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Child Nutrition Issues in the 105th Congress

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ABSTRACT

This report covers proposed and enacted legislative initiatives to change child nutrition programs (including the WIC program) during 1997 and 1998. It will be updated as congressional action warrants.

Child Nutrition Issues in the 105th Congress

Summary

Reauthorization. Appropriations authority for several child nutrition programs will expire by the end of the 105th Congress, prompting congressional action in 1998. Expiring authorities include those for: the Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC program), the Summer Food Service program, State Administrative Expense (SAE) assistance, the commodity distribution program, and a number of special-purpose projects. While other child nutrition programs (such as the School Lunch and Breakfast programs) are permanently authorized, significant changes in these programs also are being considered for inclusion in the reauthorization legislation.

Legislation. On June 4, 1998, the House Committee on Education and the Workforce ordered reported a substantially amended bipartisan version of H.R. 3874. This bill, now entitled the Child Nutrition and WIC Reauthorization Amendments of 1998, extends expiring program appropriations authorities through FY2003 and revises the National School Lunch Act and the Child Nutrition Act for *net* federal outlay savings estimated at approximately \$70 million through FY2003. The major spending item in the bill expands the availability of federal subsidies for snacks served in after-school programs. The savings in the bill are derived from provisions (1) requiring that, when federal children nutrition subsidies are indexed for inflation each year, they all be rounded down to the nearest whole cent (not to the nearest quarter cent) and (2) reducing federal funds set aside for audits in the Child and Adult Care Food program. Additional amendments authorize a demonstration project providing free breakfasts for elementary school children without regard to family income, increase administrative flexibility for schools, states, and WIC agencies, make it easier for private nonprofit sponsors to operate the Summer Food Service program, change licensing and health/safety requirements on participating child nutrition providers, add a number of provisions to protect the integrity of the WIC program, and limit the degree to which WIC agencies can keep unused money and spend it in the following year. Most of the provisions in the Administration's child nutrition reauthorization package (H.R. 3666/S.2166) are included in H.R. 3874 as ordered reported.

Eight other bills are before Congress: H.R. 3086, H.R. 3405, H.R. 3871, H.R. 3872, H.R. 3873, S. 1396, S.1556, and S.1581. Major provisions in these bills that are *not* contained in the bipartisan H.R. 3874 include those that would: mandate federal subsidies for free breakfasts to all elementary schoolchildren in participating schools (regardless of family income), restore money for start-up and expansion grants for breakfast and summer programs, and expand participation by for-profit child care providers in the Child and Adult Care Food program.

The House may take up H.R. 3874 during the week of June 22, 1998, and consideration of child nutrition legislation by the Senate Agriculture, Nutrition, and Forestry Committee also is expected the week of June 22.

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Child Nutrition Issues in the 105th Congress

Current Legislative Status

Appropriations authority for several child nutrition programs — the WIC program, the Summer Food Service program, State Administrative Expense (SAE) assistance, the commodity distribution program, and a number of special-purpose projects — expires by the end of FY1998. As a result, most child nutrition activities will be up for congressional review during 1998, including permanently authorized programs like the School Lunch, School Breakfast, and Child and Adult Care Food programs.

The House Education and the Workforce Committee has ordered reported a bipartisan child nutrition bill to extend appropriations authorities and make modest changes in child nutrition programs — H.R. 3874 (the Child Nutrition and WIC Reauthorization Amendments of 1998) — and the House may take up the bill the week of June 22, 1998. Major child nutrition initiatives in H.R. 3874 would expand the availability of federal subsidies for snacks served in after-school programs, authorize a demonstration project providing free breakfasts to elementary schoolchildren without regard to family income, and add provisions to improve the integrity of the WIC program.

Discussions on a Senate measure are proceeding in the Senate Committee on Agriculture, Nutrition, and Forestry, and the Committee is scheduled to mark up a bill similar to the H.R. 3874 the week of June 22, 1998.

