



Child Nutrition and WIC Reauthorization: Issues and Legislation in the 111th Congress

Joe Richardson
Specialist in Social Policy

October 12, 2010

Congressional Research Service

7-5700

www.crs.gov

R41354

Summary

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) was 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, the Senate Agriculture, Nutrition, and Forestry Committee reported the Healthy, Hunger-Free Kids Act of 2010 (S. 3307; S.Rept. 111-178). It made substantial changes in child nutrition and WIC programs (most importantly, increasing federal financing for school lunches) that are estimated to cost just under \$5 billion over the next 10 years. It also included spending reductions in other programs that would 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 are much the same as the Senate initiative, but the anticipated cost is substantially larger because of provisions expanding child nutrition efforts beyond those in the Senate’s bill and only relatively minimal offsets.

The Senate and House bills have now placed an extensive menu of policy changes on the table, but how to pay for them is still the overriding issue; there is little disagreement over most of the policy changes themselves.

As in 2009, Congress has now missed its newest deadline for child nutrition/WIC reauthorization (September 30, 2010, set by the Agriculture Department appropriations FY2010 appropriations act). Instead, the FY2011 “continuing resolution” (P.L. 111-242) extends funding support for child nutrition and WIC programs (*under current-law rules*) until early December 2010.

Contents

Recent Developments.....	1
Background	1
Themes in Child Nutrition and WIC Reauthorization Legislation	2
Major Issues.....	3
Interim Issues (September 30-December 3)	4
Enacted Legislation.....	5
The Senate Child Nutrition and WIC Program Reauthorization Bill (S. 3307).....	6
Summary of Provisions	7
Federal Funding for and Pricing of School Lunches.....	7
Expanded Access to Free School Meals	8
Nutrition, Nutrition Education, Wellness, and Farm-to-School Policies.....	8
After-School and Outside-of-School Initiatives	10
Child and Adult Care Food Program (CACFP).....	10
Summer Food Service	10
School Breakfast Programs	11
Safety and Procurement Practices.....	11
Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC Program)	11
Miscellaneous and Administrative Proposals	12
The House Child Nutrition and WIC Program Reauthorization Bill (H.R. 5504).....	13
Summary of Provisions	14
Federal Funding for and Pricing of School Lunches.....	14
Expanded Access to Free School Meals	14
Nutrition, Nutrition Education, Wellness, and Farm-to-School Policies.....	15
After-School and Outside-of-School Initiatives	16
Commodities.....	16
Child and Adult Care Food Program (CACFP).....	17
Summer Food Service	17
School Breakfasts	18
Safety and Procurement Practices.....	18
Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC Program)	18
Miscellaneous and Administrative Proposals	18

Contacts

Author Contact Information	20
----------------------------------	----

Recent Developments

On September 30, 2010, P.L. 111-242 (the FY2011 “continuing resolution”) provided funding (*under current-law rules*) for child nutrition and WIC programs until December 3, 2010. Congressional action on a bill reauthorizing and expanding child nutrition/WIC efforts has been stalled since July 2010 because of differences over how to pay for associated costs, but may be resolved before December 3.

On August 5, 2010, the Senate approved an amended version of its child nutrition/WIC reauthorization bill (S. 3307). As passed by the Senate, the bill differed from the bill as reported by the Senate Agriculture, Nutrition, and Forestry Committee in two significant aspects. The committee’s bill included a spending reduction offset for its costs that lowered payments under the Agriculture Department’s Environmental Quality Incentives Program (EQIP); the Senate-passed bill replaced this offset with an amendment that effectively reduces benefits under the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program) as of October 31, 2013—saving some \$2.5 billion. This reduction would be accomplished by terminating an across-the-board SNAP/food stamp benefit increase (above and beyond that dictated by food price inflation) stipulated in the 2009 American Recovery and Reinvestment Act (ARRA; P.L. 111-5), thereby returning SNAP/food stamp benefits to levels they would have been under pre-ARRA law (i.e., based on food price inflation) and reducing benefits by an estimated \$10-\$15 per person per month. In addition, the Senate-passed bill deleted a provision in the committee-reported measure that gave the Agriculture Department authority to bar foods in the WIC program where increased costs outweighed added nutritional value.

Background

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 has proposed spending \$10 billion over the next 10 years in an effort to “end childhood hunger by 2015,” but it has not advanced specific program changes or ways to offset any new costs. While they include the most extensive changes in child nutrition/WIC programs since the 1970s, the House and Senate child nutrition/WIC reauthorization bills (H.R. 5504 and S. 3307) would require less new spending than the Administration has called for and, as noted below, substantial issues remain about how to pay for any new initiatives.

