

108TH CONGRESS
1ST SESSION

S. 1020

To amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2003

Mr. KOHL 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 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

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 Breakfast Im-
5 provement Act of 2003”.

6 **SEC. 2. SEVERE NEED ASSISTANCE.**

7 Section 4(d)(2) of the Child Nutrition Act of 1966
8 (42 U.S.C. 1773(d)(2)) is amended—

9 (1) by striking “100 percent” and all that fol-
10 lows through “food, or”; and

1 (2) by striking “, whichever is less”.

2 **SEC. 3. STARTUP AND EXPANSION GRANTS FOR SCHOOL**
 3 **BREAKFAST PROGRAMS.**

4 Section 4 of the Child Nutrition Act of 1966 (42
 5 U.S.C. 1773) is amended by adding at the end the fol-
 6 lowing:

7 “(f) STARTUP AND EXPANSION GRANTS FOR SCHOOL
 8 BREAKFAST PROGRAMS.—

9 “(1) DEFINITION OF ELIGIBLE SCHOOL.—In
 10 this subsection, the term ‘eligible school’ means—

11 “(A) in the case of a startup grant, a
 12 school that agrees to operate the school break-
 13 fast program established with the assistance
 14 provided under this subsection for a period of
 15 not less than 3 years; and

16 “(B) in the case of an expansion grant, a
 17 school that has operated a school breakfast pro-
 18 gram established for a period of not less than
 19 3 consecutive years.

20 “(2) GRANTS.—The Secretary shall make
 21 grants, on a competitive basis, to State educational
 22 agencies, in a total amount of not more than
 23 \$10,000,000 for each fiscal year from funds made
 24 available to the Secretary, to assist eligible schools
 25 in initiating and expanding school breakfast pro-

grams, of which not less than \$7,000,000 for each fiscal year shall be used for expansion grants.

“(3) USES.—A State educational agency shall use grants made available under this subsection to assist eligible schools, during the first school year eligible schools initiate or expand school breakfast programs, with expenses incurred in initiating or expanding school breakfast programs.

“(4) SUPPLEMENTARY FUNDS.—A grant under this subsection shall supplement any payment to which a State educational agency is entitled under subsection (b).

“(5) PLAN.—To be eligible to receive a grant under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the State educational agency shall provide technical assistance and funding to eligible schools in the State to initiate or expand the programs.

“(6) STATE EDUCATIONAL AGENCY PREFERENCES FOR STARTUP GRANTS.—In making a grant under this subsection for a fiscal year to initiate a school breakfast program, the Secretary shall give preference to a State educational agency that—

1 “(A) has not more than 60 percent of
2 schools in the State that are participating in
3 the school lunch program also participating in
4 the school breakfast program; or

5 “(B) has not more than 35 percent of the
6 students in the State receiving free or reduced
7 price lunch also receiving free or reduced price
8 breakfasts.

9 “(7) REALLOCATION.—The Secretary shall act
10 in a timely manner to recover and reallocate to other
11 State educational agencies or States any amount
12 made available to a State educational agency or
13 State under this subsection that is not used by the
14 agency or State within a reasonable period (as deter-
15 mined by the Secretary).

16 “(8) APPLICATION.—The Secretary shall allow
17 application by State educational agencies on an an-
18 nual basis for grants under this subsection.

19 “(9) PREFERENCES BY STATE EDUCATIONAL
20 AGENCIES AND STATES.—In allocating funds within
21 the State, each State educational agency shall give
22 preference for assistance under this subsection to an
23 eligible school that demonstrates the greatest need
24 for assistance to initiate or expand a school break-

1 fast program, as determined by the State edu-
2 cational agency.

3 “(10) MAINTENANCE OF EFFORT.—The ex-
4 penditure of funds from State and local sources for
5 the maintenance of the school breakfast program
6 shall not be diminished as a result of grants made
7 available under this subsection.”.

