

# FOOD, CONSERVATION, AND ENERGY ACT OF 2008

[As Amended Through P.L. 112–55, Effective November 18, 2008]

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### **SEC. 4301. [42 U.S.C. 1758a] STATE PERFORMANCE ON ENROLLING CHILDREN RECEIVING PROGRAM BENEFITS FOR FREE SCHOOL MEALS.**

(a) **IN GENERAL.**—Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as “program benefits”) for free school meals using direct certification.

(b) **SPECIFIC MEASURES.**—The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section

<sup>1</sup> This table of contents is not part of the Act but is included for user convenience.

11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

(c) PERFORMANCE INNOVATIONS.—The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.

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**SEC. 4305. [42 U.S.C. 1755a] WHOLE GRAIN PRODUCTS.**

(a) PURPOSE.—The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In this section, the terms “whole grains” and “whole grain products” have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) PURCHASE OF WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(d) EVALUATION.—Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes—

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) REPORT.—As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative a report describing the results of the evaluation.

**SEC. 4306. [7 U.S.C. 2208 note] BUY AMERICAN REQUIREMENTS.**

(a) FINDINGS.—The Congress finds the following:

(1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin.

(2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers.

(3) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) requires the use of domestic food products for all meals served under the program, including food products purchased with local funds.

(b) BUY AMERICAN STATUTORY REQUIREMENTS.—The Department of Agriculture should undertake training, guidance, and enforcement of the various current Buy American statutory requirements and regulations, including those of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

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**SEC. 4403. [7 U.S.C. 5311a] JOINT NUTRITION MONITORING AND RELATED RESEARCH ACTIVITIES.**

The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—

(1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;

(2) to periodically collect data on special at-risk populations, as identified by the Secretaries;

(3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;

(4) to analyze new data that becomes available;

(5) to continuously update food composition tables; and

(6) to research and develop data collection methods and standards.

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**SEC. 4404. [7 U.S.C. 612c-5] SECTION 32 FUNDS FOR PURCHASE OF FRUITS, VEGETABLES, AND NUTS TO SUPPORT DOMESTIC NUTRITION ASSISTANCE PROGRAMS.**

(a) FUNDING FOR ADDITIONAL PURCHASES OF FRUITS, VEGETABLES, AND NUTS.—In addition to the purchases of fruits, vegetables, and nuts required by section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c-4), the Secretary of Agriculture shall purchase fruits, vegetables, and nuts for the purpose of providing nutritious foods for use in domestic nutrition assistance programs, using, of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the following amounts:

(1) \$190,000,000 for fiscal year 2008.

(2) \$193,000,000 for fiscal year 2009.

(3) \$199,000,000 for fiscal year 2010.

(4) \$203,000,000 for fiscal year 2011.

(5) \$206,000,000 for fiscal year 2012 and each fiscal year thereafter.

(b) FORM OF PURCHASES.—Fruits, vegetables, and nuts may be purchased under this section in the form of frozen, canned, dried, or fresh fruits, vegetables, and nuts.

(c) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—Section 10603

of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c-4) is amended by striking subsection (b) and inserting the following:

“(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than \$50,000,000 for each of fiscal years 2008 through 2012.”.

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**SEC. 4405. [7 U.S.C. 7517] HUNGER-FREE COMMUNITIES.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means a public food program service provider or nonprofit organization, including an emergency feeding organization, that has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(2) EMERGENCY FEEDING ORGANIZATION.—The term “emergency feeding organization” has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) HUNGER-FREE COMMUNITIES GOAL.—The term “hunger-free communities goal” means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(b) HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.—

(1) PROGRAM.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(C) NON-FEDERAL SHARE.—

(i) CALCULATION.—The non-Federal share of the cost of an activity under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.

(ii) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this subsection through a State government, a local government, or a private source.

(2) USE OF FUNDS.—An eligible entity in a community shall use a grant received under this subsection for any fiscal year for hunger relief activities, including—

(A) meeting the immediate needs of people who experience hunger in the community served by the eligible entity by—

(i) distributing food;

(ii) providing community outreach to assist in participation in federally assisted nutrition programs, including—

(I) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(II) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(III) the summer food service program for children established under section 13 of that Act; and

(IV) other Federal programs that provide food for children in child care facilities and homeless and older individuals; or

(iii) improving access to food as part of a comprehensive service; and

(B) developing new resources and strategies to help reduce hunger in the community and prevent hunger in the future by—

(i) developing creative food resources, such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;

(ii) coordinating food services with park and recreation programs and other community-based outlets to reduce barriers to access; or

(iii) creating nutrition education programs for at-risk populations to enhance food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health.

(c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available for a fiscal year under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(2) APPLICATION.—

(A) IN GENERAL.—To receive a grant under this subsection, an eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) identify any activity described in paragraph (3) that the grant will be used to fund; and

(ii) describe the means by which an activity identified under clause (i) will reduce hunger in the community of the eligible entity.

(C) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate 2 or more of the following:

(i) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(ii) The eligible entity serves a community that has successfully carried out long-term efforts to reduce hunger in the community.

(iii) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(iv) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(3) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection to construct, expand, or repair a facility or equipment to support hunger relief efforts in the community.

(d) REPORT.—If funds are made available under subsection (e) to carry out this section, not later than September 30, 2012, the Secretary shall submit to Congress a report that describes—

- (1) each grant made under this section, including—
  - (A) a description of any activity funded; and
  - (B) the degree of success of each activity funded in achieving hunger free-communities goals; and
- (2) the degree of success of all activities funded under this section in achieving domestic hunger goals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

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**SEC. 4407. [2 U.S.C. 1161 note] EFFECTIVE AND IMPLEMENTATION DATES.**

Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.

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**SEC. 14222. [Public Law 110-246; 122 Stat. 2245] DOMESTIC FOOD ASSISTANCE PROGRAMS.**

(a) DEFINITION OF SECTION 32.—In this section, the term “section 32” means section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

- (b) TRANSFER TO FOOD AND NUTRITION SERVICE.—
  - (1) IN GENERAL.—Amounts made available for a fiscal year to carry out section 32 in excess of the maximum amount calculated under paragraph (2) shall be transferred to the Secretary, acting through the Administrator of the Food and Nutrition Service, to be used to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21.

(2) **MAXIMUM AMOUNT.**—The maximum amount calculated under this paragraph for a fiscal year is the sum of—

- (A)(i) in the case of fiscal year 2009, \$1,173,000,000;
- (ii) in the case of fiscal year 2010, \$1,199,000,000;
- (iii) in the case of fiscal year 2011, \$1,215,000,000;
- (iv) in the case of fiscal year 2012, \$1,231,000,000;
- (v) in the case of fiscal year 2013, \$1,248,000,000;
- (vi) in the case of fiscal year 2014, \$1,266,000,000;
- (vii) in the case of fiscal year 2015, \$1,284,000,000;
- (viii) in the case of fiscal year 2016, \$1,303,000,000;
- (ix) in the case of fiscal year 2017, \$1,322,000,000; and
- (x) for fiscal year 2018 and each fiscal year thereafter,

the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor; and

(B) any transfers for the fiscal year from section 32 to the Department of Commerce under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

(c) **FRESH FRUIT AND VEGETABLE PROGRAM.**—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall transfer for use to carry out the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) **WHOLE GRAIN PRODUCTS.**—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 \$4,000,000 for fiscal year 2009.

(e) **MAINTENANCE OF FUNDING.**—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).