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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R.

To amend the Richard B. Russell National School Lunch Act to improve the health and well-being of school children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FARR introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Richard B. Russell National School Lunch Act to improve the health and well-being of school children, 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 “Children’s Fruit and
5 Vegetable Act of 2009”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

1 (1) Children eat less than half of the daily
2 fruits and vegetables recommended for good health
3 by the 2005 Dietary Guidelines for Americans. To
4 meet those guidelines designed to promote the health
5 of children and to lower their risks of chronic dis-
6 ease and obesity, children need to double their fruit
7 and vegetable intake. According to the background
8 and purpose of those guidelines many specific dis-
9 ease and conditions are linked to poor diet and that
10 nutrient supplements cannot replace a healthful diet.
11 The report notes that “an array of evidence points
12 to beneficial health effects” from the increased in-
13 take of fruits and vegetables.

14 (2) Published analysis of the 2005 Dietary
15 Guidelines for Americans notes that increased in-
16 takes of fruit, vegetables, are likely to have impor-
17 tant health benefits for most Americans. For this
18 reason, the Secretary of Agriculture should engage
19 in effective marketing, communications, and training
20 focused on sharing best practices that result in
21 school children eating more fruits and vegetables.

22 (3) Schools participating in the national school
23 lunch program established under the Richard B.
24 Russell National School Lunch Act (42 U.S.C. 1751
25 et seq.) or the school breakfast program established

1 under the Child Nutrition Act of 1966 (42
2 U.S.C.1771, et. seq.) are required to serve meals
3 that are consistent with the most recent Dietary
4 Guidelines for Americans published under section
5 301 of the National Nutrition Monitoring and Re-
6 lated Research Act of 1990 (7 U.S.C. 5341). How-
7 ever, Nutrition Standards and Meal Requirements
8 for the National School Lunch Program and the
9 School Breakfast Program, have not been updated
10 since 1995.

11 (4) Most schools participating in school meal
12 programs currently serve meals that contain fewer
13 fruits and vegetables than recommended by the Die-
14 tary Guidelines for Americans published in 2005
15 under section 301 of the National Nutrition Moni-
16 toring and Related Research Act of 1990 (7 U.S.C.
17 5341).

18 (5) The Institute of Medicine's publication enti-
19 tled School Meals: Building Blocks for Healthy Chil-
20 dren Report (October 20, 2009) recommends that
21 (1) the amount of fruit served in school breakfast be
22 doubled to one cup and (2) the amount of fruits and
23 vegetables in school lunch be doubled to one cup of
24 fruit and one cup of vegetables every day, and that
25 the variety of vegetables served be increased, empha-

1 sizing dark green and orange vegetables. The Insti-
2 tute of Medicine's recommendations will align the
3 National School Breakfast and Lunch Programs
4 with the Dietary Guidelines for Americans published
5 in 2005 under section 301 of the National Nutrition
6 Monitoring and Related Research Act of 1990 (7
7 U.S.C. 5341) and promote children's health. The In-
8 stitute of Medicine's report also recognizes that im-
9 proving the quality of school meals, such as adding
10 more fruits and vegetables, will require additional
11 cafeteria equipment, such as refrigeration, salad bar,
12 and fruit and vegetable bars."

13 (6) An important goal of the Federal school
14 lunch and breakfast programs should include im-
15 proving the eating habits of children so they can
16 meet recommendations set forth in the most recent
17 version of the Dietary Guidelines for Americans.

18 (7) According to a University of California-Los
19 Angeles School of Public Health study published in
20 2007 (Public Health Nutrition 10:1490-1496) by
21 Dr. Wendelin Slusser, M.D., et al. and later con-
22 firmed by additional research presented by Dr.
23 Havinder Sareen, PhD, MPH to the Centers for
24 Disease Control and Prevention in February 2009,
25 children who have access to salad bars or fruit and

1 vegetable bars in their school cafeteria eat more
2 fruits and vegetables.

