

116TH CONGRESS
2D SESSION

S. 4061

To provide emergency nutrition assistance to States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2020

Mr. CORNYN (for himself and Mr. MURPHY) introduced the following bill;
which was read twice and referred to the Committee on Agriculture, Nu-
trition, and Forestry

A BILL

To provide emergency nutrition assistance to States, 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 “State Emergency Res-
5 taurant and Vendor Enhancement and COVID–19 Anti-
6 hunger Restaurant Relief for You Act” or the “SERVE
7 and CARRY Act”.

8 **SEC. 2. DEFINITION OF SECRETARY.**

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

1 **SEC. 3. EMERGENCY NUTRITION ASSISTANCE TO STATES.**

2 (a) STATE EMERGENCY RESTAURANT AND VENDOR
 3 ENHANCEMENT PROGRAM (SERVE) PROGRAM.—The
 4 Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)
 5 is amended by adding at the end the following:

6 **“SEC. 31. STATE EMERGENCY RESTAURANT AND VENDOR**
 7 **ENHANCEMENT (SERVE) PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ELECTRONIC BENEFIT TRANSFER TRANS-
 10 ACTION.—The term ‘electronic benefit transfer
 11 transaction’ means the use of a credit or debit card
 12 service, point-of-sale terminal (including a contact-
 13 less payment system), digital or paperless voucher
 14 system (excluding manual vouchers), or online sys-
 15 tem for the processing of a payment for the pur-
 16 chase of food.

17 “(2) EMERGENCY.—The term ‘emergency’
 18 means—

19 “(A) a national emergency declared by the
 20 President under the National Emergencies Act
 21 (50 U.S.C. 1601 et seq.) based on an outbreak
 22 of SARS-CoV-2 or another coronavirus with
 23 pandemic potential;

24 “(B) a public health emergency declared
 25 under section 319 of the Public Health Service
 26 Act (42 U.S.C. 247d) based on an outbreak of

1 SARS-CoV-2 or another coronavirus with pan-
 2 demic potential;

3 “(C) an emergency declared by the Presi-
 4 dent under section 501 of the Robert T. Staf-
 5 ford Disaster Relief and Emergency Assistance
 6 Act (42 U.S.C. 5191) based on an outbreak of
 7 SARS-CoV-2 or another coronavirus with pan-
 8 demic potential; and

9 “(D) an emergency invoked under section
 10 506(a)(1) of the Foreign Assistance Act of
 11 1961 (22 U.S.C. 2318(a)(1)) based on an out-
 12 break of SARS-CoV-2 or another coronavirus
 13 with pandemic potential.

14 “(3) FOOD.—Notwithstanding section 3(k), the
 15 term ‘food’ means an article used for food or drink
 16 (except an alcoholic beverage or tobacco) that is pre-
 17 pared for human consumption and served by a par-
 18 ticipating restaurant.

19 “(4) PARTICIPATING RESTAURANT.—The term
 20 ‘participating restaurant’ means a restaurant that is
 21 authorized to participate in the SERVE program of
 22 the State in which the restaurant is located by—

23 “(A) the State; or

24 “(B) the electronic benefit transfer vendor
 25 of the State.

1 “(5) RESTAURANT.—

2 “(A) IN GENERAL.—The term ‘restaurant’
3 means—

4 “(i) a food service and drinking place
5 of business (including a small- or mid-sized-
6 food service and drinking place of business,
7 and a place of business classified under
8 North American Industry Classification
9 System Code 722) that is registered to do
10 business in the State in which the res-
11 taurant is located as of the date on which
12 an emergency is declared or invoked, as
13 applicable;

14 “(ii) a faith-based or other charitable
15 organization that serves meals to the pub-
16 lic and meets all applicable State and local
17 food safety and public health requirements;

18 “(iii) a soup kitchen that meets all ap-
19 plicable State and local food safety and
20 public health requirements;

21 “(iv) an entity that offers a con-
22 gregate meal setting and is certified to
23 serve meals under a Federal nutrition pro-
24 gram; and

1 “(v) a vendor that sells prepared food
 2 and is authorized to conduct electronic
 3 benefit transfer transactions at a farmer’s
 4 market.

