

111TH CONGRESS  
1ST SESSION

# S. 1343

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24, 2009

Mr. BROWN (for himself, Mr. BENNET, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## 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

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

“(aa) 5 States that demonstrate outstanding performance; and

“(bb) 5 States that demonstrate substantial improvement.

“(iii) FUNDING.—

“(I) IN GENERAL.—On October 1, 2009, and on each October 1 thereafter through October 1, 2011, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary, to remain available until expended—

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

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

“(II) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall 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, 2009, 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, 2012.

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, 2009, 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                   2009, 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

XXI, and for carrying out child nutrition programs (as defined in section 25(b) of the Richard B. Russell National School Lunch Act) cooperate in carrying out paragraphs (3)(F) and (14) of section 9(b) of that Act;”.

(2) EFFECTIVE DATE.—

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

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of the amendments made by this section solely on the basis of its failure to meet such additional requirements before the first day of the first calendar 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

breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), during a period of 5 successive school years; and

“(II) pays, from sources other than Federal funds, the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(ii) ALTERNATIVE DATA SOURCES.— Subject to criteria established by the Secretary not later than December 31, 2010, special assistance payments under clause (i) may be based on an estimate of the number of children eligible for free and reduced price lunches under section 9(b)(1)(A) derived from recent data other than applications, including—

“(I) a socioeconomic survey of a representative sample of households of students, which may exclude students 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

12          “(III)(aa) for a local educational  
13          agency, during the prior school year,  
14          directly certified under paragraphs  
15          (4), (5), (14), (15), and (16) of sec-  
16          tion 9(b) at least 50 percent of the  
17          enrolled students;

18          “(bb) for a school, during the  
19          prior school year, directly certified  
20          under paragraphs (4), (5), (14), (15),  
21          and (16) of section 9(b) at least 60  
22          percent of the enrolled students; or

23          “(cc) for a school or local edu-  
24          cational agency that received pay-  
25          ments under this subparagraph for

the prior school year, directly certifies under paragraphs (4), (5), (14), (15), and (16) of section 9(b) at least 40 or 50 percent, respectively, of the enrolled students.

“(ii) PAYMENTS.—

“(I) IN GENERAL.—For each month of the school year, special assistance payments at the rate for free meals shall be made under this subparagraph for a percentage of all reimbursable meals served in an amount equal the product obtained by multiplying—

“(aa) 1.5; by

“(bb) the percentage of students directly certified under paragraphs (4), (5), (14), (15), and (16) of section 9(b), up to a maximum of 100 percent.

“(II) OTHER MEALS.—The percentage of meals served that is not described in subclause (I) shall be reimbursed at the rate provided under section 4.

1 “(iii) ELECTION OF OPTION.—

2 “(I) IN GENERAL.—Any school  
3 or local educational agency eligible for  
4 the option under clause (i) may elect  
5 to receive special assistance payments  
6 under clause (ii) for the next school  
7 year if the school or local educational  
8 agency provides to the State agency  
9 evidence of the percentage of students  
10 directly certified not later than June  
11 30 of the current school year.

12 “(II) STATE AGENCY NOTIFICA-  
13 TION.—Not later than May 1 of each  
14 school year, each State agency shall  
15 notify—

16 “(aa) any local educational  
17 agency that appears, based on re-  
18 ported verification summary  
19 data, to have directly certified at  
20 least 50 percent of the enrolled  
21 students for the current school  
22 year, that the local educational  
23 agency may be eligible to elect to  
24 receive special assistance pay-  
25 ments under clause (ii) for the

1 next school year and explain the  
2 procedures for the local edu-  
3 cational agency to make such an  
4 election; and

5 “(bb) any local educational  
6 agency that appears, based on re-  
7 ported verification summary  
8 data, to have directly certified at  
9 least 40 percent of the enrolled  
10 students for the current school  
11 year, that the local educational  
12 agency may become eligible to  
13 elect to receive special assistance  
14 payments under clause (ii) for a  
15 future school year if the local  
16 educational agency directly cer-  
17 tifies at least 50 percent of the  
18 enrolled students.

19 “(III) LOCAL EDUCATION AGEN-  
20 CY NOTIFICATION.—Not later than  
21 May 1 of each school year, each local  
22 educational agency shall notify—

23 “(aa) any school that di-  
24 rectly certified at least 60 per-  
25 cent of the enrolled students for

1 the current school year, that the  
2 school is eligible to elect to re-  
3 ceive special assistance payments  
4 under clause (ii) for the next  
5 school year and explain the pro-  
6 cedures for the school to make  
7 such an election; and

8 “(bb) any school that di-  
9 rectly certified at least 50 per-  
10 cent of the enrolled students for  
11 the current school year, that the  
12 school may become eligible to  
13 elect to receive special assistance  
14 payments under clause (ii) for a  
15 future school year if the school  
16 directly certifies at least 60 per-  
17 cent of the enrolled students.

18 “(IV) PROCEDURES.—Not later  
19 than December 31, 2010, the Sec-  
20 retary shall establish procedures for  
21 State agencies, local educational agen-  
22 cies, and schools to meet the require-  
23 ments of this subparagraph and exer-  
24 cise the options provided under this  
25 subparagraph.”.

1           (b)           CONFORMING           AMENDMENTS.—Section  
2 11(a)(1)(B) of the Richard B. Russell National School  
3 Lunch Act (42 U.S.C. 1759a(a)(1)(B)) is amended by  
4 striking “or (E)” and inserting “(E), (F), or (G)”.

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