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

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

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 CRS Report R40397, *Child Nutrition and WIC Programs: A Brief Overview*, by Joe Richardson.

Themes in Child Nutrition and WIC Reauthorization Legislation

The Senate has approved a child nutrition/WIC reauthorization measure (S. 3307) and the House Education and Labor Committee has adopted its version (H.R. 5504). They both represent the most far-reaching (and costly) changes to child nutrition and WIC programs since the 1970s and would add significant new funding (above inflation-indexed payments for meals and snacks).

Basically, the Senate and House proposals have the same major themes, although the House bill is more expansive and is estimated to be significantly more expensive. Each proposes to

- increase funding for school lunches and link this new money to schools meeting updated nutrition standards;
- provide for gradually increasing prices for school lunches served to paying (non-poor) students;
- increase 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;
- require updated school meal nutrition standards and professional standards for school meal providers;
- broaden coverage of and support for local school “wellness policies”;
- establish nutrition standards for foods sold in competition with school meals (e.g., a la carte foods and those sold from vending machines);
- encourage “farm-to-school” and other initiatives to combat childhood obesity;
- expand support for food service through summer programs and after-school and outside-of-school programs;
- add to food safety requirements for foods served on school campuses and foods provided by the Agriculture Department;
- improve food procurement practices used by schools;
- increase WIC program support for breastfeeding;
- establish a time frame for introducing electronic benefit transfer systems to the WIC program;
- improve schools’ accountability for proper program operations;
- introduce new rules for nutrition standards and heightened physical activity in child care settings; and
- support and finance state and local initiatives to end childhood hunger.

Major Issues

With a few exceptions (noted below), there is little controversy over the Senate and House policy provisions carrying out the themes listed above. The single, overwhelming issue in the child nutrition/WIC reauthorization debate is 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 has been 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 account for about one-fifth of the new spending in the Senate’s measure. However, the two larger offsets have been controversial. One would substantially reduce payments for the Agriculture Department’s Environmental Quality Incentive Program (EQIP) and the other would, 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 have argued that these two efforts deserve the support they get under current law; supporters see few other offsets to use under House/Senate “pay-go” rules.

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, replaced 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) in November 2013. This offset has, in turn, become controversial among advocates for food assistance programs, who see 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.²

The House bill is estimated to have up-front costs significantly above the Senate’s and includes only the two smallest (and non-controversial) offsets.

As a result, further progress on child nutrition/WIC reauthorization legislation largely hinges on how the cost issue is dealt with.

Beyond cost/offset issues, three major policy questions remain:

- 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 would 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 envision a gradual increase in these prices (although they would achieve this in different

² For more detail, see CRS Report R41374, *Reducing SNAP (Food Stamp) Benefits Provided by the ARRA: P.L. 111-226 & S. 3307*, by Joe Richardson, Jim Monke, and Gene Falk.

ways). This is based on studies indicating that federal school meal payments effectively “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 are 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 contend 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, and 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).

- 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 takes a somewhat different approach and calls for a review of the benefits of any new or emerging ingredients. WIC program advocates argue that, at a minimum, the House provisions should be adopted.

Interim Issues (September 30-December 3)

Congress has now extended authority for child nutrition/WIC programs to operate (under current-law rules) through December 3, 2010 (P.L. 111-242). In the interim, Congress and the Administration will be faced with substantial decisions on how to proceed with the stalled child nutrition/WIC reauthorization bills (S. 3307 and H.R. 5504).

While there may be other options, the most prominent ones now on the table would be (1) for the House to accept the Senate’s bill (S. 3307, discussed below), including provisions that, to a large extent, finance the cost of the bill by reducing future food stamp/SNAP benefits (a controversial “offset”) or (2) to adopt the more expansive/expensive House Education and Labor Committee bill (H.R. 5504, discussed below) and find another set of “pay-go” offsets for any new spending.

In either of the above cases, the major issue is how to pay for any child nutrition/WIC expansion initiatives.

Finally, if there is no longer-term resolution, a “simple extension” of existing law (similar to what was done in the FY2010 Agriculture Appropriations law; see CRS Report R40721, *Agriculture and Related Agencies: FY2010 Appropriations*, coordinated by Jim Monke) is another choice. However, this option also poses decisions for Congress and the Administration. An extension would be “scored” by the CBO as a budget “savings,” as was done for the FY2010 appropriation (in this case \$100 million a year) and Congress and the Administration would have to decide whether or how to spend it.