8 **SEC. 4. COMMODITY ASSISTANCE FOR SCHOOL BREAKFAST**
9 **PROGRAM.**

10 Section 6 of the Richard B. Russell National School
11 Lunch Act (42 U.S.C. 1755) is amended—

12 (1) by striking subsection (b) and inserting the
13 following:

14 “(b) COMMODITY ASSISTANCE FOR SCHOOL LUNCH
15 AND BREAKFAST PROGRAMS.—Not later than September
16 30 of the following school year, the Secretary shall deliver
17 to each State participating in—

18 “(1) the school lunch program established
19 under this Act, commodities valued at the total level
20 of assistance authorized under subsection (c) for
21 each school year for the school lunch program in the
22 State; and

23 “(2) the school breakfast program established
24 under the Child Nutrition Act of 1966 (42 U.S.C.
25 1771 et seq.), commodities valued at the total level

1 of assistance authorized under subsection (d) for
 2 each school year for the school breakfast program in
 3 the State.”; and

4 (2) by striking subsection (d) and inserting the
 5 following:

6 “(d) VALUE OF DONATED FOODS FOR SCHOOL
 7 BREAKFAST PROGRAM.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
 9 in the case of the school breakfast program estab-
 10 lished under the Child Nutrition Act of 1966 (42
 11 U.S.C. 1771 et seq.), the value of donated foods
 12 shall be 5 cents.

13 “(2) ADJUSTMENT.—

14 “(A) IN GENERAL.—The value of donated
 15 foods under paragraph (1) shall be adjusted on
 16 July 1, 2004, and each July 1 thereafter, to re-
 17 flect changes in the Price Index for Food Used
 18 in Schools and Institutions.

19 “(B) FOOD COMPONENTS.—

20 “(i) IN GENERAL.—The Index shall be
 21 computed using 5 major food components
 22 of the Producer Price Index of the Bureau
 23 of Labor Statistics (cereal and bakery
 24 products, meats, poultry and fish, dairy

1 products, processed fruits and vegetables,
2 and fats and oils).

3 “(ii) WEIGHTING.—Each component
4 shall be weighed using the same relative
5 weight as determined by the Bureau of
6 Labor Statistics.

7 “(C) TIME PERIOD.—The value of food as-
8 sistance for each meal shall be adjusted each
9 July 1 by the annual percentage change in a 3-
10 month average value of the Price Index for
11 Foods Used in Schools and Institutions for
12 March, April, and May each year.

13 “(D) ROUNDING.—The adjustment shall
14 be computed to the nearest $\frac{1}{4}$ cent.

15 “(3) CALCULATION.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), for each school year, the total
18 amount of commodity assistance, or cash in lieu
19 of commodity assistance, available to a State
20 for the school breakfast program shall be the
21 product obtained by multiplying—

22 “(i) the number of breakfasts served
23 in the preceding school year; by

24 “(ii) the rate established under para-
25 graphs (1) and (2).

1 “(B) RECONCILIATION.—After the end of
2 each school year, the Secretary shall—

3 “(i) reconcile the number of break-
4 fasts served by schools in each State with
5 the number of breakfasts served by schools
6 in each State during the preceding school
7 year; and

8 “(ii) increase or reduce subsequent
9 commodity assistance, or cash in lieu of
10 commodity assistance, provided to each
11 State based on the reconciliation.”.

12 **SEC. 5. UNIVERSAL SCHOOL BREAKFAST PILOT PROJECTS.**

13 Section 18 of the Richard B. Russell National School
14 Lunch Act (42 U.S.C. 1769) is amended by added at the
15 end the following:

16 “(h) UNIVERSAL SCHOOL BREAKFAST PILOT
17 PROJECTS.—

18 “(1) IN GENERAL.—The Secretary shall make
19 grants to State agencies to conduct pilot projects in
20 high schools under the jurisdiction of not more than
21 6 school food authorities approved by the Secretary
22 to provide free breakfasts to high school students,
23 without regard to family income.

24 “(2) NOMINATIONS.—A State agency that seeks
25 a grant under this subsection shall submit to the

1 Secretary nominations of school food authorities to
2 participate in a pilot project under this subsection.

3 “(3) APPROVAL.—The Secretary shall approve
4 for participation in pilot projects under this sub-
5 section high schools under the jurisdiction of not
6 more than 6 nominated school food authorities se-
7 lected so as to—

8 “(A) target the pilot projects toward school
9 food authorities that have—

10 “(i) the highest percentage of stu-
11 dents eligible for free or reduced price
12 meals under the school lunch or breakfast
13 program; and

14 “(ii) the lowest percentage of students
15 that receive free or reduced price meals
16 under the school lunch or breakfast pro-
17 gram; and

18 “(B) provide for an equitable distribution
19 of pilot projects among urban and rural high
20 schools.