3 (8) According to the U.S. Department of Agri-
4 culture only approximately 3 percent of fruits and
5 vegetables purchased for the school lunch program
6 through the Agricultural Marketing Services com-
7 modity purchase program are fresh. The Secretary
8 of Agriculture is piloting a fresh-cut sliced apple
9 program to test the feasibility of purchasing, under
10 authority of section 32 of Public Law 74-320, as
11 amended (7 U.S.C. 612c), a wide variety of fresh-
12 cut fruits and vegetables for school meal programs.
13 According to the Agricultural Marketing Service
14 press release from September 17, 2009, the fresh-
15 cut sliced apple pilot program is a tremendous
16 achievement and is extraordinarily popular with
17 schools. The Secretary plans to expand the fresh-cut
18 apple program and pilot test a baby carrot program
19 during the Fall of 2009.P.L.

20 (9) The American Recovery and Reinvestment
21 Act of 2009 (ARRA) (Public Law 111-5) provided
22 a one time investment of \$100 million for equipment
23 assistance to school food authorities participating in
24 the National School Lunch Program. This is the
25 first Federal infrastructure investment for cafeteria

1 equipment in 25 years. Total requests from schools
2 for cafeteria equipment through the ARRA exceeded
3 \$650 million indicating a strong unmet need for
4 Federal support to help schools for equipment that
5 lends itself to improving the quality of school food
6 service meals that meet the Dietary Guidelines.

7 (10) The Fresh Fruit and Vegetable Program
8 established under Section 19 of the Richard B. Rus-
9 sell National School Lunch Act (42 U.S.C. 1769a, et
10 seq.) has demonstrated successfully that children
11 like fresh fruits and vegetables and will increase
12 their consumption when a variety of high quality
13 fresh fruits and vegetables are available to them in
14 school.

15 (11) Policy initiatives, such as the Fresh Fruits
16 and Vegetable Program, which are designed to im-
17 prove the school food environment and children's
18 eating habits, should be reinforced with training and
19 technical assistance for schools to improve program
20 effectiveness.

21 (b) PURPOSE.—The purpose of this Act is to estab-
22 lish a national strategy to improve the nutritional quality
23 of school meals served by schools participating in the
24 school lunch program established under the Richard B.
25 Russell National School Lunch Act (42 U.S.C. 1751 et

1 seq.) or the school breakfast program established under
2 established under the Child Nutrition Act of 1966 (42
3 U.S.C. 1771 et seq.) by increasing access to and consump-
4 tion of fruits and vegetables by children enrolled in the
5 schools through—

6 (1) the promotion of the use of salad bars, or
7 fruit and vegetable bars, as a strategy to increase
8 children's fruit and vegetable consumption;

9 (2) the expansion of the amount of fruits and
10 vegetables purchased by the Secretary of Agriculture
11 for use in school meals, emphasizing fruits and vege-
12 tables that are popular with students;

13 (3) effective training and technical assistance,
14 emphasizing best practices, that will—

15 (A) improve the implementation of the
16 Fresh Fruit and Vegetable Program under sec-
17 tion 19 of the Richard B. Russell National
18 School Lunch Act (42 U.S.C. 1769a); and

19 (B) increase the availability and consump-
20 tion of fruits and vegetables in school meals;

21 (5) infrastructure investment for purchasing
22 cafeteria equipment specifically targeted for increas-
23 ing access to fruits and vegetables and improve the
24 quality of school food service meals that meet the
25 most recent Dietary Guidelines for Americans pub-

1 lished under section 301 of the National Nutrition
2 Monitoring and Related Research Act of 1990 (7
3 U.S.C. 5341); and

4 (6) improving the quality of school meals.

5 **SEC. 3. DEFINITION.**

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

8 **SEC. 4. INCREASING ACCESS TO FRUITS AND VEGETABLES**
9 **IN SCHOOL CAFETERIAS.**

10 Section 18 of the Richard B. Russell National School
11 Lunch Act (42 U.S.C. 1769) is amended by adding at the
12 end the following—

13 “(j) ESTABLISHING SALAD BARS AND FRUIT AND
14 VEGETABLE BARS.—

15 “(1) MARKETING AND COMMUNICATIONS
16 PLAN.—Not later than 90 days after the date of en-
17 actment of the Children’s Fruit and Vegetable Act
18 of 2009, the Secretary shall establish and implement
19 a plan to promote the use of salad bars or fruit and
20 vegetable bars in schools participating in the school
21 lunch program established under this Act.