[*Notes:* This report covers 1997-1998 proposed and enacted legislative initiatives to change child nutrition programs and the WIC program. For a description of *legislation in 1995 and 1996*, including the 1996 welfare reform law, see *Child Nutrition Legislation in the 104th Congress*, CRS Report 96-987. For background on *how child nutrition programs work, appropriations, participation, and spending*, see *Child Nutrition Programs: Background and Funding*, CRS Report 98-25. For detailed information on *the WIC program*, see *The WIC Program*, CRS Report 96-172.]

Legislation

Child Nutrition Bills in the House

H.R. 3874, the Child Nutrition and WIC Reauthorization Amendments of 1998. On June 4, 1998, this bipartisan measure was ordered reported, with substantial amendments, by the House Committee on Education and the Workforce. It reauthorizes virtually all expiring child nutrition appropriations authorities through FY2003.¹ It also includes a number of modest changes in child nutrition program operations and rules, primarily an initiative increasing the availability of federal support for snacks served in after-school programs, and authority for a demonstration project providing free breakfasts for elementary schoolchildren without regard to family income. Many of the bill's provisions are drawn from the Administration's reauthorization package (H.R. 3666/S. 2166). Savings provisions would (1) require that, when federal child nutrition subsidies are indexed for inflation each year, they all be rounded down to the nearest whole cent (not to the nearest quarter cent) and (2) reduce federal funds set aside for audits in the Child and Adult Care Food program.

Cost items in the bill (primarily provisions increasing federal support for after-school programs) total to almost \$130 million in outlays (over \$130 million in budget authority) through FY2003. Savings total to approximately \$200 million in outlays (some \$250 million in budget authority). As a result, the *net* savings in federal spending that would be produced by the bill add up to an estimated \$70 million in outlays (about \$120 million in budget authority).

After-school Programs and the Child and Adult Care Food Program. The major initiative in the House measure would expand the availability of federal subsidies for snacks served in after-school programs. All schools operating after-school programs would be eligible for federal payments through the School Lunch program for snacks served to children through age 18. In addition, schools and private nonprofit sponsors (e.g., boys and girls clubs) would be eligible for subsidies through the Child and Adult Care Food program (CACFP) for free snacks served to children through age 18 in after-school programs in low-income areas.

Other changes affecting "outside-of-school" program sponsors would allow them to participate in the CACFP so long as they meet state or local health and safety standards — unless state/local licensing or approval as a child care provider is required of them — and would only require schools operating day care programs to meet state or local child care licensing or approval standards if they are covered (i.e., alternate federal standards would not be applied to them). Finally, the bill makes permanent a demonstration project, operating in Iowa and Kentucky, that expands the availability of the CACFP to for-profit child care providers.

Summer Food Service Program. The House bill proposes to loosen limits on the number of sites operated and children served by private nonprofit sponsors. This,

¹ Left out are a few unused demonstration project authorizations and authority for activities that the bill proposes to fold into larger program authorizations.

and other proposed changes (e.g., allowing the use of private vendors), would make it easier for private nonprofit organizations — particularly those in rural areas — to participate in the Summer Food Service program. The bill also adjusts federal subsidy rates in Alaska and Hawaii upward to conform to the practice in other child nutrition programs and expands authority for schools running summer programs to receive subsidies for meals when a child does not take an item offered (“offer vs. serve” authority).

Flexibility for States and Schools. The House measure proposes to drop a restriction that limits (to 10%) the degree to which states can transfer state administrative expense (SAE) grant money among child nutrition program operations. This would allow SAE funding (including the money derived from a separate administrative grant related to the Summer Food Service program) to be used as states see fit to help them administer child nutrition programs. The bill also includes provisions easing the administrative burden on schools. Where a single state agency administers multiple child nutrition programs, schools could operate them under a single permanent agreement with the state (as opposed to separate agreements for each program) and use a common claiming procedure to obtain their federal subsidies (as opposed to separate procedures and forms for each program they run).

Homeless Children Nutrition Programs. H.R. 3874 would merge separate, limited nutrition programs for homeless children into the regular CACFP, thereby expanding the availability of support for homeless children.

The WIC Program. The House bill contains a number of amendments relating to the WIC program. In general, they would give state WIC agencies more flexibility, limit agencies’ ability to retain unused funds for use in the next fiscal year, add provisions aimed at protecting the program’s integrity, and revise provisions related to the WIC farmers’ market nutrition program. The bill also requires a study of cost containment efforts in the WIC program.

