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Child Nutrition and WIC Reauthorization: P.L. 111-296

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Summary

The most recent WIC and child nutrition reauthorization, P.L. 111-296, "Healthy, Hunger-Free Kids Act of 2010," was signed into law at the end of the 111th Congress on December 13, 2010. Subsequently, Congress plays an oversight role as the U.S. Department of Agriculture promulgates rules, releases guidance, and otherwise implements the legislation. This report features a summary of the legislative history of P.L. 111-296 as well as a section-by-section summary of what was contained within the law. For a brief overview of this periodic reauthorization, see CRS In Focus IF10266, *An Introduction to Child Nutrition Reauthorization*, by Randy Alison Aussenberg.

A comprehensive congressional review ("reauthorization") of the primary laws governing child nutrition and WIC programs (the Richard B. Russell National School Lunch Act and the Child Nutrition Act) had been scheduled for 2009 (the last reauthorization was in 2004). Congress did not meet the September 30, 2009, deadline for comprehensive reauthorization. Instead, a one-year extension (through September 30, 2010) was included in the FY2010 Agriculture Department appropriations measure to give Congress time to consider a full reauthorization bill. The delay in child nutrition/WIC reauthorization was primarily due to a lack of agreement on how to fund any new child nutrition initiatives subject to congressional "pay-go" rules. The Administration had proposed spending $10 billion over the next 10 years on expanding child nutrition efforts to "end childhood hunger by 2015," but did not offer specific policy changes or spending/revenue offsets. In 2010, Congress moved to begin the process of enacting the most sweeping changes in child nutrition and WIC programs since the 1970s.

In May 2010, the Senate Agriculture, Nutrition, and Forestry Committee reported the Healthy, Hunger-Free Kids Act of 2010 (S. 3307; S.Rept. 111-178). It legislated substantial changes in the child nutrition and WIC programs (most importantly, increasing federal financing for school lunches) that were estimated to cost just about $4.5 billion over 10 years. It also included spending reductions in other programs that offset this cost. Most significantly, it (1) reduced payments under the Agriculture Department's Environmental Quality Incentive Program (EQIP) and (2) included a restructuring of, and long-term cut in spending for, the nutrition education component of the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program). On August 5, 2010, the Senate approved an amended version of S. 3307. It differed from the committee-reported version of the bill in that it replaced savings from the EQIP offset with spending reductions achieved by reducing future benefits under the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program) and dropped authority for the Agriculture Department to bar certain foods from the WIC program.

In July 2010, the House Education and Labor Committee approved the Improving Nutrition for America's Children Act (H.R. 5504, as extensively amended in committee). This bill included provisions that were much the same as the Senate initiative, but the anticipated cost (more than $7 billion over 10 years) would have been substantially larger because of provisions expanding child nutrition efforts well beyond those in the Senate's bill and only relatively minimal offsets.

After lengthy internal debates over the cost of any child nutrition/WIC reauthorization initiative and how to pay for it, the House approved the Senate's bill on December 2, 2010, and the Healthy, Hunger-Free Kids Act of 2010 was enacted on December 13, 2010 (P.L. 111-296).

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Introduction

Child nutrition programs (like school meal programs, after-school meal/snack programs, and those serving children in child care settings) and the Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC program) were scheduled for a comprehensive review ("reauthorization") in 2009. However, because of concerns over the *cost* of any renewal of expiring child nutrition and WIC program authorities and of new proposals that went beyond current law (and how to pay for these new initiatives), Congress delayed action on a comprehensive bill and enacted a one-year extension (through September 30, 2010) of expiring authorities as part of the FY2010 appropriations law for the Agriculture Department.[1]

The Administration proposed spending $10 billion over the next 10 years in an effort to "end childhood hunger by 2015," but did not advance specific program changes or ways to offset any new costs. After more than a year of debate, Congress responded with the Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296; enacted December 13, 2010). While P.L. 111-296 includes the most extensive changes in child nutrition/WIC programs since the 1970s, it requires much less new spending than the Administration called for and includes a relatively controversial provision reducing Supplemental Nutrition Assistance Program (SNAP, formerly the food stamp program) benefits as one of its offsetting savings. P.L. 111-296 effectively adopts the reauthorization bill passed by the Senate (S. 3307), not the more expansive (and expensive) version put forward in the House. A section-by-section summary of the law can be found in "Summary of P.L. 111-296's Provisions," below.

Prior to P.L. 111-296, child nutrition and WIC programs were last amended in a substantial way by the Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265); these revisions are covered in CRS Report RL33299, *Child Nutrition and WIC Legislation in the 108th and 109th Congresses*, by Joe Richardson. How child nutrition and WIC programs work is addressed in two CRS Reports: CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*, by Randy Alison Aussenberg; and CRS Report R44115, *A Primer on WIC: The Special Supplemental Nutrition Program for Women, Infants, and Children*, by Randy Alison Aussenberg.