Enacted Legislation

Three items of legislation affecting child nutrition programs and the WIC program have been enacted thus far in the 111th Congress: (1) the 2009 American Recovery and Reinvestment Act (the ARRA; P.L. 111-5), (2) the FY2010 Agriculture Department appropriations measure (P.L. 111-80), and (3) the FY2011 Continuing Resolution (P.L. 111-242).³

The **ARRA** provided a one-time appropriation of \$100 million for grants to states and schools to improve school food service infrastructure (“equipment grants”). It also appropriated an extra \$500 million for the WIC program. Some \$100 million of this funding is being used for various projects supporting improved WIC management information systems and the expanded use of electronic benefit transfer systems to deliver WIC benefits; the remaining \$400 million has been placed in a contingency reserve to cover unanticipated WIC costs due to economic conditions.

In addition to regular annual appropriations for child nutrition and WIC programs, the **FY2010 Agriculture Department appropriations law** made changes in the operations of child nutrition programs and extended expiring child nutrition legislative/funding authorities through September 30, 2010.

The FY2010 appropriations act revised the current rules governing child nutrition and WIC programs by

- adding three states and the District of Columbia to the 10 states authorized to receive federal subsidies for suppers served in after-school programs,
- requiring that military combat pay be disregarded for judging eligibility for free or reduced-price meals in child nutrition programs and the WIC program, and
- allowing state WIC agencies to exceed regulatory maximums on the amount of reconstituted liquid concentrate infant formula given to WIC recipients.

The appropriations law also provided funding for a number of new child nutrition initiatives, including money for (1) projects testing new methods of providing access to food for children during summer months, (2) support to states wishing to improve “direct certification” of SNAP (food stamps) recipients for free school meals, (3) grants for the purchase of food-service-related equipment, (4) grants to improve the health and nutrition status of children in child care settings served by the CACFP, (5) bonus payments to state WIC agencies demonstrating high proportions of breastfed infants, and (6) school garden projects.

CRS Report R40721, *Agriculture and Related Agencies: FY2010 Appropriations*, coordinated by Jim Monke, provides further and more-detailed information on child nutrition provisions in the FY2010 appropriations act.

³ In addition, two resolutions (S.Res. 67 and H.Res. 210) recognizing National School Breakfast Week and the achievements and need for breakfast programs were approved in March 2009 and one resolution (H.Res. 362) supporting the goals of the National School Lunch program was approved in April 2009.

The **FY2011 Continuing Resolution (P.L. 111-242)** effectively extends support and funding for child nutrition/WIC programs until December 3, 2010. This money is to be available under current-law rules.⁴

The Senate Child Nutrition and WIC Program Reauthorization Bill (S. 3307)

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 would reauthorize all expiring child nutrition and WIC authorities/programs (now scheduled to terminate September 30, 2010) through FY2015 and make numerous and wide-ranging changes in the operations of these programs (summarized below).

The Congressional Budget Office (CBO) estimates that the proposed revisions would cost some \$4.65 billion/\$4.56 billion (mandatory budget authority/outlays) over the next 10 years (FY2011–FY2020) and \$1.67 billion/\$1.59 billion (mandatory budget authority/outlays) over the next five years (FY2011–FY2015).

These costs were offset by savings expected from four provisions in the bill (discussed below) that were anticipated to generate total savings that effectively meet or exceed costs. In committee consideration, the makeup of the package of savings, particularly the change proposed for the Agriculture Department’s Environmental Quality Incentives Program (EQIP), was the major point of contention.

On August 5, 2010, the Senate approved an amended version of S. 3307. Differing from the committee-reported bill, the Senate-passed bill drops reductions in EQIP payments and replaces them with an 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, scheduled for November 2013, would terminate 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) and 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 & S. 3307*, by Joe Richardson, Jim Monke, and Gene Falk discusses this reduction in detail.

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 five years.⁵

⁴ The Agriculture Department has indicated that, although only one *specific* authority (for a California pilot project) was extended through December 3 under the Continuing Resolution, all child nutrition and WIC operations will continue as under current law—so long as the extension does not last very long beyond December 3.