22 “(2) TRAINING AND TECHNICAL ASSISTANCE.—

23 “(A) IN GENERAL.—In carrying out the
24 plan described in paragraph (1), the Secretary
25 shall provide training and technical assistance

1 to State educational agencies and schools on
2 how to offer salad bars or fruit and vegetable
3 bars.

4 “(B) COMPREHENSIVE GUIDANCE.—In
5 providing the training and technical assistance
6 described in subparagraph (A), the Secretary
7 may use relevant guidance provided in the pub-
8 lication of the Secretary entitled Fruits and
9 Vegetables Galore: Helping Kids Eat More
10 (2004).

11 “(3) INFRASTRUCTURE INVESTMENT.—

12 “(A) IN GENERAL.—In carrying out the
13 plan described in paragraph (1), the Secretary
14 shall develop a program to provide grants to
15 State educational agencies to encourage schools
16 in such agencies to purchase equipment and
17 modify facilities for the purpose of setting up
18 and operating salad bars or fruit and vegetable
19 bars.

20 “(B) ALLOCATION TO STATE EDU-
21 CATIONAL AGENCIES.—The Secretary shall allo-
22 cate funds to each State educational agency in
23 accordance with a formula developed by the
24 Secretary, which shall provide for reallocation

1 of unused funds after the end of each fiscal
2 year.

3 “(C) APPLICATION.—To receive a grant
4 under this subsection, a State educational agen-
5 cy shall submit to the Secretary an application
6 at such time, in such manner, and containing
7 such information as the Secretary may require.

8 “(D) STATE EDUCATIONAL AGENCY RE-
9 QUIRED USES OF FUNDS.—Each State edu-
10 cational agency receiving a grant under this
11 subsection shall use the grant funds to—

12 “(i) award schools in such State edu-
13 cational agency a one-time payment equal
14 to the anticipated cost of setting up and
15 operating a salad bar or fruit and vege-
16 table bar, or \$7,500, whichever is less; and

17 “(ii) shall impose appropriate audit
18 and reporting requirements, and other pro-
19 cedures to ensure that funds provided to
20 schools by the agency under this subsection
21 have been properly used and shall recover
22 unused funds, as appropriate.

23 “(4) EVALUATION AND REPORT.—Not later
24 than 18 months following the establishment and exe-
25 cution of the plan described in paragraph (1), the

1 Secretary shall prepare and submit a report to the
2 Committee on Education and Labor, the Committee
3 on Agriculture, and the Committee on Appropria-
4 tions, of the House of Representatives, and the
5 Committee on Appropriations, the Committee on Ag-
6 riculture, Nutrition, and Forestry, of the Senate,
7 which describes—

8 “(A) how the plan has been executed: and

9 “(B) the number of schools that have new
10 salad bars or fruit and vegetable bars as a re-
11 sult of such plan.

12 “(5) MANDATORY SPENDING.—

13 “(A) IN GENERAL.—Out of the funds in
14 the Treasury not otherwise appropriated, the
15 Secretary of Treasury shall provide to the Sec-
16 retary of Agriculture by October 15 of each of
17 fiscal years 2011 through 2012 the amount of
18 \$10,000,000 and the Secretary of Agriculture
19 shall accept and use such funds to implement
20 this subsection.

21 “(B) ADDITIONAL AUTHORIZATION OF AP-
22 PROPRIATIONS.—There are authorized to be ap-
23 propriated, in addition to the mandatory fund-
24 ing under subparagraph (A) for each of the fis-
25 cal years listed in such subparagraph, such

1 sums as are necessary to carry out this sub-
2 section, to remain available until expended.”.

3 **SEC. 5. IDENTIFYING AND REMOVING BARRIERS TO THE**
4 **PURCHASE OF PERISHABLE FRUITS AND**
5 **VEGETABLES.**

6 (a) **IN GENERAL.**—Not later than 180 days after the
7 date of the enactment of this Act, the Secretary shall es-
8 tablish and implement a plan to identify and remove bar-
9 riers to facilitate the equitable purchase of fruits and vege-
10 tables within the procurement and distribution systems
11 administered by Secretary, acting through the Agricul-
12 tural Marketing Service of the Department of Agriculture.
13 The plan shall seek to identify and remove barriers to the
14 equitable purchase of fruits and vegetables at all levels of
15 the procurement and distribution systems, including any
16 barriers related to the initial surveys, bidding, transpor-
17 tation, handling, storage, and delivery to schools.