- Rules governing WIC agencies’ ability to “convert” funds provided for food to spending on nutrition services and administration would be eased. And agencies’ authority to spend unused WIC money for costs incurred in the prior year would be expanded somewhat.
- WIC agencies would be allowed to use money provided for food to purchase breast pumps.
- WIC agencies would be allowed to “spend forward” unused nutrition services and administration funding in the following fiscal year only up to an amount equal to 1% of their total grant. Unused food dollars could not be spent forward.
- WIC agencies would be required to take into consideration the prices stores charge for WIC foods when selecting vendors for participation.

- To encourage states to pursue abuse in the program, the rules governing use of any money they collect would be loosened to allow WIC agencies to use the money even if they collect it well after it was originally mis-spent.
- The maximum fine for trafficking and other serious violations would be more than doubled.
- WIC agencies would be required to permanently disqualify vendors convicted of trafficking or other serious violations.
- WIC agencies would be required to design and implement systems to identify recipients who might be participating at more than 1 site.
- WIC agencies would be required to identify “high-risk” vendors and follow up with compliance investigations.
- Those involved in trafficking would face forfeiture of property associated with the trafficking (as in the Food Stamp program).
- WIC participants would be required to have income documentation to support their eligibility.
- Individuals would have to be physically present at each certification and renewal of eligibility.
- The required state match in the WIC farmers’ market program would be reduced, making it easier for states to enter and expand the program if federal appropriations are available.

General Provisions. The House reauthorization bill would (1) require health and safety inspections for schools in the school meal programs and (2) require that schools, “whenever possible,” buy food products produced in the United States.

Offsetting Savings Provisions. The House bill’s major amendment providing offsetting savings would require that, when federal child nutrition subsidies are indexed for inflation each July, they all be rounded down to the nearest whole cent — not to the nearest quarter cent. At present, this is the case for most subsidies for meals and snacks provided to non-poor children. Additional savings would arise from a provision reducing — from 2% to 1% — the funding set aside for state audits of sponsors and providers under the CACFP program.²

Differences from the Administration’s Reauthorization Package. Most of the provisions recommended by the Administration as part of their child nutrition reauthorization proposal (H.R. 3666/S. 2166) are contained in the House-reported bill H.R. 3874. However, the House bill expands on an Administration proposal to

² **Note:** The CACFP is the only child nutrition program with a special set-aside of money for state audits. SAE money may be used for this purpose and the House bill increases states’ flexibility in using SAE dollars.

extend federal support for after-school programs in low-income areas by adding federal subsidies to schools for after-school snacks (without the low-income area limitation). It also does not include Administration proposals to increase funding for the Food Service Management Institute, *eliminate* the 2% set-aside for CACFP audits, allow states to keep half of any claims they recoup from schools and other providers through state-conducted reviews of child nutrition programs, set aside a small amount of funding to provide technical and other assistance in the CACFP program, and various amendments affecting commodity assistance.

Other House Bills. In addition to H.R. 3874 (and the Administration's bill), 5 other bills have been introduced in the House. The extensions of appropriation authority in H.R. 3871-3873 are included in H.R. 3874, as is expansion of support for after-school programs contained in H.R. 3086. However, two major proposals advanced in H.R. 3086 and H.R. 3405 are not. H.R. 3086 proposes to mandate federal subsidies for free breakfasts in all participating elementary schools without regard to family income (the House-reported bill authorizes a demonstration project for this). H.R. 3405 would greatly ease the rules governing participation of for-profit child care providers in the CACFP — along the lines of what is already allowed in a demonstration project operating in Iowa and Kentucky.

Child Nutrition Bills in the Senate

S. 1396, the Meals for Achievement Act. This measure proposes to provide federal subsidies for free breakfasts for all elementary school children in schools participating in the School Breakfast program (as in H.R. 3086, noted earlier).