Themes in the Most Recent Child Nutrition and WIC Reauthorization Legislation

The new child nutrition-WIC reauthorization law—the Healthy, Hunger-Free Kids Act of 2010—represents the most far-reaching (and costly) changes to child nutrition and WIC programs since the early 1970s and is expected to add significant new funding (above inflation-indexed payments for meals and snacks). The most recent legislation

- increases funding for school lunches and links this new money to schools meeting updated nutrition standards;
- provides for gradually increasing prices for school lunches served to paying (non-poor) students;

[1] See CRS Report R40721, *Agriculture and Related Agencies: FY2010 Appropriations*, coordinated by Jim Monke, for more detail.

- increases access to free school meals by (1) expanding automatic (direct) certification of those receiving public assistance benefits, and (2) giving schools new options to offer free meals to all students;
- requires updated school meal nutrition standards and professional standards for school meal providers;
- broadens coverage of and support for local school "wellness policies";
- establishes nutrition standards for foods sold in competition with school meals (e.g., a la carte foods and those sold from vending machines);
- encourages "farm-to-school" and other initiatives to combat childhood obesity;
- expands support for food service through summer programs and after-school and outside-of-school programs;
- adds to food safety requirements for foods served on school campuses and foods provided by the Agriculture Department;
- improves food procurement practices used by schools;
- increases WIC program support for breastfeeding;
- establishes a time frame for introducing electronic benefit transfer systems to the WIC program;
- improves schools' accountability for proper program operations;
- introduces new rules for nutrition standards and heightened physical activity in child care settings; and
- supports and finances state and local initiatives to end childhood hunger.

Major Issues

With a few exceptions (noted below), there was little controversy over the substance of the Senate and House policy provisions carrying out the themes listed above. The single, overwhelming issue in the child nutrition/WIC reauthorization debate was the costs associated with the proposed revisions (and how to offset them).

The bill reported by the Senate Agriculture, Nutrition, and Forestry Committee (with costs of just under $5 billion over 10 years) included four offsets. There was no opposition to the two smallest offsets—changes in how to count "bonus" commodities in meeting minimum requirements for commodity aid to schools and additional independent review of eligibility for free and reduced-price school meals. Together, they accounted for about one-fifth of the new spending in the Senate's measure. However, the two larger offsets were controversial. One would have substantially reduced payments for the Agriculture Department's Environmental Quality Incentive Program (EQIP) and the other would have, over the long term, effectively cut spending for the nutrition education component of the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program). Critics argued that these two efforts deserve the support they get; supporters saw few other offsets to use under House/Senate "pay-go" rules.[2]

Largely in response to criticism of the EQIP offset from the agricultural community and others, the child nutrition/WIC reauthorization bill passed by the Senate on August 5, 2010, and the final

[2] See, for example, Annie Lowrey, "House Faced With Cutting Food Stamps for Child Nutrition Bill," *The Washington Independent*, September 24, 2010. http://washingtonindependent.com/98532/house-faced-with-cutting-food-stamps-for-child-nutrition-bill.

version of the new child nutrition reauthorization law replaces it with a provision that reduces future SNAP/food stamp benefits by terminating an across-the-board benefit increase legislated in the 2009 American Recovery and Reinvestment Act (ARRA; P.L. 111-5) for November 2013. This offset, in turn, was controversial among advocates for food assistance programs, who saw it as simply transferring SNAP/food stamp funding meant for low-income households to pay for other nutrition programs primarily affecting the same households—not new spending on food assistance.[3]

The House Education and Labor Committee's version of child nutrition/WIC reauthorization (H.R. 5504) had significantly higher costs than the Senate's bill (and very small offsets). As a result, progress on reauthorization legislation was stalled until agreement could be reached on how to finance any initiative and, in the end, the House accepted the Senate's approach.

In addition to cost/offset issues, the 111th Congress also debated and the law in part addressed three major policy questions:

- To what degree should the federal government step in with rules governing the types of **"competitive foods"** served outside the school meal programs (e.g., a la carte items and foods sold from vending machines)? While both the Senate and House bills (and P.L. 111-296) require the establishment of federal rules for these foods, there are those who argue that the decision is better left to states and schools.
- Should there be federal rules effectively requiring **minimum prices for school lunches served to non-poor children**? Both the Senate and House bills (and P.L. 111-296) envision a gradual increase in these prices. This is based on Agriculture Department studies indicating that federal school meal payments may, to an extent, "cross-subsidize" the price of food served to non-poor children and items offered outside the school meal programs (for example, "paid" meals served to non-poor children often are priced below the full federal subsidy for a free meal). In effect, supporters were concerned that federal dollars intended for services to poor children are being "diverted" to aid in paying for meals for those who could afford to pay more. On the other hand, opponents contended that the current system brings higher participation among non-poor children (and bigger revenues for school food service authorities) that allows authorities to serve better meals; they are concerned that higher prices would be charged to "non-poor" children whose family income is just above the cutoff for free and reduced price meals (i.e., the near poor), and they oppose placing federal rules on local schools' meal pricing decisions.[4]
- Should there be rules governing when the WIC program will pay for **foods (like infant formula) where new ingredients have been added that purport to increase their nutritional value**? The bill *reported* by the Senate Agriculture, Nutrition and Forestry Committee would have given the Agriculture Department authority to bar foods where increased costs outweighed any increased nutritional value; the House bill would have taken a somewhat different approach and called

[3] For more detail, see CRS Report R41374, *Reducing SNAP (Food Stamp) Benefits Provided by the ARRA: P.L. 111-226 and P.L. 111-296*, by Randy Alison Aussenberg, Jim Monke, and Gene Falk and CRS Report R43257, *Background on the Scheduled Reduction to Supplemental Nutrition Assistance Program (SNAP) Benefits*, by Randy Alison Aussenberg and Gene Falk.