5 “(B) EXCLUSION.—The term ‘restaurant’
 6 shall not include any establishment described in
 7 clauses (i) through (iii) of section
 8 408(a)(12)(A) of the Social Security Act (42
 9 U.S.C. 608(a)(12)(A)) and defined under sub-
 10 paragraph (B) of that section (42 U.S.C.
 11 608(a)(12)(B)).

12 “(6) STATE EMERGENCY RESTAURANT AND
 13 VENDOR ENHANCEMENT PROGRAM; SERVE PRO-
 14 GRAM.—The terms ‘State Emergency Restaurant
 15 and Vendor Enhancement Program’ and ‘SERVE
 16 Program’ mean a State-based program described in
 17 subsection (b).

18 “(b) ESTABLISHMENT.—On request of a State, the
 19 Secretary shall provide funds, if made available under sub-
 20 section (g), to a State to carry out a program, to be known
 21 as a ‘SERVE program’, during an emergency applicable
 22 to the State, under which a State shall—

23 “(1) issue financial assistance in the form of
 24 benefits to eligible recipients described in subsection

(c) for use at participating restaurants through electronic benefit transfer transactions; and

“(2) authorize restaurants in the State to accept and redeem those benefits for the purchase of meals and food through electronic benefit transfer transactions.

“(c) ELIGIBLE RECIPIENTS.—

“(1) IN GENERAL.—An individual in a State is eligible to receive benefits under the SERVE program of that State if that individual receives benefits under another Federal nutrition assistance program.

“(2) OTHER ASSISTANCE PROGRAMS.—Benefits received by an individual under the SERVE program shall not be considered income for determining the eligibility of that individual under any means-tested Federal assistance program.

“(d) STATE ELIGIBILITY.—

“(1) STATE PLAN.—To be eligible to receive funds under subsection (b), a State shall submit to the Secretary a plan describing the SERVE program to be implemented in the State using those funds.

“(2) DETERMINATION.—The Secretary shall approve a plan submitted under paragraph (1) not later than 30 days after the date on which the plan

1 is submitted if the plan meets the requirements es-
 2 tablished by the Secretary, including the minimum
 3 requirements described in paragraph (3).

4 “(3) MINIMUM REQUIREMENTS FOR STATE
 5 PLAN.—A plan submitted by a State under para-
 6 graph (1) shall include—

7 “(A) the maximum concessional meal price
 8 to be charged by participating restaurants;

9 “(B) a description of how the State in-
 10 tends to make use of electronic benefit transfer
 11 transactions, including the availability and use
 12 of—

13 “(i) point-of-sale machines (including
 14 contactless payment systems);

15 “(ii) existing low-income benefit pro-
 16 grams, such as the Lifeline program set
 17 forth in subpart E of part 54 of title 47,
 18 Code of Federal Regulations (or successor
 19 regulations); and

20 “(iii) digital or paperless voucher sys-
 21 tems;

22 “(C) a standard form that the State will
 23 use to contract with participating restaurants;

24 “(D) a description of the restrictions that
 25 a State will impose on alternative forms of ben-

1 efits issued under the SERVE Program in any
 2 form other than electronic benefit transfer, in-
 3 cluding manual vouchers, cash, or in-kind bene-
 4 fits;

5 “(E) a plan for termination of the SERVE
 6 program;

7 “(F) a plan for maintaining integrity of
 8 the SERVE program to prevent fraud, waste,
 9 and abuse;

10 “(G) minimum criteria that the State will
 11 use to authorize restaurants to participate in
 12 the SERVE program; and

13 “(H) the total amount of funding re-
 14 quested by the State, based on, at a minimum,
 15 the product obtained by multiplying—

16 “(i) the estimated number of individ-
 17 uals eligible to receive benefits under the
 18 SERVE program in the State, in accord-
 19 ance with subsection (b);

20 “(ii) the maximum concessional meal
 21 price described in subparagraph (A); and

22 “(iii) the number of meals that the
 23 State estimates will be provided to each eli-
 24 gible recipient.

