

118TH CONGRESS
1ST SESSION

H. R. 5099

To amend the Food and Nutrition Act of 2008 to establish a dairy nutrition incentive program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2023

Mr. COSTA (for himself and Mr. LANGWORTHY) introduced the following bill;
which was referred to the Committee on Agriculture

A BILL

To amend the Food and Nutrition Act of 2008 to establish a dairy nutrition incentive program, 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 “Dairy Nutrition Incen-
5 tive Program Act of 2023”.

6 **SEC. 2. DAIRY NUTRITION INCENTIVE PROGRAM.**

7 (a) IN GENERAL.—The Food and Nutrition Act of
8 2008 (7 U.S.C. 2011 et seq.) is amended by adding at
9 the end the following:

1 **“SEC. 31. DAIRY NUTRITION INCENTIVE PROGRAM.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) DAIRY PRODUCT.—The term ‘dairy prod-
4 uct’ means a product for which cow’s milk is listed
5 as—

6 “(A) the first ingredient on the labeled in-
7 gredients list of the product; or

8 “(B) the second ingredient on the labeled
9 ingredients list of the product, if the first listed
10 ingredient is water.

11 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
12 tity’ means—

13 “(A) a State or local governmental entity;
14 and

15 “(B) a nonprofit organization.

16 “(3) FLUID MILK.—The term ‘fluid milk’
17 means any variety of pasteurized cow’s milk that—

18 “(A) is packaged in liquid form; and

19 “(B) contains vitamins A and D at levels
20 consistent with the Food and Drug Administra-
21 tion standards, and applicable State and local
22 standards, for fluid milk.

23 “(4) NATURALLY NUTRIENT-RICH DAIRY.—The
24 term ‘naturally nutrient-rich dairy’ means—

25 “(A) fluid milk;

1 “(B) yogurt and other cultured cow’s milk
2 dairy products; and

3 “(C) cheese (including nonstandardized
4 cheese) made from cow’s milk.

5 “(5) PROGRAM.—The term ‘program’ means
6 the dairy nutrition incentive program established
7 under subsection (b).

8 “(b) ESTABLISHMENT.—Not later than 180 days
9 after the date of enactment of this section, the Secretary
10 shall establish a dairy nutrition incentive program under
11 which the Secretary shall develop and test methods to in-
12 crease the purchase and consumption of naturally nutri-
13 ent-rich dairy by members of households that receive bene-
14 fits under the supplemental nutrition assistance program
15 by providing an incentive for the purchase of naturally nu-
16 trient-rich dairy at the point of purchase to members of
17 households purchasing food using those benefits.

18 “(c) GRANTS OR COOPERATIVE AGREEMENTS.—

19 “(1) IN GENERAL.—To carry out the program,
20 the Secretary shall enter into cooperative agreements
21 with, or provide grants to, eligible entities, on a com-
22 petitive basis, for projects that meet the purpose of
23 the program described in subsection (b).

24 “(2) APPLICATION.—An eligible entity seeking
25 to enter into a cooperative agreement or receive a

1 grant under the program shall submit to the Sec-
2 retary an application at such time, in such manner,
3 and containing such information as the Secretary
4 may require.

5 “(3) SELECTION CRITERIA.—The Secretary
6 shall develop and make public criteria for evaluating
7 proposed projects in applications submitted under
8 paragraph (2), which shall incorporate a scientif-
9 ically based strategy designed to improve diet quality
10 and nutritional outcomes through the increased pur-
11 chase of naturally nutrient-rich dairy.

12 “(4) PRIORITY.—In entering into cooperative
13 agreements and awarding grants under the program,
14 the Secretary shall give priority to projects that—

15 “(A) maximize the percentage of funds
16 used for direct incentives for participants in the
17 supplemental nutrition assistance program;

18 “(B) include a project design—

19 “(i) that provides incentives when nat-
20 urally nutrient-rich dairy is purchased
21 using benefits under the supplemental nu-
22 trition assistance program; and

23 “(ii) in which the incentives earned
24 may be used only to purchase naturally nu-
25 trient-rich dairy;

1 “(C) include project sites that serve mem-
2 bers of households that participate in the sup-
3 plemental nutrition assistance program; and

4 “(D) incorporate the use of point-of-sale
5 systems that can electronically issue incentives
6 earned under the program.

7 “(5) ADDITIONAL FINANCIAL ASSISTANCE.—An
8 eligible entity may request funds from the Secretary,
9 pursuant to section 16, to offset initial costs to en-
10 able electronic benefits transfer technology for elec-
11 tronic point-of-sale systems described in paragraph
12 (4)(D) for projects sites selected under the program.

