

111TH CONGRESS
1ST SESSION

S. 934

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2009

Mr. HARKIN (for himself, Ms. MURKOWSKI, Mr. CONRAD, Mr. BENNET, Mr. CASEY, Mr. LEAHY, Ms. KLOBUCHAR, Mrs. GILLIBRAND, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

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 “Child Nutrition Pro-
5 motion and School Lunch Protection Act of 2009”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) for a school food service program to receive
4 Federal reimbursements under the Child Nutrition
5 Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard
6 B. Russell National School Lunch Act (42 U.S.C.
7 1751 et seq.), school meals served by the program
8 must meet science-based nutrition standards estab-
9 lished by Congress and the Secretary of Agriculture;

10 (2) foods sold outside the reimbursable school
11 meal programs (including food and beverages sold in
12 vending machines, a la carte in cafeterias, school
13 stores, and snack bars) are not required to meet
14 comparable nutritional standards;

15 (3) in order to promote child nutrition and
16 health, Congress—

17 (A) has authorized the Secretary to estab-
18 lish nutrition standards in the school lunchroom
19 during meal time; and

20 (B) since 1979, has prohibited the sale of
21 food of minimal nutritional value, as defined by
22 the Secretary, in areas where school meals are
23 sold or eaten;

24 (4) federally reimbursed school meals and child
25 nutrition and health are undermined by the uneven
26 authority of the Secretary to apply nutrition stand-

1 ards throughout the school campus and over the
2 course of the school day;

3 (5) as of the date of enactment of this Act, the
4 definition of the term “food of minimal nutritional
5 value” is the national nutrition standard for foods
6 sold outside of school meals;

7 (6) since 1979, when the Secretary defined the
8 term “food of minimal nutritional value” and pro-
9 mulgated regulations for the sale of those foods dur-
10 ing meal times, nutrition science has evolved and ex-
11 panded;

12 (7) because some children purchase foods other
13 than balanced meals provided through the school
14 lunch program established under the Richard B.
15 Russell National School Lunch Act (42 U.S.C. 1751
16 et seq.) and the school breakfast program estab-
17 lished by section 4 of the Child Nutrition Act of
18 1966 (42 U.S.C. 1773), the efforts of parents to en-
19 sure that their children consume healthful diets are
20 undermined;

21 (8) experts in nutrition science have found
22 that—

23 (A) since the 1970s, obesity rates have tri-
24 pled among children ages 6 to 19;

1 (B) children's sodium intake is 214 per-
2 cent above recommended levels;

3 (C) 85 percent of children consume more
4 saturated fat than is recommended in the most
5 recent Dietary Guidelines for Americans pub-
6 lished under section 301 of the National Nutri-
7 tion Monitoring and Related Research Act of
8 1990 (7 U.S.C. 5341);

9 (D) over $\frac{2}{3}$ of all foods consumed by
10 schoolchildren are foods that are recommended
11 for occasional intake;

12 (E) type 2 diabetes, which is primarily due
13 to poor diet and physical inactivity, is rising in
14 children; and

15 (F) $\frac{1}{4}$ of children ages 5 to 10 show early
16 warning signs of heart disease, such as elevated
17 blood cholesterol or high blood pressure;

18 (9) in 1996, children aged 2 to 18 years con-
19 sumed an average of 118 more calories per day than
20 children did in 1978, which is the equivalent of 12
21 pounds of weight gain annually, if not compensated
22 for through increased physical activity; and

23 (10) the national estimated cost of obesity is
24 \$123,000,000,000 a year, $\frac{1}{2}$ of which is paid
25 through the Medicare program under title XVIII of

1 the Social Security Act (42 U.S.C. 1395 et seq.) and
2 the Medicaid program under title XIX of that Act
3 (42 U.S.C. 1396 et seq.).

4 **SEC. 3. NATIONAL SCHOOL NUTRITION STANDARDS.**

5 Section 10 of the Child Nutrition Act of 1966 (42
6 U.S.C. 1779) is amended—

7 (1) by striking the section heading and all that
8 follows through “(a) The Secretary” and inserting
9 the following:

10 **“SEC. 10. REGULATIONS.**

11 “(a) IN GENERAL.—The Secretary”; and

12 (2) by striking subsections (b) and (c) and in-
13 serting the following:

14 “(b) NATIONAL SCHOOL NUTRITION STANDARDS.—

15 “(1) PROPOSED REGULATIONS.—

16 “(A) IN GENERAL.—The Secretary shall—

17 “(i) establish science-based nutrition
18 standards for foods served in schools other
19 than foods provided under this Act and the
20 Richard B. Russell National School Lunch
21 Act (42 U.S.C. 1751 et seq.); and

22 “(ii) not later than 1 year after the
23 date of enactment of this paragraph, pro-
24 mulgate proposed regulations to carry out
25 clause (i).

1 “(B) APPLICATION.—The nutrition stand-
2 ards shall apply to all foods sold—

3 “(i) outside the school meal programs;

4 “(ii) on the school campus; and

5 “(iii) at any time during the school
6 day.

7 “(C) REQUIREMENTS.—In establishing nu-
8 trition standards under this paragraph, the Sec-
9 retary shall consider—

10 “(i) recommendations made by au-
11 thoritative scientific organizations con-
12 cerning appropriate nutrition standards for
13 foods sold outside of the reimbursable meal
14 programs in schools;

15 “(ii) both the positive and negative
16 contributions of nutrients, ingredients, and
17 foods (including calories, portion size, satu-
18 rated fat, trans fat, sodium, added sugars,
19 and nutrients of concern identified in the
20 most recent Dietary Guidelines for Ameri-
21 cans published under section 301 of the
22 National Nutrition Monitoring and Related
23 Research Act of 1990 (7 U.S.C. 5341)) to
24 the diets of children;

1 “(iii) evidence concerning the relation-
2 ship between consumption of certain nutri-
3 ents, ingredients, and foods to both pre-
4 venting and promoting the development of
5 overweight, obesity, and other chronic ill-
6 nesses; and

7 “(iv) special exemptions for school-
8 sponsored fundraisers (other than fund-
9 raising through vending machines, school
10 stores, snack bars, a la carte sales, and
11 any other exclusions determined by the
12 Secretary), if the fundraisers are approved
13 by the school and are infrequent within the
14 school.

15 “(D) UPDATING STANDARDS.—As soon as
16 practicable after the date of publication by the
17 Department of Agriculture and the Department
18 of Health and Human Services of a new edition
19 of the Dietary Guidelines for Americans under
20 section 301 of the National Nutrition Moni-
21 toring and Related Research Act of 1990 (7
22 U.S.C. 5341), the Secretary shall review and
23 update as necessary the school nutrition stand-
24 ards and requirements established under this
25 subsection.

1 “(2) IMPLEMENTATION.—

2 “(A) EFFECTIVE DATE.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), the proposed regula-
5 tions under paragraph (1) shall take effect
6 at the beginning of the school year fol-
7 lowing the date on which the regulations
8 are finalized.

9 “(ii) EXCEPTION.—If the regulations
10 are finalized on a date that is not more
11 than 90 days before the beginning of the
12 school year, the proposed regulations shall
13 take effect at the beginning of the fol-
14 lowing school year.

15 “(B) REPORTING.—The Secretary shall
16 submit to the Committee on Agriculture, Nutri-
17 tion, and Forestry of the Senate and the Com-
18 mittee on Education and Labor of the House of
19 Representatives a quarterly report that de-
20 scribes progress made toward promulgating
21 final regulations under this subsection.”.

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