[4] **Note:** An amendment on the House floor during consideration of child nutrition reauthorization (offered by Representative Kline in the form of a motion to recommit) would have dropped the provision calling for minimum prices.

for a review of the benefits of any new or emerging ingredients. WIC program advocates argued that, at a minimum, the House provisions should be adopted. Others contended that giving the department either the Senate or House versions of authority over the ingredient content of WIC foods would have granted it too much power over innovation in and upgrading of WIC foods (e.g., WIC purchases make up a very large portion of the infant formula market) and might produce a "two-tier" system whereby WIC parents would not be provided the same types of foods that non-WIC parents can purchase with their own money. In the end, P.L. 111-296 contains no authority for review or disapproval of WIC food items.

The 2010 Child Nutrition and WIC Program Reauthorization Law (P.L. 111-296)

On December 13, 2010, S. 3307, the ***Healthy, Hunger-Free Kids Act of 2010***, was enacted as P.L. 111-296. This followed Senate approval on August 5, 2010, and House passage on December 2, 2010. The bill adopted by Congress and enacted was identical to the Senate's bill (S. 3307, as amended); the House made no changes although its Education and Labor Committee had ordered its own different version reported (H.R. 5504, as extensively revised in the committee). As such, Congressional Budget Office (CBO) cost/saving estimates for the enacted law track those for the Senate-passed bill, as discussed below.[5]

Background, Costs, and Cost Offsets

On May 5, 2010, the Senate Agriculture, Nutrition, and Forestry Committee reported the Healthy, Hunger-Free Kids Act of 2010 (S. 3307; S.Rept. 111-178). This bill reauthorized all expiring child nutrition and WIC authorities/programs (which had been scheduled to terminate September 30, 2010) through FY2015 and made numerous and wide-ranging changes in the operations of these programs (summarized below).

The CBO estimated that the Senate committee's proposed revisions would cost some $4.65 billion/$4.56 billion (mandatory budget authority/outlays) over 10 years (FY2011–FY2020) and $1.67 billion/$1.59 billion (mandatory budget authority/outlays) over 5 years (FY2011–FY2015). These costs were ***offset by savings*** expected from four provisions in the bill (see below) that are anticipated to generate total spending reductions that effectively met or exceeded costs.

On July 15, 2010, the House Education and Labor Committee approved an extensively amended version of H.R. 5504, the Improving Nutrition for America's Children Act. The CBO estimated (as of August 25, 2010) that the bill would engender new spending of $7.78 billion/$7.58 billion (mandatory budget authority/outlays) over 10 years (FY2011-FY2020) and $2.6 billion/$2.5 billion (mandatory budget authority/outlays) over 5 years (FY2011-FY2015)—significantly higher than the Senate's comparable measure.

Unlike the Senate bill, only two relatively small offsetting savings were provided. The House offsets (also included in the Senate-approved measure, see below) included a ***"bonus" commodity offset*** (saving $500 million over 5 years and $1 billion over 10 years) and a provision

[5] See CBO cost estimate at http://www.cbo.gov/ftpdocs/114xx/doc11451/HealthyHungerFreeKidsAct.pdf for the April 2011 cost estimate of S. 3307. Please note that this estimate includes the EQIP offset rather than the SNAP offset. (Both offsets are discussed in the "Background, Costs, and Cost Offsets" section of this report.)

calling for ***independent review of eligibility applications*** for free and reduced-price school meals (saving an estimated $63 million/$62 million [budget authority/outlays]) over 10 years and $26 million/$25 million (budget authority/outlays) over 5 years.[6]

As a result, the House Committee's bill had an estimated cost ***(not covered by budgetary offsets)*** of $6.72 billion/$6.52 billion (mandatory budget authority/outlays) over 10 years (FY2011-FY2020) and $2.08 billion/$1.96 billion (mandatory budget authority/outlays) over 5 years (FY2011-FY2015).