⁵ Additional detailed information on the EQIP and the proposal to use funding from EQIP can be found in CRS Report R40197, *Environmental Quality Incentives Program (EQIP): Status and Issues*, by Megan Stubbs.

A second revision to the law governing the **nutrition education** component of the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program) 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 five years. Section 241 would establish 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%). The bill would instead provide \$375 million for grants in FY2011 (approximately the value of the current federal share), and adjust that amount for inflation in future years. These funds would be distributed by formula to the states and there would no longer be a requirement for state matching funds.⁶ States could use the money to provide 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 the bill) is estimated to produce savings of \$1 billion (budget authority and outlays) over 10 years and \$500 million (budget authority and outlays) over five years. This authority was most recently extended (through September 30, 2010) in the FY2010 Agriculture Department appropriations measure. 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 the bill would require 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 five years.

Summary of 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 proposals noted above, the Senate's initiative includes major changes in the way child nutrition programs operate and provides substantial new funding.

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 bill. This "performance-based" increase in federal school lunch subsidies represents the largest cost item in the Senate bill—about 70%-75% of total costs—and would be effective no later than October 2012.

⁶ 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.

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 current direct certification rules, schools may 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 (\$4 million a year) for “performance awards” for states demonstrating outstanding or substantially improved performance in direct certification activities. It also requires “continuous improvement plans” for states failing to meet goals set for increasing direct certification. Section 103 aims to extend direct certification by establishing a demonstration project to directly certify most children in ***Medicaid*** households as eligible for free school meals.

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

Section 104 would give LEAs ***two new options to offer free meals to all schoolchildren***. Under current 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 determining eligibility for free and reduced-price meals and counting them separately and must cover the extra costs associated with losing charges received from paying students. The Senate bill would add 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.

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, 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.

Current federal child nutrition law does 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) 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 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 current 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 “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 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*. Mandatory funding of \$5 million is provided for the study.

Sections 331–333 include provisions *easing administrative rules* applied to day care providers, 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*.⁷

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).

Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC Program)⁸

Section 131 allows states to *certify children eligible for WIC benefits for up to one year* at a time (as opposed to the current 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, makes changes to 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

⁷ This provision was not included in the committee-reported bill.

⁸ A provision included in the committee-reported bill providing 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 was *not included in the Senate-passed measure*.

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.

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.

The House Child Nutrition and WIC Program Reauthorization Bill (H.R. 5504)

On July 15, 2010, the House Education and Labor Committee approved an amended version of H.R. 5504, the Improving Nutrition for America's Children Act—reauthorizing expiring authorities through FY2015 (as in the Senate bill) and making substantial changes to child nutrition and WIC programs. No fully compiled version of the amended bill is yet available and a report to accompany the bill has not been filed; section references in the following summary are tentative.

On August 25, 2010, the Congressional Budget Office (CBO) preliminary cost estimate of H.R. 5504 (as amended) was released. It projects the cost of the House Education and Labor Committee bill at \$7.78 billion/\$7.58 billion (mandatory budget authority/outlays) over the next 10 years (FY2011-FY2020) and \$2.6 billion/\$2.5 billion (mandatory budget authority/outlays) over the next five years (FY2011-FY2015)—significantly higher than estimates for the Senate's comparable measure.

Unlike the Senate bill, only two relatively small offsetting savings are provided (both are also included in the Senate bill). The House offsets are in Section 401 (the same as the "*bonus*" *commodity offset* in the Senate, which the CBO estimates will save \$500 million over five years and \$1 billion over 10 years) and Section 310 (the same as the *independent review of eligibility applications* in the Senate, which the CBO estimates would save some \$25 million/\$26 million (budget authority/outlays) over five years and \$62 million/\$63 million (budget authority/outlays) over 10 years).

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

Summary of Provisions

In addition to reauthorization of all expiring authorities/programs in the Richard B. Russell National School Lunch Act and the Child Nutrition Act (as in the Senate’s bill), the House committee’s initiative includes extensive changes in the way child nutrition and WIC programs operate and major new funding. Many are the same as or very similar to those in the Senate bill and the reader should refer to the earlier summary of the Senate bill’s provisions when they are noted for additional detail.

Federal Funding for and Pricing of School Lunches

As in the Senate bill, Section 201 *increases funding for school lunches* by raising federal per-lunch subsidies by 6 cents (indexed for inflation) for schools that meet updated meal pattern and nutrition standards.

Section 409 requires 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.

Section 253 requires the Agriculture Department to provide an explanation to Congress if the department chooses not to exercise authority to *adjust federal meal subsidy rates for outlying areas* (e.g. territories).