S. 1556, the Child Nutrition Initiatives Act. The major provisions of this measure include amendments to restore (1) start-up and expansion grants for school breakfast and summer programs and (2) subsidies for some additional meals/snacks served in day care centers and summer programs. These 2 forms of federal support were ended by the 1996 welfare reform law. They also would increase and extend funding for an information clearinghouse, and expand support for the Summer Food Service program, after-school programs, the Homeless Children Nutrition program, the WIC Farmers' Market Nutrition program, and the Nutrition Education and Training (NET) program. This bill also extends a number of expiring authorizations through FY2003, including unused authority for several pilot projects. Although costs are likely to be substantial, no cost estimates are yet available.

Start-up and Expansion Grants for Breakfast and Summer Programs. For a number of years, the Agriculture Department funded a program of competitively bid grants to states for the purpose of helping to initiate or expand school breakfast programs. And, in 1994, similar grants for summer programs were mandated. The 1996 welfare reform law terminated both start-up and expansion grant programs, effective with FY1997. Under previous law, these grants were mandated funding of \$5-\$7 million a year; however, they were estimated to increase total program costs (including subsidies paid for additional meals served in programs expanded with the grants or by new providers brought in with the grants) by about triple the grant amounts themselves. S. 1556 would restore these grants — funded for a total of \$5 million a year.

Additional Meal/Snack Subsidies in Day Care Centers and Summer Programs. The 1996 welfare law also ended subsidies for *some* meals/snacks served in day care centers. Under prior law, child care centers could claim subsidies for a daily maximum of three meals (breakfast, lunch, and supper) plus one snack, or two meals and two snacks, for each child in the center's care for *8 or more hours*. Federal subsidies for other children's meals/snacks are limited to two meals and one snack per day per child. The new law removed authority for subsidies for a "fourth" meal or snack in day care centers; they may now claim subsidies for a daily maximum of two meals and one snack for each child, regardless of how long the child is in attendance. Moreover, the 1996 law eliminated federal subsidies for a fourth meal service in summer camps serving lower-income children and institutions primarily serving migrants — thereby limiting them to subsidies for either three meals or two meals and a snack each day.

S. 1556 would restore subsidies for fourth meals/snacks in child care centers, summer camps serving low-income children, and institutions serving migrant children.

Information Clearinghouse. Required funding for an information clearinghouse for nongovernmental groups that assist low-income persons and communities with regard to food assistance and self-help initiatives expires September 30, 1998; funding for the clearinghouse was \$150,000 in FY1997 and is set at \$100,000 in FY1998. S. 1556 would increase FY1998 funding to \$185,000 and extend mandatory federal support (at \$185,000 a year) through FY2002.

Summer Food Service Program. S. 1556 would — (1) increase the subsidy rate for lunches by about 10%, to \$2.23 a lunch (effectively restoring most of the summer program cutbacks made in the 1996 welfare reform law), (2) add a new payment for summer sponsors in very rural areas to help cover the cost of transporting children to program sites, (3) allow more sponsors to qualify for the program by making eligible any area in which at least 40% of the children are lower income (as opposed to the current 50% threshold), (4) allow more private nonprofit organizations in rural areas to qualify for the program by raising the limit on the number of sites they can operate from 20 to 25, (5) permit summer programs to offer participating children limited "second helpings," and (6) extend the appropriations authorization through FY2003.

Child Care Programs. S. 1556 would — (1) allow many more schools to claim subsidies for snacks served in after-school programs (as in H.R. 3086, noted earlier), (2) extend (through FY2003) grants to help day care home sponsors and providers meet new requirements imposed by the 1996 welfare reform law and increase the minimum state grant amount, (3) extend (through FY2003) authority for projects in Iowa and Kentucky that allow a greater number of for-profit child care centers to qualify for federal meal subsidies, (4) extend (through FY2003) the automatic eligibility of Even Start participants for child care food assistance, (5) significantly increase funding for the Homeless Children Nutrition program, (6) extend (through FY2003) authority for a project assisting "boarder babies" and allow the grant money in this project to be used for salaries and expenses of support staff, and (7) extend (through FY2003) a small project of grants for after-school programs for adolescents.

The WIC Program. S. 1556 would extend necessary authorizations for the WIC program through FY2003 and substantially increase, and make *mandatory*, funding for the WIC farmers' market program (support would go to \$37 million in FY2003, compared to \$12 million in FY1998). It also includes a "sense of Congress" statement supporting full funding of the WIC program (i.e., enough money to serve all eligible persons who apply).