25 “(e) SERVE PROGRAM ADMINISTRATION.—

1 “(1) RESTAURANT IDENTIFICATION NUMBER.—

2 Under a SERVE program, a State shall assign a
3 unique identification number to each participating
4 restaurant, which may be identical to the number
5 assigned to that restaurant under another Federal
6 nutrition program.

7 “(2) TERMINATION DATE.—A State shall termi-
8 nate a SERVE program not later than the later
9 of—

10 “(A) 60 days after the date on which the
11 applicable emergency is lifted; and

12 “(B) the date on which funds provided to
13 the State under subsection (b) are expended.

14 “(3) FUNDS.—

15 “(A) RETURN OF FEDERAL FUNDS.—On
16 termination of a SERVE program, a State may
17 elect to return to the Treasury any unused
18 funds of the funds received under subsection
19 (b).

20 “(B) ADMINISTRATIVE COSTS.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), a State may use some portion of the
23 funds received under subsection (b) for the
24 administrative costs of carrying out a
25 SERVE program, including the cost of—

1 “(I) contracting with necessary
2 entities to operate the SERVE pro-
3 gram, including to update electronic
4 benefit transfer transaction infra-
5 structure;

6 “(II) carrying out activities to
7 protect the integrity of the SERVE
8 program and enforce against viola-
9 tions of waste, fraud, and abuse of
10 funding under the SERVE program;
11 and

12 “(III) providing technical assist-
13 ance to participating restaurants.

14 “(ii) AMOUNT.—Of the funds received
15 under subsection (b) by a State, the Sec-
16 retary shall determine the amount that the
17 State may use for administrative costs,
18 which shall not exceed 10 percent of the
19 total funds received.

20 “(C) STATE CONTRIBUTION.—A State may
21 use State funds to establish or contribute to a
22 SERVE program.

23 “(4) NONDISCRIMINATION.—A State shall en-
24 sure that an individual shall not, on any basis pro-
25 hibited under section 11, be excluded from participa-

1 tion in, be denied the benefits of, or be subjected to
2 discrimination under a SERVE program.

3 “(5) CIVIL PENALTIES.—A State that admin-
4 isters a SERVE program shall establish a civil pen-
5 alty for any participating restaurant that knowingly
6 and willfully carries out any act of waste, fraud, or
7 abuse of the SERVE program—

8 “(A) in an amount of not more than
9 \$100,000 for each violation; and

10 “(B) if there is a pattern of violations by
11 the restaurant, as determined by the State, the
12 revocation of the license of the restaurant in
13 that State.

14 “(f) PRORATED DISTRIBUTION.—If necessary, the
15 Secretary shall reduce the amount provided to each State
16 under subsection (b) on a prorated basis based on the
17 amount requested by the State and the funds made avail-
18 able under subsection (g).

19 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary such
21 sums as are necessary to carry out this section during an
22 emergency.

23 “(h) EFFECT.—Nothing in this section waives, modi-
24 fies, or otherwise affects the requirements of the supple-
25 mental nutrition assistance program, the special supple-

1 mental nutrition program for women, infants, and children
 2 established by section 17 of the Child Nutrition Act of
 3 1966 (42 U.S.C. 1786), or any other Federal nutrition
 4 assistance program, as determined by the Secretary.”.