Expanded Access to Free School Meals

As in the Senate bill, Section 101 places into law a provision making *foster children* categorically eligible for free school meals. In addition, it makes clear that Indian children placed in foster care are covered.

As in the Senate bill, Section 102 changes rules governing the “*direct certification*” method of determining eligibility for free school meals (i.e., provides for performance bonuses and requires “continuous improvement plans” for non-performing states). Similar to the Senate bill, Section 103 allows an increasing number of states to directly certify most children in *Medicaid* households as eligible for free school meals.

With few differences from the Senate bill, Section 104 offers LEAs *two new options to offer free meals to all schoolchildren*—one based on the proportion of children “directly certified” for free meals based on public assistance participation and the other based on Census or other socioeconomic survey information.

Section 107 permits 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 requires 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

Like the Senate bill, Section 201 establishes a time frame for the Agriculture Department to **update meal patterns and nutrition standards for school meal programs** and provides funding for technical assistance to help implement the new meal patterns and nutrition standards.

As with the Senate bill, Section 202 changes rules governing **milk** served in school meal programs to effectively bar federal subsidies for whole milk. It also clarifies rules governing the substitution of non-milk products for milk.

Like the Senate bill, Section 203 requires schools to offer **water** in meal service areas.

Similar to the Senate bill, Section 204 requires minimum standards for **“competitive foods”** (e.g., a la carte food items and those sold from vending machines), but the standards would apply somewhat more broadly (i.e., throughout the “extended school day”).

Similar to the Senate bill, Section 205 includes expanded requirements for local **“wellness policies”** and provides for technical assistance in establishing these policies.

Similar to the Senate bill, Section 206 requires LEAs to report information on the **“wellness environment”** in their schools.

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

Similar to the Senate bill, Section 208 provides mandatory funding (\$10 million a year) for competitive grants to assist schools and nonprofit entities in establishing **“farm-to-school”** programs that improve schools’ access to locally produced foods.

Similar to the Senate bill, Section 243 authorizes the establishment of a research, demonstration, and technical assistance program to **promote healthy eating and reduce the prevalence of obesity**.

Section 244 authorizes 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 authorizes 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 requires 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 calls for guidance and technical materials to help ensure that foods and meals are safe with respect to mercury levels.

Section 250 authorizes a pilot program (the “Healthier US Challenge Initiative”) to encourage the **consumption of milk** outside of school meal programs.

Similar to the Senate bill, Section 251 authorizes a pilot program of competitive grants to schools to increase the quantity of ***organic foods*** served in school lunches.

Section 252 establishes 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 authorizes the establishment of a ***Nutrition Corps*** under the Corporation for National and Community Service. It would support 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 establishes a project of competitive grants to five states to provide year-round meals and snacks (“***out-of-school meal service***”) to children participating in outside-of-school educational or other programs.

Similar to the Senate bill, Section 123 makes all states eligible to receive federal subsidies for ***suppers served in after-school care programs***.

Section 144 requires 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 establishes and funds (at \$10 million a year) a pilot program under which the department would provide food commodities to entities like schools and food banks to be used to provide ***food to at-risk school children on weekends and during extended school holidays***.

Commodities

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

Section 254 requires the department to purchase ***low-fat cheeses*** (valued at up to \$1 million a year) for use in school meal programs, in addition to other commodities the department supplies.

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

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

Section 312 allows 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 requires the department to issue regulations to ensure ***accountability for commodities provided to processors***, especially in the event of a food safety issue.

Section 441 allows *dried fruit and frozen fruit* to be included in offerings under the Fresh Fruit and Vegetable program.

Child and Adult Care Food Program (CACFP)

As in the Senate bill, Section 121 makes it easier for *family day care homes* to qualify as “Tier I” homes and thereby receive higher federal subsidies.

Section 122 provides 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.

Like the Senate bill, Section 221 requires the establishment of *new nutrition requirements for meals served under the CACFP*, generally conforms these requirements to those used for school meal programs, and provides mandatory funding of \$10 million to support *promotion of physical activity and limited electronic media use* in child care venues. It also provides mandatory funding of \$25 million for competitive grants to promote health and nutrition in child care settings.

As in the Senate bill, Section 222 authorizes funding for a study of child care centers and day care homes to *assess the nutritional quality of food served and the opportunities for physical activity*.