The Nutrition Education and Training Program. S. 1556 would make funding for the Nutrition Education and Training program — at \$10 million a year — mandatory and permanent. It also would raise the minimum state grant.

Special Projects. S. 1556 would extend authority for 3 grants for projects that integrate nutrition education into elementary school curricula through FY2001, make funding for them mandatory, and significantly reduce the annual amounts provided.

S. 1581, the Child Nutrition Reauthorization Act. This measure would reauthorize, through FY2003, all expiring provisions of child nutrition law (see later discussion of programs up for reauthorization) — with no program or funding changes.

Other Relevant Bills

In addition to the measures noted above, 3 other bills in the 105th Congress are relevant. As passed by the Senate in late 1997, **S. 1150**, an agricultural research measure, would have spent over \$100 million through FY2002 on child nutrition initiatives (e.g., as in S.1556, it would have restored start-up and expansion grants for breakfast and summer programs and additional meal/snack subsidies in day care centers and summer programs). However, the conference agreement on this measure dropped all child nutrition amendments. **H.R. 3531** (the New Mothers' Breastfeeding Promotion and Protection Act) includes a proposal to allow WIC agencies to use funds provided for food (as opposed to nutrition services and administration money) to support and promote breastfeeding, thereby giving WIC agencies more flexibility in how they support breastfeeding. **H.R. 1507** (the Hunger Has a Cure Act) includes proposals to restore start-up and expansion grants and the fourth meal/snack subsidy in child care centers, as well as a sense of Congress statement supporting full funding for the WIC program (S. 1556 also incorporates these initiatives).

Enacted Legislation: 1997-1998

Only one item of child nutrition legislation has so far been enacted in the 105th Congress — other than appropriations measures discussed in *Child Nutrition Programs: Background and Funding*, CRS Report 98-25.

WIC Benefits for Overseas Military Personnel and Dependents. Provisions in the National Defense Authorization Act for FY1998 (P.L. 105-85) seek to provide funds for WIC benefits for overseas military personnel and dependents.

The National Defense Authorization Act for FY1998 includes an amendment seeking to make funding available to carry out a 1994 provision of law calling for extension of the WIC program to serve overseas military personnel and dependents. The Defense Department estimates that about \$5 million a year would be needed to fund this program extension. However, it is unclear whether the amendment would actually provide funds for an overseas WIC program without a separate, specific appropriation for the purpose. The new law requires the Secretary of Defense to submit to Congress a report regarding the Secretary's intentions as to implementing this extension of WIC services and any plans to do so.

Major Issues in Bills Before Congress

School Breakfast Initiatives. There are three initiatives affecting the School Breakfast program in the measures now before Congress. One would authorize a demonstration project providing free breakfasts to elementary schoolchildren without regard to family income (H.R. 3874, as reported in the House). A second would actually establish a program of free breakfasts in participating elementary schools (H.R. 3086 and S. 1396). And a third would restore start-up and expansion grants to schools wishing to establish or expand a breakfast program (S. 1556).

Although in excess of 70% of School Lunch program schools offer breakfast programs, student participation in breakfast programs is low — 20% of children enrolled in School Breakfast program schools vs. nearly 60% of enrolled children participating in lunch programs. In order to increase participation (primarily by removing the “stigma” associated with receiving free breakfasts while others pay and reducing schools’ paperwork associated with means testing), program advocates have advanced the idea of providing federal subsidies such that *all* elementary school students in participating schools can be offered free breakfasts.³ Others argue that the relatively low participation can be attributed to factors other than stigma, price, and administrative burdens — e.g., timing of breakfast serving hours, bus schedules, parental choice — and oppose a universal free breakfast program in elementary schools that would subsidize free meals for middle- and upper-income children.

The House-reported bill (H.R. 3874) *authorizes* a pilot project to test the effects of offering free breakfasts to elementary school children without regard to family income on participation, academic achievement, tardiness, dietary intake, and attendance. However, supporters of the “universal” free breakfast proposal continue to argue for *mandatory* funding of this demonstration project to make sure the concept is tested — using the “extra” savings generated in the House bill.