18 (b) **EVALUATION AND REPORT.**—Not later than 1
19 year after the date of the enactment of this Act, the Sec-
20 retary shall evaluate and report to the appropriate com-
21 mittees of Congress recommendations to reduce or elimi-
22 nate the barriers identified pursuant to subsection (a).

1 **SEC. 6. BEST PRACTICES TO IMPROVE EFFECTIVENESS OF**
2 **FRESH FRUIT AND VEGETABLE PROGRAM.**

3 Section 19(i)(6)(A) of the Richard B. Russell Na-
4 tional School Lunch Act (42 U.S.C. 1769a) is amended
5 to read as follows:

6 “(A) IN GENERAL.—Of funds made avail-
7 able to carry out this section for a fiscal year,
8 the Secretary may use not more than \$500,000
9 for administrative costs of carrying out this
10 program, including national and regional train-
11 ing conferences emphasizing sharing best prac-
12 tices, and providing technical assistance. Such
13 training programs may also include strategies
14 and best practices for increasing access to fresh
15 fruits and vegetables in other school meals pro-
16 grams.”.

17 **SEC. 7. IMPROVING THE QUALITY OF SCHOOL MEALS**
18 **THROUGH RULEMAKING.**

19 Not later than 24 months after the date of receiving
20 the review initiated by the National Academy of Sciences,
21 Institute of Medicine in February 2008 of the National
22 School Lunch and School Breakfast Program Meal Pat-
23 terns and Nutrient Standards authorized under the Rich-
24 ard B. Russell National School Lunch Act (42 U.S.C.
25 1751), the Secretary shall promulgate a final rule updat-
26 ing the nutrition standards and meal requirements for

1 school meal programs in a manner consistent with the
2 findings of such review.

3 **SEC. 8. EQUIPMENT ASSISTANCE GRANTS.**

4 (a) PROGRAM AUTHORIZED.—From the amount ap-
5 propriated under subsection (e), the Secretary shall pro-
6 vide funds to States, according to the allocation formula
7 described in subsection (b), for the purpose of awarding
8 grants, on a competitive basis, to school food authorities
9 to provide equipment assistance to schools participating
10 in the school lunch program established under the Richard
11 B. Russell National School Lunch Act (42 U.S.C. 1751
12 et seq.).

13 (b) ALLOCATION FORMULA.—

14 (1) IN GENERAL.—From the amount appro-
15 priated under subsection (e), the Secretary shall al-
16 locate funds to States in a manner proportional with
17 each State's administrative expense allocation under
18 section 7(a)(2) of the Child Nutrition Act of 1966
19 (42 U.S.C. 1776(a)(2)).

20 (2) REALLOCATION.—If a State does not re-
21 ceive funds under this subsection, the Secretary shall
22 reallocate such funds to other States in amounts the
23 Secretary determines necessary.

24 (c) APPLICATIONS.—

1 (1) STATES.—To qualify to receive an alloca-
2 tion of funds under this section, a State shall submit
3 an application to the Secretary at such time, in such
4 manner, and containing such information as the Sec-
5 retary may require.

6 (2) SCHOOL FOOD AUTHORITIES.—To qualify
7 to receive a grant under this section, a school food
8 authority shall submit an application to the applica-
9 ble State at such time, in such manner, and con-
10 taining such information as the State may require.
11 Such application shall demonstrate to the State that
12 such school food authority serves schools that have
13 a need for equipment assistance.

14 (d) PRIORITY.—In awarding grants under this sec-
15 tion, a State shall give priority to school food authorities
16 that have, under the jurisdiction of such authorities,
17 schools in which not less than 50 percent of the students
18 are eligible for free or reduced price lunches under the
19 Richard B. Russell National School Lunch Act (42 U.S.C.
20 1751 et seq.).