5 (b) STATE-BASED CORONAVIRUS FOOD ASSISTANCE
 6 PURCHASE PROGRAM.—

7 (1) DEFINITIONS.—In this subsection:

8 (A) EMERGENCY.—The term “emergency”
 9 means—

10 (i) a national emergency declared by
 11 the President under the National Emer-
 12 gencies Act (50 U.S.C. 1601 et seq.) based
 13 on an outbreak of SARS-CoV-2 or an-
 14 other coronavirus with pandemic potential;

15 (ii) a public health emergency de-
 16 clared under section 319 of the Public
 17 Health Service Act (42 U.S.C. 247d) based
 18 on an outbreak of SARS-CoV-2 or an-
 19 other coronavirus with pandemic potential;

20 (iii) an emergency declared by the
 21 President under section 501 of the Robert
 22 T. Stafford Disaster Relief and Emergency
 23 Assistance Act (42 U.S.C. 5191) based on
 24 an outbreak of SARS-CoV-2 or another
 25 coronavirus with pandemic potential; and

1 (iv) an emergency invoked under sec-
2 tion 506(a)(1) of the Foreign Assistance
3 Act of 1961 (22 U.S.C. 2318(a)(1)) based
4 on an outbreak of SARS-CoV-2 or an-
5 other coronavirus with pandemic potential.

6 (B) STATE.—The term “State” has the
7 meaning given the term in section 3 of the
8 Food and Nutrition Act of 2008 (7 U.S.C.
9 2012).

10 (2) PROVISION OF FUNDS TO STATES.—On re-
11 quest of a State during an emergency applicable to
12 the State, the Secretary shall provide funds, if made
13 available under paragraph (3), to the State to pur-
14 chase, store, process, package, harvest, and dis-
15 tribute locally grown commodities, fruits, vegetables,
16 specialty crops, dairy, and other consumable items,
17 including for donation to emergency feeding organi-
18 zations (as defined in section 201A of the Emer-
19 gency Food Assistance Act of 1983 (7 U.S.C.
20 7501)).

21 (3) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to the Sec-
23 retary such sums as are necessary to carry out this
24 subsection during an emergency.

1 **SEC. 4. RESTAURANT MEALS PROGRAM UNDER THE SUP-**
 2 **PLEMENTAL NUTRITION ASSISTANCE PRO-**
 3 **GRAM.**

4 (a) DEFINITIONS.—In this section:

5 (1) COVERED PERIOD.—The term “covered pe-
 6 riod” means the period beginning on the first day of
 7 the first month that begins after the date of enact-
 8 ment of this Act and ending on the last day of the
 9 month that follows the month in which the public
 10 health emergency declared by the Secretary of
 11 Health and Human Services under section 319 of
 12 the Public Health Service Act (42 U.S.C. 247d) on
 13 January 31, 2020, with respect to COVID–19, is
 14 lifted.

15 (2) PROGRAM.—The term “program” means
 16 the supplemental nutrition assistance program es-
 17 tablished under the Food and Nutrition Act of 2008
 18 (7 U.S.C. 2011 et seq.).

19 (b) DEFINITION OF FOOD.—Section 3(k) of the Food
 20 and Nutrition Act of 2008 (7 U.S.C. 2012(k)) is amend-
 21 ed—

22 (1) in paragraph (1), by striking “clauses (3),
 23 (4), (5), (7), (8), and (9) of this subsection” and in-
 24 serting “paragraphs (3), (4), (5), and (7) through
 25 (10)”;

1 (2) in paragraph (8), by striking “and” at the
2 end; and

3 (3) in paragraph (9), by striking the period at
4 the end and inserting “, and (10) in the case of
5 households residing in an area for which a major
6 disaster has been declared by the President under
7 section 401 of the Robert T. Stafford Disaster Relief
8 and Emergency Assistance Act (42 U.S.C. 5170),
9 regardless of whether individual assistance has been
10 authorized under such major disaster declaration, or
11 a public health emergency has been declared by the
12 Secretary of Health and Human Services under sec-
13 tion 319 of the Public Health Service Act (42
14 U.S.C. 247d), meals prepared for and served by a
15 public or private nonprofit establishment (approved
16 by an appropriate State or local agency) that feeds
17 such households and by private establishments that
18 contract with the appropriate agency of the State to
19 offer meals for such households at concessional
20 prices subject to section 9(h).”.