Observers credit the grant program (for infrastructure and other nonrecurring costs) with helping to boost schools’ participation in the School Breakfast program from under half those operating lunch programs to over 70% of School Lunch program schools, and advocates argue for reinstating it so that program coverage would more closely approximate that of the School Lunch program (which operates

³ The School Breakfast program primarily serves elementary school students in relatively low-income areas, and, even under current rules, the overwhelming majority of participating children receive free breakfasts.

in more than 90% of the country's schools). Opponents contend that the grant program has done its basic job and that reintroducing what they see as aggressive federal support for further expansion is unwarranted.

After-school and Child Care Initiatives. With the Committee approval of H.R. 3874, it appears that a consensus is developing to expand the availability of federal payments for snacks served in after-school programs, particularly for adolescents. The House reported bill includes both the Administration's proposal to expand support for private nonprofit sponsored after-school programs in low-income areas and a separate proposal to expand support for school-run after-school programs. In both cases, subsidies would be available for programs serving adolescents. The only major opposition expressed was concern over paying for the cost of these expansions.

At present, schools may get federal subsidies for after-school snacks only if (1) they were getting them in May 1989 (only a few thousand schools qualify) or (2) separately apply and qualify as a "child care center" (and assume the additional administrative burden and meet child care center standards). Moreover, in neither case are subsidies available for children over 12 in after-school programs.⁴ Private nonprofit sponsors may only get subsidies as child care providers, but not for children over age 12. Proponents argue that the lack of major support for after-school care is a serious gap in existing child care efforts (especially for adolescents) and that allowing schools to easily extend their regular school meal programs to after-school settings would be an important contributor to filling the gap. They also argue that private nonprofit sponsors should be able to receive support for after-school programs they run for adolescents.⁵

In addition to after-school program initiatives, there are two major proposals dealing with the CACFP before Congress. One would restore subsidies for "fourth meals/snacks" served in participating child care centers (S. 1556). Another would open up participation in the CACFP to for-profit day care centers serving a significant proportion of lower-income children (H.R. 3405).

Child care providers have asked for restoration of fourth meal/snack subsidies. They view their elimination for child care centers as unfair to working families with children in care for long periods of time. Supporters of the 1996 amendment dropping these subsidies continue to point out that the child care food program is not intended to cover all the food needs of participating children, that tracking food service for children in care more than 8 hours a day is difficult and can lead to unwarranted claims, and that greatly increased federal child care funding in 1996 and 1997 welfare reform and balanced budget legislation more than makes up for the relatively small loss of fourth meal/snack subsidies.

⁴ There are two minor exceptions to this rule. Federal subsidies are available for migrant children up to age 15 and children in a few demonstration projects for adolescents in after-school programs.

⁵ In order to hold down costs, the H.R. 3874 would limit expansion of support for private nonprofit after-school programs to those serving low-income areas.

At present, federal assistance under the Child and Adult Care Food program (CACFP) for *for-profit* child care providers is limited to (1) those who receive compensation from programs under title XX of the Social Security Act (the Social Services Block Grant) for not less than 25% of their enrolled eligible participants and (2) providers participating in a demonstration project operating in Iowa and Kentucky where at least 25% of the children have family income meeting the criteria for free or reduced-price school meals (i.e., have family income below 185% of the federal poverty income guidelines). Where the provider is a public or private nonprofit provider, there are no such restrictions. As a result, very few for-profit providers receive aid under the CACFP. For-profit providers are calling for opening up the CACFP to for-profit providers — at least by allowing all for-profit providers to participate in the CACFP under the terms of the Iowa-Kentucky pilot project. Others are reluctant to expand federal assistance to for-profit providers, especially given the cost.

Summer Program Initiatives. While participation in school meal programs continues to grow (especially among low-income children), participation in the Summer Food Service program is far below that in the school programs. Moreover, the 1996 welfare reform law substantially reduced subsidies for meals and snacks served in summer programs. One initiative (in S. 1556) would raise summer lunch subsidies to encourage increased summer program participation (by sponsors and children). However, opponents note that, even after the 1996 subsidy cut, summer program subsidies remain somewhat higher than subsidies for free meals in other programs (recognizing that there are some added costs to running a summer program). S. 1556 also would, in effect, make it easier for sponsors to qualify (e.g., it would allow sites in areas with 40%, rather than 50%, lower-income children to participate).