On August 5, 2010, the Senate approved an amended version of S. 3307. Differing from the committee-reported bill, the Senate-passed bill dropped reductions in EQIP payments (see following note) and replaced them with a roughly equivalent dollar offset (in Section 442) accomplished by ***reducing future benefits under the Supplemental Nutrition Assistance Program*** (SNAP, formerly the Food Stamp program). This reduction (which became part of P.L. 111-296) is scheduled for November 2013 and terminates an across-the-board increase in SNAP/food stamp benefits enacted as part of the 2009 American Recovery and Reinvestment Act (ARRA; P.L. 111-5). It is expected to result in monthly benefit reductions averaging some $10-$15 per person. CRS Report R41374, *Reducing SNAP (Food Stamp) Benefits Provided by the ARRA: P.L. 111-226 and P.L. 111-296*, by Randy Alison Aussenberg, Jim Monke, and Gene Falk, and CRS Report R43257, *Background on the Scheduled Reduction to Supplemental Nutrition Assistance Program (SNAP) Benefits*, by Randy Alison Aussenberg and Gene Falk discuss this reduction in detail.

Note: The largest savings in the Senate *committee bill* would have come from an amendment to ***EQIP*** law; the EQIP provides financial assistance to agricultural producers to implement conservation practices. It would have substantially reduced annual mandatory funding for the EQIP for total savings of $2.87 billion/$2.2 billion (budget authority/outlays) over 10 years and $1.35 billion/$0.75 billion (budget authority/outlays) over 5 years.[7] In committee consideration, the makeup of the package of savings, particularly the change proposed for the EQIP, was the major point of contention.

A second revision producing savings was made to the law governing the ***nutrition education*** component of SNAP. It is expected to cut mandatory spending by $1.3 billion (budget authority and outlays) over 10 years and $250 million (budget authority and outlays) over 5 years. Section 241 of P.L. 111-296 establishes a new grant program for nutrition education and obesity prevention, replacing the current program under which state spending (both cash and in-kind) on nutrition education for SNAP recipients is matched by the federal government as part of their SNAP administrative costs (the federal share is 50%). P.L. 111-296 provides $375 million for grants in FY2011 (approximately the value of the current federal share) and adjusts that amount for inflation in future years. These funds are to be distributed by formula to the states and there would no longer be a requirement for state matching funds.[8] States can use the money to provide

[6] The House-Senate difference in offsets was, to a large degree, due to the fact that the House Education and Labor Committee does not have jurisdiction over the program areas used as offsets in the Senate bill. In the Senate, the Agriculture, Nutrition, and Forestry Committee has jurisdiction over all agriculture and nutrition programs; in the House, jurisdiction over the SNAP is in the Agriculture Committee. Attempts to find offsets like the Senate's in the House eventually failed.

[7] Additional detailed information on the EQIP can be found in CRS Report R40763, *Agricultural Conservation: A Guide to Programs*, by Megan Stubbs.

[8] The formula used to distribute money to the states would eventually be based on the number of participants in the SNAP. However, "hold-harmless" provisions phasing in the use of the formula would limit reductions in individual state amounts.

nutrition education and operate obesity prevention programs for SNAP recipients and other low-income individuals.

Extension of the Agriculture Department's authority to count certain ***"bonus" (surplus) commodities*** toward meeting a minimum threshold for commodity support of child nutrition programs (in Section 401 of P.L. 111-296) is estimated to produce savings of $1 billion (budget authority and outlays) over 10 years and $500 million (budget authority and outlays) over 5 years. A detailed discussion of this authority is found in CRS Report R40721, *Agriculture and Related Agencies: FY2010 Appropriations*, coordinated by Jim Monke.

Finally, Section 304 of P.L. 111-296 requires local educational agencies (LEAs) that demonstrate high levels of administrative error to have an additional person ***independently review eligibility determinations*** for free and reduced-price school meals. This change in program operations is estimated to save $63 million/$62 million (budget authority/outlays) over 10 years and $26 million/$25 million (budget authority/outlays) over 5 years.

Summary of P.L. 111-296's Provisions

In addition to reauthorization of all expiring authorities/programs in the Richard B. Russell National School Lunch Act and the Child Nutrition Act and the four cost-saving measures noted above, P.L. 111-296 includes major changes in the way child nutrition programs operate and provides substantial new funding. Congress plays an oversight role as USDA implements these policies.[9]

Federal Funding for and Pricing of School Lunches

Section 201 ***increases funding for school lunches*** served in participating schools by raising all per-lunch federal subsidies by 6 cents (indexed for inflation) for schools that meet updated meal pattern and nutrition standards required by the reauthorization law. This "performance-based" increase in federal school lunch subsidies represents the largest cost item in P.L. 111-296—about 70%-75% of total costs—and would be effective no later than October 2012.

Section 205 requires participating schools to ***gradually increase the price charged for "paid" school lunches*** (i.e., those not served free or at a reduced price) so that prices charged to "paying" students eventually match at least the difference between the federal subsidy for free and paid lunches—unless non-federal funds are used to compensate.