Like the Senate bill, Sections 331–337 *ease administrative rules* applied to day care providers (including making clear that aggrieved providers’ have access to hearings and payment for valid claims and allowing day care home providers to help with application forms), *standardize and increase administrative payments* to day care home sponsors, increase funding for *audits*, and mandate continued efforts to reduce CACFP *paperwork requirements*. In addition, Section 337 allows for *advance payments for administrative costs* to family day care home sponsors.

Summer Food Service

As in the Senate bill, Section 111 aligns eligibility rules between public and *nonprofit summer program sponsors*.

Like the Senate bill, Section 112 requires summer program *outreach efforts*.

Section 113 authorizes and funds a competitive 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 (e.g., 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).

Section 114 authorizes competitive grants to assist summer program sponsors with technical assistance, site improvement and transportation costs, and other activities *supporting summer sponsor recruitment and retention*.

Section 115 lowers 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.

As in the Senate bill, Sections 321-322 *ease administrative rules* for summer program sponsors.

Section 323 increases funding for *health inspections* of summer food projects.

Section 441 loosens “*low-income area eligibility*” rules, potentially making more sponsoring organizations eligible to operate summer programs.

School Breakfasts

Section 106 establishes a competitive grant program for schools (with mandatory funding of \$10 million) to help them *expand the School Breakfast program*.

Safety and Procurement Practices

Section 242 requires the Agriculture Department to provide *technical assistance, guidance, and training* to state and local child nutrition agencies on how to procure foods for meal programs (including how to follow “Buy American” rules) and mandates that the department develop *model product specifications and practices for procurement* of food used in child nutrition programs. It also provides mandatory funding of \$4 million to carry out these activities.

Like the Senate bill, Sections 305 and 306 mandate that *food safety rules* apply throughout the school campus and require the department to improve *procedures for dealing with suspect foods* (e.g., product recall rules) it may purchase.

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

As in the Senate bill, Section 131 allows states to *certify children eligible for WIC benefits for up to one year* at a time.

As in the Senate bill, Section 231 expands the Agriculture Department’s mandate to promote *breastfeeding*.

Like the Senate bill, Sections 351 and 352 require *sharing information on WIC nutrition education and breastfeeding practices* and change rules governing *WIC program operations* (especially requiring the use of electronic benefit transfer systems to deliver benefits by October 2020).

Section 425 mandates that the department conduct a *periodic review of WIC food items* at least every 10 years (as in the Senate bill) and 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*.

Miscellaneous and Administrative Proposals

As in the Senate bill, Section 141 provides money for research on the causes and consequences of *childhood hunger*.

Similar to the Senate bill, Section 142 establishes and provides funding for ***State Childhood Hunger Challenge Grants***.

Section 143 requires 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 requires 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. Similar to the Senate bill, it calls for a study of current practices on dealing with children in these circumstances and authorizes national standards.

Section 147 provides specific authority for schools to ***donate unused foods*** to food banks and other charitable organizations.

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

Section 246 authorizes 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).

As in the Senate bill, Section 301 provides for a guidance, a study, and regulations with regard to ***charging school food service budgets for indirect costs***.

Like the Senate bill, Section 302 requires that ***revenue from the sale of “non-program foods”*** equals or exceeds the costs associated with obtaining them.

As in the Senate bill, Section 303 includes provisions for an ***expanded audit and compliance review system*** and the public reporting of review results. In addition, Section 304 funds a study of effectiveness and efficiency of compliance/accountability reviews of schools.

Similar to the Senate bill, Section 363 calls for establishment of ***professional standards*** for school food service directors.

Like the Senate bill, Section 308 changes rules covering the provision of ***Social Security account numbers*** to require that only the last four digits of the number be provided.

As in the Senate bill, Section 309 provides authority to ***levy fines*** on schools and state agencies with serious violations of program rules.

Like the Senate bill, Section 311 requires states and child nutrition providers to cooperate with the department in the conduct of ***program evaluations and studies***.

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

As with the Senate bill, Section 361 includes provisions to ensure that ***federally funded activities are excluded from state budget limitations***.

Like the Senate bill, Section 362 bars eligibility for *providers that have been terminated* from another child nutrition program.

As in the Senate bill, Section 406 increases funding for *federal administrative support activities*. In addition, Section 408 increases funding for the nutrition program *information clearinghouse* to \$1 million a year.

Author Contact Information

Joe Richardson
Specialist in Social Policy
jrichardson@crs.loc.gov, 7-7325