21 (e) AUTHORIZATION OF APPROPRIATIONS AND AP-
22 PROPRIATION.—Out of any moneys in the Treasury not
23 otherwise appropriated, the Secretary of the Treasury
24 shall provide to the Secretary \$100,000,000 to carry out
25 this section, to remain available until expended.

1 (f) DEFINITION.—In this section, the term “equip-
2 ment” means any equipment needed to prepare, process,
3 and store food for the school lunch program established
4 under this Act.

5 **SEC. 9. FARM TO SCHOOL PROGRAM.**

6 (a) AMENDMENT.—The Richard B. Russell National
7 School Lunch Act (42 U.S.C. 1751 et seq.) is amended
8 by inserting after section 19, the following:

9 **“SEC. 19A. FARM-TO-SCHOOL PROGRAM.**

10 “(a) IN GENERAL.—From the amount appropriated
11 under subsection (h), the Secretary shall carry out a pro-
12 gram provide assistance, through competitive matching
13 grants and technical assistance, to schools and nonprofit
14 entities to carry out farm-to-school programs that improve
15 access to local foods in schools and institutions partici-
16 pating in programs under this Act and section 4 of the
17 Child Nutrition Act of 1966 (42 U.S.C. 1773) through
18 farm to school activities, including the purchase of local
19 food, establishment of effective relationships between
20 school and institutional food service providers, distribu-
21 tors, and producers or groups of producers, school gar-
22 dens, appropriate equipment, and the provision of training
23 and education.

24 “(b) PURPOSES OF FARM-TO-SCHOOL PROGRAMS.—
25 Farm-to-school programs are designed to—

1 “(1) improve the nutritional health and well
2 being of children;

3 “(2) procure healthy local foods from small and
4 medium-sized farms for meals at eligible schools and
5 institutions;

6 “(3) support experiential nutrition education
7 activities and curriculum planning that incorporates
8 the participation of school children in farm and gar-
9 den-based agricultural education activities; and

10 “(4) develop a sustained commitment to farm
11 to school projects in the community by linking
12 schools and institutions, State and local agencies in-
13 cluding Indian Tribal Organizations, institutions of
14 higher education, agricultural producers, parents,
15 community garden groups and other community
16 stakeholders; and

17 “(5) increase farm income by facilitating farm-
18 ers’ access to institutional markets including schools.

19 “(c) GRANTS.—

20 “(1) COMPETITIVE BASIS.—A grant under this
21 section shall be awarded on a competitive basis.

22 “(2) TYPES OF GRANTS.—A grant under this
23 section may be—

1 “(A) an implementation grant to support
2 the cost of implementing a farm-to-school pro-
3 gram;

4 “(B) a training and technical assistance
5 grant to provide the training, operational sup-
6 port, information, and access to resources nec-
7 essary to implement a success farm-to-school
8 program; or

9 “(C) a planning grant to support the cost
10 of conducting research, identifying resources,
11 and developing partnerships to design a suc-
12 cessful and sustainable farm-to-school program.

13 “(3) AMOUNT.—The total amount provided
14 under this section to a grant recipient shall not ex-
15 ceed—

16 “(A) in the case of an implementation or
17 training and technical assistance grant,
18 \$100,000; and

19 “(B) in the case of a planning grant,
20 \$25,000.

21 “(4) TERM.—A grant under this section may
22 not be awarded for a period of more than—

23 “(A) in the case of an implementation or
24 training and technical assistance grant, 2 years;
25 and

1 “(B) in the case of a planning grant, 1
2 year.

3 “(5) COST SHARE.—

4 “(A) IN GENERAL.—The amount of a
5 grant made under this section shall not exceed
6 75 percent of the cost of—

7 “(i) in the case of an implementation
8 grant, implementing a farm-to-school pro-
9 gram;

10 “(ii) in the case of a training and
11 technical assistance grant, providing the
12 training, operational support, information,
13 and access to resources necessary to imple-
14 ment a success farm-to-school program;
15 and

16 “(iii) in the case of a planning grant,
17 conducting research, identifying resources
18 and developing partnerships to design a
19 successful and sustainable farm-to-school
20 program.