Expanded Access to Free School Meals

Sections 101 and 103 change rules governing the ***"direct certification"*** method of determining eligibility for free school meals. Under prior direct certification rules, schools enter into agreements with SNAP/food stamp agencies to certify children in SNAP/food stamp households eligible for free school meals without requiring a separate application from the family; direct certification effectively allows schools to "piggyback" on the more in-depth eligibility certification done for SNAP/food stamps and reduces errors that may occur in school lunch application eligibility procedures that are otherwise used. Section 101 provides funding ($12 million) for "performance awards" for states demonstrating outstanding or substantially improved performance in direct certification activities. It also requires "continuous improvement plans" for

[9] To follow USDA's implementation of P.L. 111-296, the Food and Nutrition Service (FNS) offers several resources on their website. A section of the website includes legislative summaries as well as a list of related regulations as they become available, http://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act. FNS has provided a summary of the legislation by program, http://www.fns.usda.gov/sites/default/files/PL111-296_Summary.pdf.

states failing to meet goals set for increasing direct certification. Section 103 aims to extend the reach of direct certification activities by establishing a demonstration project in a number of states to directly certify most children in ***Medicaid*** households as eligible for free school meals and funding a study of the effects of doing so.

Section 102 places into law a provision (similar to current regulations) making ***foster children*** categorically (automatically) eligible for free school meals.

Section 104 gives Local Educational Agencies (LEAs) ***two new options to offer free meals to all schoolchildren***. Under prior law, schools with high proportions of low-income children can choose to offer free meals to all children; these provisions of law are generally called "Provision 2 and Provision 3." Schools taking these options must, however, take applications in a "base" year and use the results of those approved applications to determine the proportion of meals/students that would otherwise be served free or at a reduced price, thereby establishing the amount of their federal school meal subsidies for the next four years. In effect, schools taking advantage of these provisions save the administrative cost of annually determining eligibility for free and reduced-price meals and counting them separately, but must cover the extra costs associated with losing charges received from paying students. P.L. 111-296 adds two more choices for schools wishing to serve free meals to all students; in both cases, taking of applications would not be necessary and schools would (as under current law) be required to find funding for any costs above those covered by federal subsidies. Under a ***"direct certification" option ("universal meal service in high poverty areas")***, schools with relatively large proportions of students directly certified as eligible for free school meals because they are public assistance (e.g., SNAP-food stamp/Medicaid) recipients could choose to receive federal school meal subsidies derived from the proportion of students directly certified. Under a ***"survey" option ("universal meal service through Census data")***, the Agriculture Department would be permitted to approve the use of Census and other socioeconomic surveys and data sources to approximate the makeup of students and replace the collection of household applications to determine the proportion of children eligible for free and reduced-price meals.

Nutrition, Nutrition Education, Wellness, and Farm-to-School Policies

Section 201 establishes a time frame for the Agriculture Department to promulgate regulations ***updating meal patterns and nutrition standards for school meal programs*** based on recommendations from the National Academy of Sciences. Schools meeting the new requirements would be eligible for the increased federal subsidies (6 cents a lunch) noted above. It also provides funding for technical assistance to help implement new meal patterns and nutrition standards.[10]

Section 202 changes rules governing ***milk*** served in school meal programs to effectively bar federal subsidies for whole milk (i.e., milk must be "consistent with the Dietary Guidelines for Americans").

Section 203 requires that schools participating in school meal programs offer free, potable ***water*** in meal service areas.

Section 204 replaces existing requirements that LEAs establish ***"wellness policies"*** with a similar (but expanded) requirement that all LEAs participating in school meal programs have wellness policies (designed locally) that include goals for nutrition education, increased physical activity,

[10] The FY2012 appropriations process and enacted law, P.L. 112-55, included congressional involvement in USDA's proposed rule to implement Section 201. Please see CRS Report R41964, *Agriculture and Related Agencies: FY2012 Appropriations*, "Child Nutrition Programs" section.

and other policies that promote student wellness—including guidelines for *all* foods available on the school campus during the school day and periodic reassessments of policies. The Agriculture Department (in conjunction with the Education Department and the Centers for Disease Control and Prevention) also is required to provide technical assistance to LEAs in carrying out the wellness policy directive.

Before P.L. 111-296, federal child nutrition law did not give the federal government any significant say over foods served/offered in schools outside of meals that are federally subsidized (e.g., a la carte food items and those served from vending machines). Section 208 requires the Agriculture Department to establish "science-based" nutrition standards for *all* foods offered in participating schools—throughout the school campus and until the end of the school day. This is intended to establish minimum national standards for so-called ***"competitive foods"*** in schools participating in meal programs.

Section 209 requires LEAs to periodically ***report information on the "school nutrition environment"*** of schools under their jurisdiction to the Agriculture Department and the public and authorizes the department to provide technical assistance to support assessment of and reporting on schools' nutrition environments. Information called for under this amendment would cover food safety, local wellness policies, program participation, and the nutritional quality of meals.

Section 210 authorizes a pilot project of competitive grants aimed at increasing the quantity of ***organic foods*** provided through the School Lunch program.

Section 243 provides mandatory funding ($5 million a year, beginning in 2013) for competitive grants (with a 75% federal match) to assist schools and nonprofit entities in establishing ***"farm-to-school" programs*** that improve schools' access to locally produced foods.

Section 244 authorizes the Agriculture Department (in consultation with the Health and Human Services Department) to establish a research, demonstration, and technical assistance program to ***promote healthy eating and reduce the prevalence of obesity***, especially among children.