13 “(d) EVALUATION.—

14 “(1) IN GENERAL.—The Secretary shall provide
15 for an independent evaluation of each project carried
16 out under the program that measures, to the max-
17 imum extent practicable, the effect of incentives on
18 purchases of naturally nutrient-rich dairy by mem-
19 bers of households that receive benefits under the
20 supplemental nutrition assistance program.

21 “(2) METHODOLOGY REQUIREMENT.—The
22 independent evaluation under paragraph (1) shall
23 use rigorous methodologies, such as random assign-
24 ment or other methods that are capable of producing

1 scientifically valid information regarding activities
2 that are effective.

3 “(3) DISCONTINUANCE.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), subject to availability of
6 funds, nothing in this section shall limit the
7 continuation of a project carried out under the
8 program.

9 “(B) NONCOMPLIANCE.—The Secretary
10 may discontinue a project or close a project site
11 under the program if the project—

12 “(i) does not comply with the require-
13 ments under this section;

14 “(ii) does not comply with the require-
15 ments of the grant awarded or cooperative
16 agreement entered into under the program,
17 as applicable; or

18 “(iii) if the Secretary determines that
19 the results of the independent evaluation of
20 the project under paragraph (1) are not
21 satisfactory.

22 “(4) PUBLIC DISSEMINATION.—The Secretary
23 shall make publicly available the results of each
24 independent evaluation carried out under paragraph
25 (1).

1 “(e) REPORT.—Not later than December 31 of the
2 first full calendar year following the date of establishment
3 of the program, and biennially thereafter, the Secretary
4 shall submit to the Committee on Agriculture, Nutrition,
5 and Forestry of the Senate and the Committee on Agri-
6 culture of the House of Representatives a report that in-
7 cludes a description of—

8 “(1) the status of each project carried out
9 under the program; and

10 “(2) the results of each completed evaluation
11 under paragraph (1) during the period covered by
12 the report.

13 “(f) FUNDING.—

14 “(1) MANDATORY FUNDING.—There is appro-
15 priated to the Secretary, out of any funds in the
16 Treasury not otherwise appropriated, \$10,000,000
17 for each fiscal year to carry out this section.

18 “(2) AUTHORIZATION OF APPROPRIATIONS.—

19 “(A) IN GENERAL.—In addition to the
20 funds made available under paragraph (1),
21 there is authorized to be appropriated to the
22 Secretary to carry out this section \$10,000,000
23 for fiscal year 2025 and each fiscal year there-
24 after.

1 “(B) APPROPRIATIONS IN ADVANCE.—

2 With respect to any funds made available under
3 subparagraph (A), only funds appropriated in
4 advance specifically to carry out this section
5 shall be available to carry out this section.

6 “(3) EVALUATION COSTS.—Of the funds made
7 available to carry out this section for a fiscal year,
8 the Secretary shall use not more than 7 percent to
9 carry out subsection (d).

10 “(4) LIMITATION ON USE.—Funds made avail-
11 able to carry out this section shall not be used for
12 any project that limits the use of benefits under the
13 supplemental nutrition assistance program.”.

14 (b) TRANSITION FROM HEALTHY FLUID MILK IN-
15 CENTIVES PROJECTS.—

16 (1) IN GENERAL.—The Secretary of Agriculture
17 (referred to in this subsection as the “Secretary”)
18 shall transition projects carried out under section
19 4208 of the Agriculture Improvement Act of 2018
20 (7 U.S.C. 2026a) to be carried out as part of the
21 dairy nutrition incentive program established under
22 section 31 of the Food and Nutrition Act of 2008.

23 (2) NO INTERRUPTION.—In carrying out para-
24 graph (1), the Secretary shall ensure that—

1 (A) there is no interruption in projects
2 being carried out under section 4208 of the Ag-
3 riculture Improvement Act of 2018 (7 U.S.C.
4 2026a) during the transition described in that
5 paragraph; and

6 (B) any additional authorities or flexibili-
7 ties under the dairy nutrition incentive program
8 established under section 31 of the Food and
9 Nutrition Act of 2008 shall be applied to the
10 projects described in subparagraph (A).

11 (3) REPEAL.—Effective 1 year after the date
12 on which the Secretary certifies that the Secretary
13 has completed carrying out paragraph (1), section
14 4208 of the Agriculture Improvement Act of 2018
15 (7 U.S.C. 2026a) is repealed.

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