasts under the school lunch pro-

1 gram under this Act and the school
2 breakfast program established under
3 section 4 of the Child Nutrition Act of
4 1966 (42 U.S.C. 1773);

5 “(II) pays, from sources other
6 than Federal funds, the costs of serv-
7 ing the lunches or breakfasts that are
8 in excess of the value of assistance re-
9 ceived under this Act and the Child
10 Nutrition Act of 1966 (42 U.S.C.
11 1771 et seq.) and during the prior
12 school year, directly certified under
13 paragraphs (4), (5), (14), (15), and
14 (16) of section 9(b) at least 40 per-
15 cent of the enrolled students; or

16 “(III) that received payments
17 under this subparagraph for the prior
18 school year, directly certifies under
19 paragraphs (4), (5), (14), (15), and
20 (16) of section 9(b) at least 30 per-
21 cent of the enrolled students.

22 “(ii) PAYMENTS.—

23 “(I) IN GENERAL.—For each
24 month of the school year, special as-
25 sistance payments at the rate for free

1 meals shall be made under this sub-
2 paragraph for a percentage of all re-
3 imburseable meals served in an amount
4 equal the product obtained by multi-
5 plying—

6 “(aa) 1.5; by

7 “(bb) the percentage of stu-
8 dents directly certified under
9 paragraphs (4), (5), (14), (15),
10 and (16) of section 9(b), up to a
11 maximum of 100 percent.

12 “(II) OTHER MEALS.—The per-
13 centage of meals served that is not de-
14 scribed in subclause (I) shall be reim-
15 bursed at the rate provided under sec-
16 tion 4.

17 “(iii) ELECTION OF OPTION.—

18 “(I) IN GENERAL.—Any school
19 or local educational agency eligible for
20 the option under clause (i) may elect
21 to receive special assistance payments
22 under clause (ii) for the next school
23 year if the school or local educational
24 agency provides to the State agency
25 evidence of the percentage of students

1 directly certified not later than June
2 30 of the current school year.

3 “(II) STATE AGENCY NOTIFICA-
4 TION.—Not later than May 1 of each
5 school year, each State agency shall
6 notify—

7 “(aa) any local educational
8 agency that appears, based on re-
9 ported verification summary
10 data, to have directly certified at
11 least 40 percent of the enrolled
12 students for the current school
13 year, that the local educational
14 agency may be eligible to elect to
15 receive special assistance pay-
16 ments under clause (ii) for the
17 next school year and explain the
18 procedures for the local edu-
19 cational agency to make such an
20 election; and

21 “(bb) any local educational
22 agency that appears, based on re-
23 ported verification summary
24 data, to have directly certified at
25 least 30 percent of the enrolled

1 students for the current school
2 year, that the local educational
3 agency may become eligible to
4 elect to receive special assistance
5 payments under clause (ii) for a
6 future school year if the local
7 educational agency directly cer-
8 tifies at least 40 percent of the
9 enrolled students.

10 “(III) LOCAL EDUCATION AGEN-
11 CY NOTIFICATION.—Not later than
12 May 1 of each school year, each local
13 educational agency shall notify—

14 “(aa) any school that di-
15 rectly certified at least 40 per-
16 cent of the enrolled students for
17 the current school year, that the
18 school is eligible to elect to re-
19 ceive special assistance payments
20 under clause (ii) for the next
21 school year and explain the pro-
22 cedures for the school to make
23 such an election; and

24 “(bb) any school that di-
25 rectly certified at least 30 per-

1 cent of the enrolled students for
2 the current school year, that the
3 school may become eligible to
4 elect to receive special assistance
5 payments under clause (ii) for a
6 future school year if the school
7 directly certifies at least 40 per-
8 cent of the enrolled students.

9 “(IV) PROCEDURES.—Not later
10 than December 31, 2010, the Sec-
11 retary shall establish procedures for
12 State agencies, local educational agen-
13 cies, and schools to meet the require-
14 ments of this subparagraph and exer-
15 cise the options provided under this
16 subparagraph.”.

17 (b) CONFORMING AMENDMENTS.—Section
18 11(a)(1)(B) of the Richard B. Russell National School
19 Lunch Act (42 U.S.C. 1759a(a)(1)(B)) is amended by
20 striking “or (E)” and inserting “(E), (F), or (G)”.

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