After-School and Outside-of-School Initiatives

Section 122 makes after-school providers in all states eligible to receive federal subsidies for ***suppers served in after-school care programs*** (in addition to the District of Columbia and the 13 states covered by prior law). Section 337 requires the Agriculture Department to study ways of bringing in more sponsors for after-school supper programs.

Child and Adult Care Food Program (CACFP)

Section 121 makes it easier for ***family day care homes*** to qualify as so-called "Tier I" homes and thereby receive higher federal subsidies.

Section 221 requires the establishment of ***new nutrition requirements for meals served under the CACFP*** and generally conforms these requirements to those used for school meal programs. Mandatory funding of $10 million is provided to support ***promotion of physical activity and limited electronic media use*** in child care venues.

Section 222 requires that the Agriculture Department and Health and Human Services Department coordinate efforts to encourage state child care agencies to include nutrition and child wellness standards in ***state child care licensing rules***.

Section 223 requires and provides mandatory funding for the Agriculture Department (in consultation with the Health and Human Service Department) to conduct a national study of child

care centers and family day care homes to ***assess the nutritional quality of foods served and opportunities for physical activity***.

Sections 331–333 include provisions ***easing administrative rules*** applied to day care providers under the CACFP, making clear that aggrieved providers' have access to hearings and payment for valid claims, and allowing family day care home providers to help families in preparing and transmitting application forms that are used in determining homes' eligibility for higher CACFP benefits.

Section 334 ***standardizes (and generally increases) federal administrative payments to family day care home sponsors*** and allows sponsors to carry over a portion of these funds (if unspent) into the next fiscal year.

Section 335 increases funding for ***audits*** of entities participating in the CACFP.

Section 336 requires the Agriculture Department to continue efforts to ***reduce paperwork*** required of providers and sponsors under the CACFP.

Summer Food Service

Section 111 eliminates current rules limiting the number of sites ***nonprofit summer program sponsors*** can operate, aligning eligibility rules between public and nonprofit sponsors.

Section 112 requires schools to conduct ***outreach efforts*** to inform families of the availability and location of summer program meal sites (and the availability of school breakfasts).

Section 113 authorizes appropriations ($20 million a year) for ***competitive grants to support improvement and expansion*** of summer food service programs.

Sections 321-322 ***ease administrative rules*** for summer program sponsors, establish procedures for termination of sponsors, and require the maintenance of a list of disqualified sponsors.

School Breakfast Programs

Section 105 authorizes competitive ***grants to establish, promote, or expand school breakfast programs***.[11]

Safety and Procurement Practices

Section 242 requires the Agriculture Department to develop ***model product specifications and practices for procurement*** of food used in child nutrition programs.

Section 302 mandates that ***food safety rules*** established for school meals apply to any facility or part of a facility in which foods are stored, prepared, or served under any school nutrition program.

Section 308 requires the Agriculture Department to improve ***procedures for dealing with suspect food items*** purchased by the department for use in school meal programs (e.g., product recall rules).

[11] This provision was not included in the bill reported by the Senate committee.

Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC Program) [12]

Section 131 allows states to ***certify children eligible for WIC benefits for up to one year*** at a time (as opposed to six months) if the child receives regular health and nutrition assessments.

Section 231 expands the Agriculture Department's mandate to promote ***breastfeeding*** through the WIC program and recognize exemplary breastfeeding practices by local WIC agencies.

Section 232 specifies that the Agriculture Department conduct a ***review of food items provided under the WIC program*** at least every 10 years.

Section 351 provides for ***sharing information on WIC nutrition education and breastfeeding promotion practices*** with projects operating the Commodity Supplemental Food Program or the CACFP.

Section 352 makes several changes affecting ***WIC program operations***. It increases funding for WIC program evaluation efforts, revises administrative rules governing competitive bids for supplying WIC food items, mandates the use of electronic benefit transfer (EBT) systems in providing WIC benefits by October 2020, and allows states (under limited conditions) to use rebates received from infant formula manufacturers to pay for food costs incurred in the previous fiscal year.

Miscellaneous and Administrative Proposals

Section 141 provides $10 million for research on the causes and consequences of ***childhood hunger*** and $40 million for demonstration projects that test innovative strategies to end childhood hunger.

Section 142 authorizes the Agriculture Department to award ***State Childhood Hunger Challenge Grants*** to governors to carry out comprehensive strategies to end childhood hunger.

Section 143 requires the department (in conjunction with states and LEAs) to examine current practices regarding ***extending credit to children to pay for school meals and providing "alternate" meals to children without cash on hand.*** The department must report on the review and may implement national standards for meal charges and the provision of alternate meals.

Section 206 requires that ***revenue from the sale of "non-program foods"*** (food items other than federally subsidized school meals sold in competition with school meals) that are purchased with funds from a school's food service account must effectively equal or exceed the costs associated with obtaining the food.

Section 207 places into law provisions for an ***expanded audit and compliance review system*** for participating schools that covers both financial and nutritional requirements; it also directs that review results be made publicly available.