21 “(4) GRANTS TO SCHOOL FOOD AUTHORI-
22 TIES.—A State agency receiving a grant under para-
23 graph (1) shall make grants to school food authori-
24 ties to conduct the pilot projects described in para-
25 graph (1).

1 “(5) DURATION OF PILOT PROJECTS.—Subject
2 to the availability of funds made available to carry
3 out this subsection, a school food authority receiving
4 amounts under a grant to conduct a pilot project de-
5 scribed in paragraph (1) shall conduct the project
6 during a period of 3 successive school years.

7 “(6) WAIVER AUTHORITY.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the Secretary may waive the
10 requirements of this Act and the Child Nutri-
11 tion Act of 1966 (42 U.S.C. 1771 et seq.) relat-
12 ing to counting of meals, applications for eligi-
13 bility, and related requirements that would pre-
14 clude the Secretary from making a grant to
15 conduct a pilot project under paragraph (1).

16 “(B) NONWAIVABLE REQUIREMENTS.—
17 The Secretary may not waive a requirement
18 under subparagraph (A) if the waiver would
19 prevent a program participant, a potential pro-
20 gram participant, or a school from receiving all
21 of the benefits and protections of this Act, the
22 Child Nutrition Act of 1966 (42 U.S.C. 1771 et
23 seq.), or a Federal law (including a regulation)
24 that protects an individual constitutional right
25 or a statutory civil right.

1 “(7) REQUIREMENTS FOR PARTICIPATION IN
2 PILOT PROJECT.—To be eligible to participate in a
3 pilot project under this subsection—

4 “(A) a State agency—

5 “(i) shall submit an application to the
6 Secretary at such time and in such manner
7 as the Secretary shall establish to meet cri-
8 teria the Secretary has established to en-
9 able a valid evaluation to be conducted;
10 and

11 “(ii) shall provide such information
12 relating to the operation and results of the
13 pilot project as the Secretary may reason-
14 ably require; and

15 “(B) a school food authority—

16 “(i) shall agree to serve all breakfasts
17 at no charge to all high school students en-
18 rolled in participating high schools;

19 “(ii) shall not have a history of viola-
20 tions of this Act or the Child Nutrition Act
21 of 1966 (42 U.S.C. 1771 et seq.);

22 “(iii) shall agree to use innovative
23 methods for making breakfasts available to
24 eligible students, such as making break-
25 fasts available to students after the begin-

ning of the academic day or using alternative breakfast delivery and marketing methods; and

“(iv) shall meet all other requirements that the Secretary may reasonably require.

“(8) REPORTS.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall submit to Congress an interim and final report on the status of the pilot projects.

“(9) REIMBURSEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school breakfast program in an amount that is equal to the total Federal reimbursement for the school for the prior year under the program (adjusted to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor and adjusted for fluctuations in enrollment).

“(B) EXCESS NEEDS.—Funds required for the pilot project in excess of the level of reim-

1 bursement received by the school for the prior
2 year (adjusted to reflect changes described in
3 subparagraph (A) and adjusted for fluctuations
4 in enrollment) may be taken from any non-Fed-
5 eral source or from amounts provided under
6 this subsection.

7 “(10) FUNDING.—

8 “(A) IN GENERAL.—On October 1, 2003,
9 and on each October 1 thereafter through Octo-
10 ber 1, 2005, out of any funds in the Treasury
11 not otherwise appropriated, the Secretary of the
12 Treasury shall transfer to the Secretary of Ag-
13 riculture funds to carry out this subsection.

14 “(B) RECEIPT AND ACCEPTANCE.—The
15 Secretary shall be entitled to receive, shall ac-
16 cept, and shall use to carry out this subsection
17 the funds transferred under subparagraph (A),
18 without further appropriation.”.

19 **SEC. 6. EFFECTIVE DATE.**

20 This Act and the amendments made by this Act take
21 effect on October 1, 2003.

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