

118TH CONGRESS
1ST SESSION

H. R. 4786

To direct the Secretary of Agriculture to conduct an audit of fraud relating to waivers of certain requirements of the child nutrition programs during the COVID–19 pandemic, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2023

Mr. FINSTAD (for himself, Mr. STAUBER, and Mrs. FISCHBACH) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To direct the Secretary of Agriculture to conduct an audit of fraud relating to waivers of certain requirements of the child nutrition programs during the COVID–19 pandemic, 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 “Feeding Children Not
5 Fraudsters Act of 2023”.

1 **SEC. 2. FRAUD RELATING TO COVID-19 NUTRITION WAIV-**
2 **ERS.**

3 (a) AUDIT OF KNOWN FRAUD RELATING TO
4 COVID-19 NUTRITION PROGRAMS AND WAIVERS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, and on
7 an annual basis thereafter, the Secretary of Agri-
8 culture shall conduct, with respect to the covered pe-
9 riod, an audit of a covered State agency relating to
10 known fraud, including such fraud carried out
11 under—

12 (A) the Child and Adult Care Food Pro-
13 gram under section 17 of the Richard B. Rus-
14 sell National School Lunch Act (42 U.S.C.
15 1766);

16 (B) the Summer Food Service Program for
17 Children under section 13 of the Richard B.
18 Russell National School Lunch Act (42 U.S.C.
19 1761); and

20 (C) child nutrition COVID-19 waivers (in-
21 cluding with respect to the programs described
22 in subparagraphs (A) and (B)).

23 (2) SCOPE.—An audit conducted by the Sec-
24 retary pursuant to this section may only relate to
25 known fraud not examined under any preceding

1 audit conducted by the Secretary pursuant to this
2 section, as applicable.

3 (3) CONTENT.—The audit of a covered State
4 agency conducted pursuant to this subsection shall
5 examine—

6 (A) oversight measures (or lack thereof) by
7 such State agency;

8 (B) decisions made by such State agency
9 after being made aware of fraud committed by
10 a local agency, institution, or service institution
11 served by such State agency;

12 (C) hearings conducted by such State
13 agency after being made aware of such fraud;

14 (D) correspondence between such agency
15 and—

16 (i) the Department of Agriculture;

17 (ii) a local agency served by such
18 State agency; and

19 (iii) to the extent practicable, and as
20 applicable, the institutions and service in-
21 stitutions served by such agency;

22 (E) overpayments or improper payments
23 by a local agency, institution, or service institu-
24 tion served by such State agency;

1 (F) fraudulent uses of funds by a local
2 agency, institution, or service institution served
3 by such State agency; and

4 (G) misrepresentations by—

5 (i) an institution with respect to the
6 eligibility of such institution to carry out
7 the Child and Adult Care Food Program
8 under section 17 of the Richard B. Russell
9 National School Lunch Act (42 U.S.C.
10 1766); or

11 (ii) a service institution with respect
12 to the eligibility of such institution to carry
13 out the Summer Food Service Program for
14 Children under section 13 of the Richard
15 B. Russell National School Lunch Act (42
16 U.S.C. 1761).

17 (4) COOPERATION.—In order to participate in
18 or operate any child nutrition program for the school
19 year or summer period, as applicable, that is the
20 first school year or summer period beginning after
21 the date of the enactment of this Act, a State agen-
22 cy being audited (and any local agency, institution,
23 or service institution served by such State agency)
24 shall fully cooperate with any audit conducted pursu-

1 ant to this subsection, including by providing any in-
2 formation requested under paragraph (3).

3 (5) REPORT.—The Secretary of Agriculture
4 shall submit the findings of the audit required under
5 this subsection to—

6 (A) the House Committee on Education
7 and the Workforce;

8 (B) the House Committee on Oversight
9 and Accountability;

10 (C) the Senate Committee on Agriculture,
11 Nutrition, and Forestry; and

12 (D) the Senate Committee on Homeland
13 Security and Governmental Affairs.

14 (6) SUNSET.—The authority of the Secretary to
15 conduct an audit under this section shall terminate
16 on the date that is 5 years after the date on which
17 the first audit is conducted pursuant to this section.

18 (b) REQUIREMENT TO RETAIN RECORDS RELATING
19 TO FRAUD.—

20 (1) CHILD AND ADULT CARE FOOD PROGRAM.—
21 Section 17(f)(1)(B) of the Richard B. Russell Na-
22 tional School Lunch Act (42 U.S.C. 1766(f)(1)(B))
23 is amended by adding at the end the following:

24 “(iv) RECORDS.—The State shall re-
25 tain any records related to the fraud,

1 abuse, or invalid claims described in clause
2 (i).”.

3 (2) SUMMER FOOD SERVICE PROGRAM.—Sec-
4 tion 13(o) of the Richard B. Russell National School
5 Lunch Act (42 U.S.C. 1761(o)) is amended by add-
6 ing at the end the following:

7 “(4) The State shall retain any records related
8 to any act made unlawful under this subsection.”.

9 (3) WAIVERS.—The Secretary shall retain any
10 records related to any fraudulent act carried out
11 pursuant to a child nutrition COVID–19 waiver.

12 (c) DEFINITIONS.—In this section:

13 (1) CHILD NUTRITION COVID–19 WAIVERS.—
14 The term “child nutrition COVID–19 waivers”
15 means the nationwide waivers and additional flexi-
16 bilities published on the website of the Food and
17 Nutrition Service of the Department of Agriculture
18 on July 12, 2022.

19 (2) CHILD NUTRITION PROGRAM.—The term
20 “child nutrition program” means a program carried
21 out under the Richard B. Russell National School
22 Lunch Act (42 U.S.C. 1751 et seq.) or the Child
23 Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

24 (3) COVERED PERIOD.—The term “covered pe-
25 riod” means the period—

1 (A) beginning on January 1, 2020; and

2 (B) ending on December 31, 2022.

3 (4) COVERED STATE AGENCY.—The term “cov-
4 ered State agency” means a State agency serving a
5 local agency, institution, or service institution ad-
6 ministering or operating a child nutrition program
7 under which known fraud was committed.

8 (5) INSTITUTION.—The term “institution” has
9 the meaning given such term in section 17(a)(2) of
10 the Richard B. Russell National School Lunch Act
11 (42 U.S.C. 1766(a)(2)).

12 (6) KNOWN FRAUD.—The term “known fraud”
13 means, with respect to a child nutrition program,
14 fraud for which any person is investigated, charged,
15 or convicted by—

16 (A) the Department of Justice;

17 (B) the Department of Agriculture; or

18 (C) an appropriate State official.

19 (7) SECRETARY.—The term “Secretary” means
20 the Secretary of Agriculture.

21 (8) SERVICE INSTITUTION.—The term “service
22 institution” has the meaning given such term in sec-
23 tion 13(a)(1) of the Richard B. Russell National
24 School Lunch Act (42 U.S.C. 1761(a)(1)).

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