As a privacy protection measure, Section 301 changes rules governing the provision of ***Social Security account numbers*** to require that only the last four digits of the account number of the primary wage earner be provided when applying for free or reduced-price school meals.

[12] A provision in the Senate committee-reported bill would have provided the Agriculture Department with authority to disallow food products for use in the WIC program based on a determination as to whether the ingredients in the product yield a benefit relative to their cost. It was dropped from the Senate-passed measure and is not included in P.L. 111-296.

Section 303 provides the department with authority to ***levy fines*** on schools and state agencies with serious violations of child nutrition program rules.

Section 305 requires states and child nutrition program providers to cooperate with the department in the conduct of ***program evaluations and studies***.

Section 306 requires the department to establish ***professional standards*** for certification of state and local school food service directors and provide necessary training to those affected. Mandatory funding ($5 million in the first year and $1 million a year in later years) is provided for management of training and certification activities—which may be carried out through professional food service management organizations.

Section 307 requires the department to issue a guidance to schools as to ***charging school food service budgets for indirect costs*** (those not directly associated with food service like trash collection and phone and computer services). It also provides for a study of the extent to which these charges are made, and (after the study) further guidance and regulations on the types of indirect costs that are reasonable and necessary to provide school meals. Mandatory funding ($2 million) is made available to carry out these activities.

Section 361 requires that agreements between the department and state agencies administering child nutrition and WIC programs include provisions that support full use of federal funds for administration of these programs and ***exclude federally funded activities from state budget limitations*** (such as hiring freezes, work furloughs, and travel restrictions).

Section 362 ***bars eligibility for child nutrition providers*** (for *any* child nutrition program) if they have been terminated from a child nutrition program and are on a disqualification list for the Summer Food Service program or the CACFP.

Section 406 increases mandatory ***funding for the Food Service Management Institute (FSMI)*** from $4 million to $5 million a year.

Section 407 provides mandatory ***funding for federal administrative support*** of child nutrition program operations (e.g., training and technical assistance related to improving program integrity, reviewing administrative practices of local agencies) of $4 million a year.

Major Differences between the House Committee Bill (H.R. 5504) and P.L. 111-296

In large part, the bill approved by the 111th Congress's House Education and Labor Committee (the Improving Nutrition for America's Children Act; H.R. 5504) was similar or identical to the Senate's provisions (that were ultimately included in law, P.L. 111-296). However, in addition to differences over costs and offsetting savings (noted earlier), the bill approved by the House Education and Labor Committee (the Improving Nutrition for America's Children Act; H.R. 5504) included a number of provisions that went beyond or substantially differed from those in the Senate's bill.[13] This version of the House bill was never voted on by the House; the bill was ordered reported but was never reported. These policies, ways in which the House Committee's and Senate's bills differ, are therefore not included in P.L. 111-296 but are outlined below.

The differences that account for the largest part of the higher dollar cost of the House bill are its additional outside-of-school and summer initiatives, its more expansive provisions for direct

[13] No committee report was issued for H.R. 5504.

eligibility certification of children in Medicaid households, and funding for a Nutrition Wellness and Promotion program (see, especially, Sections 103, 105, 113, and 207 below).

Pricing of School Lunches and Expanded Access to Free School Meals

Differing from P.L. 111-296 (although with similar intent), Section 409 of the House bill would have required that participating schools ***gradually increase their revenues from non-federal sources*** (including prices charged to paying students) so as to ensure that the average per-lunch revenue from federal and non-federal sources matches at least the federal subsidy for a free lunch.

While similar to P.L. 111-296, Section 103 would have covered many more states (and children) under provisions allowing the direct certification of children in ***Medicaid*** households as eligible for free school meals.

Section 107 would have permitted Local Educational Agencies (LEAs) to automatically certify as eligible for free school meals any child in a ***military household*** receiving a Defense Department "supplemental subsistence allowance for low-income families." Section 146 would have required the Agriculture Department (in consultation with the Defense Department) to examine the access children in military households have to free and reduced-price school meals and recommend strategies that could better meet their needs.

Nutrition, Nutrition Education, Wellness, and Farm-to-School Policies

Section 207 would have established and funded a new ***Nutrition and Wellness Promotion program*** to support nutrition education and other promotion and compliance activities. Each state would have received an annual amount equal to a ½ cent for each lunch subsidized under the School Lunch program (totaling approximately $25 million–$30 million).

Section 244 would have authorized the Agriculture Department (in consultation with the Education and Health and Human Services Departments) to conduct a study on the extent and types of ***marketing of foods and beverages in schools*** (including, for example, assessment of the nutritional quality of the items marketed).

Section 247 would have authorized the department to award competitive matching ***"partnership for wellness" grants*** for projects that leverage community resources and support student access to physical activity, nutrition education, and nutritious foods during the regular school year.

Section 249 would have required the department to ensure that schools and other child nutrition providers have information as to the levels of ***mercury*** in the food they serve and called for guidance and technical materials to help ensure that foods and meals are safe with respect to mercury levels.

Section 250 would have authorized a pilot program (the "Healthier US Challenge Initiative") to encourage the ***consumption of milk*** outside of school meal programs.