21 “(B) NON-FEDERAL SUPPORT.—A grant
22 recipient under this section shall be required to
23 provide not more than 25 percent of the cost of
24 the applicable activities described in subpara-
25 graph (A) in the form of cash or in-kind con-

1 tributions (including facilities, equipment, train-
2 ing, or services provided by State and local gov-
3 ernments and private sources).

4 “(d) EVALUATION.—An grant recipient under this
5 section shall agree to cooperate in an evaluation carried
6 out by the Secretary.

7 “(e) REGIONAL BALANCE.—In making awards and
8 providing technical assistance under this section, the Sec-
9 retary shall to the maximum extent practicable, ensure—

10 “(1) geographical diversity; and

11 “(2) equitable treatment of urban, rural, and
12 tribal communities.

13 “(f) TECHNICAL ASSISTANCE.—

14 “(1) TECHNICAL ASSISTANCE BY SECRETARY.—

15 The Secretary shall provide grant recipients tech-
16 nical assistance and information to further the pur-
17 poses of this section.

18 “(2) TRAINING AND TECHNICAL ASSISTANCE
19 GRANTS.—

20 “(A) IN GENERAL.—In the case of a re-
21 cipient of a training and technical assistance
22 grant under this section, the recipient shall use
23 the funds available under the grant to provide
24 training and technical assistance to an entity,
25 including an institution of higher education,

1 that desires to implement a farm-to-school pro-
2 gram.

3 “(B) TRAINING AND TECHNICAL ASSIST-
4 ANCE ACTIVITIES.—The training and technical
5 assistance shall—

6 “(i) be provided under such terms as
7 the Secretary may require; and

8 “(ii) include providing the training,
9 operational support, information, and ac-
10 cess to resources necessary to implement a
11 success farm-to-school program.

12 “(g) PROPOSALS.—

13 “(1) REQUIREMENT FOR APPLICANTS.—An ap-
14 plicant that desires to receive a grant under this sec-
15 tion shall submit to the Secretary a proposal at such
16 time, in such manner, and containing such informa-
17 tion as the Secretary may require.

18 “(2) PROPOSAL REVIEW CRITERIA.—In making
19 awards under this subsection, the Secretary shall
20 form review panels described in paragraph (3) to
21 evaluate proposals submitted pursuant to paragraph
22 (1) based on the extent to which the proposed pro-
23 gram—

24 “(A) makes local food products available
25 on the menu of the school or institution;

1 “(B) benefits local small and medium-sized
2 farms;

3 “(C) incorporates experiential nutrition
4 education;

5 “(D) serves schools and eligible institutions
6 with a high proportion of children who are eligi-
7 ble for free and reduced price lunches;

8 “(E) demonstrates collaboration between
9 schools or institutions, non-governmental and
10 community-based organizations, farmer groups,
11 and other community partners;

12 “(F) demonstrates the potential for long-
13 term program sustainability;

14 “(G) includes adequate and participatory
15 evaluation plans; and

16 “(H) meets such other related criteria as
17 the Secretary may determine relevant.

18 “(3) COMPETITIVE AWARD SELECTION.—In
19 forming review panels to evaluate proposals sub-
20 mitted pursuant to paragraph (1), the Secretary
21 shall include—

22 “(A) representatives of schools and eligible
23 institutions;

24 “(B) registered dietitians;

1 “(C) operators of small and medium-sized
2 farms;

3 “(D) public agencies;

4 “(E) non-governmental and community-
5 based organizations with expertise in local food
6 systems and farm to school programs; and

7 “(F) other appropriate parties as deter-
8 mined by the Secretary.

9 “(h) FUNDING.—Beginning on October 1, 2010, out
10 of any funds in the Treasury not otherwise appropriated,
11 the Secretary of the Treasury shall transfer to the Sec-
12 retary of Agriculture to carry out this subsection
13 \$10,000,000 each fiscal year, to remain available until ex-
14 pended.

15 “(i) DEFINITION.—For purposes of this section, the
16 term ‘institution of higher education’ has the meaning
17 given such term in section 101 of the Higher Education
18 Act of 1965 (20 U.S.C. 1001).”.

19 (b) CONFORMING AMENDMENT.—Section 18 of the
20 Richard B. National School Lunch Act (42 U.S.C. 1769)
21 is amended by repealing subsection (g).