21 (c) TEMPORARY STREAMLINING OF STATE PARTICI-
22 PATION.—

23 (1) IN GENERAL.—Subject to paragraph (2),
24 during the covered period, the Secretary shall waive
25 the requirements under section 11(e)(25) of the

1 Food and Nutrition Act of 2008 (7 U.S.C.
2 2020(e)(25)) for a State plan of operation required
3 under subsection (d) of that section.

4 (2) COVERED PERIOD.—The Secretary may ex-
5 tend the covered period for the purpose of carrying
6 out paragraph (1) if the Secretary determines that
7 such action is necessary to prevent hunger in areas
8 impacted by the Coronavirus Disease 2019
9 (COVID–19).

10 (d) AUTHORIZATION OF NEW RETAILERS.—

11 (1) IN GENERAL.—During the covered period,
12 for the sole purpose of expanding the number and
13 capacity of retail food establishments, including res-
14 taurants, authorized to accept and redeem program
15 benefits in order to adequately serve households that
16 are eligible to receive program benefits, the Sec-
17 retary may waive any requirements under section 9
18 of the Food and Nutrition Act of 2008 (7 U.S.C.
19 2018).

20 (2) NO FEES.—Nothing in this subsection per-
21 mits any retail food establishment, including a res-
22 taurant, authorized to accept and redeem program
23 benefits to charge fees for the redemption of those
24 benefits, including fees described in section 7(h)(13)

1 of the Food and Nutrition Act of 2008 (7 U.S.C.
2 2016(h)(13)).

3 (e) CONTRACTS WITH PRIVATE ESTABLISHMENTS.—

4 In the case of a contract that a State or the Federal Gov-
5 ernment enters into with a private establishment to offer
6 meals at concessional prices under the Food and Nutrition
7 Act of 2008 (7 U.S.C. 2011 et seq.) that is effective on
8 the day before the public health emergency described in
9 subsection (a)(1) is lifted, if the Secretary determines, on
10 or after the date on which the public health emergency
11 described in subsection (a)(1) is lifted, that the participa-
12 tion of the private establishment is not necessary to meet
13 a documented need in accordance with section 11(e)(25)
14 of the Food and Nutrition Act of 2008 (7 U.S.C.
15 2020(e)(25)), the Secretary may—

16 (1) allow the operation of the private establish-
17 ment to continue without that determination of need
18 for not more than 180 days following the date of
19 that determination by the Secretary; or

20 (2) terminate the contract and provide justifica-
21 tion for the termination to the State in which the
22 private establishment is located.

23 (f) REPORT TO CONGRESS.—Not later than 180 days
24 after the public health emergency described in subsection
25 (a)(1) is lifted, the Secretary shall submit to the Com-

1 mittee on Agriculture, Nutrition, and Forestry of the Sen-
2 ate and the Committee on Agriculture of the House of
3 Representatives a report that includes—

4 (1) a description of the effectiveness of this sec-
5 tion in—

6 (A) increasing access to concessional meals
7 during the public health emergency; and

8 (B) preventing hunger and improving
9 health and safety among program recipients de-
10 scribed in paragraphs (3), (4), and (9) of sec-
11 tion 3(k) of the Food and Nutrition Act of
12 2008 (7 U.S.C. 2012(k)); and

13 (2) recommendations for additional statutory
14 authority needed by the Secretary—

15 (A) to prevent hunger among program re-
16 cipients during any public health emergency or
17 major disaster; and

18 (B) to improve health and safety among
19 program recipients during ongoing social
20 distancing policies relating to the Coronavirus
21 Disease 2019 (COVID–19).

○