Section 252 would have established a pilot project under which the department would deliver ***plant-based alternate protein products*** to schools for the meal programs—in addition to other commodities provided to schools.

Section 363 would have authorized the establishment of a ***Nutrition Corps*** under the Corporation for National and Community Service. It would have supported programs to increase access to and

participation in nutrition programs, improve the quality of these programs, and support local agriculture and farm-to-school initiatives.

After-School and Outside-of-School Initiatives

Section 105 would have established a five-state grant project to provide year-round meals and snacks (***"out-of-school meal service"***) to children participating in outside-of-school educational or other programs. (Also see Section 113 in the discussion of Summer Food Service provisions below.)

Section 144 would have required a ***study of after-school meal service programs***, including "best practices" for soliciting sponsors for the programs and any requirements that may be a barrier to sponsor participation.

Section 145 would have established and funded a pilot program under which the department would give food commodities to entities like schools, food banks, and emergency feeding organizations to be used to provide ***food to at-risk school children on weekends and during extended school holidays.***[14]

Commodities

Section 242 would have required the Agriculture Department to develop ***model product specifications and procurement practices for procurement*** of food used in child nutrition programs.

Section 254 would have required the department to purchase ***low-fat cheeses*** for use in school meal programs, in addition to other commodities the department supplies.

Section 306 would have mandated that the department develop new guidelines to determine the circumstances under which it is appropriate to place a "hold" on ***suspect foods supplied by the department*** and establish rules for improving department hold and recall procedures.

Section 307 would have required the department to make available to states and schools ***information on vendors supplying commodity foods*** to the department.

Section 312 would have allowed the department to ***retain title to commodities provided by the department*** and delivered to a processor on behalf of a state recipient agency until the finished, processed commodity is delivered to the state agency. It also would have required the department to issue regulations to ensure ***accountability for commodities provided to processors***, especially in the event of a food safety issue.

Section 441 would have allowed ***dried fruit and frozen fruit*** to be included in offerings under the Fresh Fruit and Vegetable program in schools.

Child and Adult Care Food Program (CACFP)

Section 122 would have provided for federal subsidies for additional meal/snacks served to ***children in child care for more than eight hours a day***—in no more than five states.

Section 335 would have increased administrative cost ***payments to sponsors of participating day care homes*** beyond the levels included in P.L. 111-296.

[14] In the 111th Congress, this proposal passed the House on December 8, 2010, as H.R. 5012. In the 112th Congress, this proposal has been introduced in the House in H.R. 2795.

Summer Food Service

Section 113 would have authorized and funded a grant program to provide up to 10 states with federal subsidies for meals and snacks served by non-public entities wishing to implement ***"year-round" food service programs*** that effectively operate like summer food service programs: for example, they operate at sites during the regular school year that serve meals/snacks outside of school hours, on weekends, or during school holidays/vacations; are located in low-income areas; and receive federal subsidies based on summer program rather than school meal program rules.[15] (Also see Section 105 under the discussion of "After-School and Outside-of-School Initiatives" above.)

Section 115 would have lowered the threshold for qualifying as a low-income area in the summer program for rural areas—potentially making more ***rural sponsors of summer programs*** eligible.

Section 441 would have loosened ***"low-income area eligibility" rules***, potentially making more sponsoring organizations eligible to operate summer programs.

School Breakfasts

Section 106 would have provided *mandatory* funding ($10 million) for a grant program for schools to help them ***expand the School Breakfast program***.

Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC Program)

Section 425 would have mandated that the department contract for an independent ***review of the benefits of any new or emerging ingredients of potential public health significance that are added or may be added to WIC foods***.[16]

Miscellaneous and Administrative Proposals

Section 143 would have required schools to notify parents about policies with respect to providing school ***meals to children without sufficient funds to buy their meals or who have outstanding debts owed for meals.*** It also would have required that unpaid meal fees not affect children's access to regular school meals and establishes rules for dealing with households in arrears on their meal payments.

Section 147 would have provided specific authority for schools to ***donate unused foods*** to food banks and other charitable organizations.[17]

Section 245 would have authorized grants to schools for the purchase of ***food service equipment***. In addition, Section 248 called for a study of the adequacy of cafeteria equipment commonly used in school meal programs.

[15] Under current law, a project very much like this proposal operates in California.

[16] A more expansive version of this provision—allowing the department to disallow food products for use in the WIC program based on a determination as to whether the ingredients in the product yield a benefit relative to their cost—was dropped from the Senate's committee-reported version and not included in the final Senate bill or the new law.

[17] This proposal became law in the Consolidated and Further Continuing Appropriations Act, 2012, P.L. 112-55, Section 734.

Section 246 would have authorized the Agriculture Department (in consultation with the Environmental Protection Agency) to establish a ***"green cafeterias"*** pilot program of competitive

grants to schools making environmentally suitable changes in their meal programs (e.g., recycling activities and changes to their procurement practices).

Section 313 would have authorized an examination of states' policies and practices with respect to participation of ***charter schools*** in school meal programs.

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