On the other hand, H.R. 3874 makes modest changes in the summer program to open up participation to more private nonprofit sponsors (e.g., loosening limits on the number of sites operated and children served by private nonprofit sponsors).

Finally, a coalition of summer program advocates have advanced a proposal to restore start-up and expansion grants for the Summer Food Service program (as with similar grants for breakfast programs, they were dropped in the 1996 welfare reform law). Opposition has developed because of cost concerns and worries about undoing welfare reform changes.

WIC Initiatives. There are three major issue areas relating to the WIC program. WIC directors argue that they need more flexibility in managing WIC funds — more authority to keep unspent money for use in the next fiscal year, more authority to convert food dollars to spending on nutrition services and administration — and are leery of being given added administrative tasks. The Administration, the Appropriations Committees, and other are worried that WIC agencies have too much authority to keep unspent money, rather than return it for reallocation to states that might need additional funds. And, largely because of a recent House Appropriations Committee report (see later discussion), Congress and the Administration are concerned that the program is too vulnerable to abuse.

H.R. 3874 attempts to strike a compromise by giving WIC agencies some more flexibility in managing their funds, limiting their authority to retain funds for spending in the next fiscal year (but not as much as proposed by the Administration and the Appropriations Committees), and adding a number of provisions intended to protect the program's integrity. However, the National Association of WIC Directors continues to maintain that they have not been given enough flexibility and that some of the program integrity provisions will impose too great an administrative burden on them. [*Note:* For more detail on WIC proposals and issues, see *The WIC Program*, CRS Report 96-172.]

Programs up for Reauthorization

In addition to several unused authorizations (primarily for pilot projects), authority to appropriate for, or carry out, four major child nutrition programs and a number of other programs and activities expires during the 105th Congress. As a result, they will be under review by Congress during 1998, as will other child nutrition programs, such as the School Lunch and Breakfast programs, that are permanently authorized.

The *WIC program's* appropriations authorization expires September 30, 1998 — as does the provision of law governing the formula allocation of WIC funding among states, a requirement that \$10 million a year from any unused WIC “carryover” funds from the prior year be used for program infrastructure development and special projects, and the appropriations authorization for the WIC “farmers’ market” program. The WIC program, administered by state/local health clinics, provides nutritious foods to lower-income pregnant, postpartum, and breastfeeding women, infants, and children who are judged to be at nutritional risk. In FY1997, it provided support for a monthly average of 7.4 million women, infants, and children, with estimated spending of about \$3.9 billion. The \$10 million infrastructure fund is intended to help states develop better WIC management systems, improve their services, increase their ability to reach eligible clients, and expand breastfeeding efforts. The farmers’ market program operates in 31 states (with a small budget of about \$7 million a year in recent years, but \$12 million for FY1998) and issues special WIC vouchers to be used to purchase fresh foods through farmers’ markets.

The appropriations authorization for the *Summer Food Service program* expires September 30, 1998. Under this program, local public and private nonprofit sponsors receive federal support for food service during the summer months in lower-income areas. The 1997 summer program had an average daily attendance of 2.3 million children, with a federal cost estimated at \$258 million.

The appropriations authorization for *state administrative expense assistance (SAE)* expires September 30, 1998. Formula grants are provided to states to help cover administrative costs associated with their child nutrition operations — equal to about 1.5% of total federal cash payments for institutional meal programs like the School Lunch program. They totaled just over \$100 million in FY1997.

The requirement to use additional Agriculture Department resources (e.g., permanently appropriated “section 32” funds) to purchase commodities sufficient to maintain the “entitlement” levels of child nutrition *commodity distribution* called for by law expires September 30, 1998. In recent years, purchasing under this authority has been about \$400 million annually, which represents the majority of federal commodity acquisitions for child nutrition programs.

Several *demonstration projects* expire September 30, 1998. The requirement to operate a two-state pilot allowing for increased participation by for-profit child care centers in the Child and Adult Care Food program expires; it costs about \$4 million a year, and the two states are Iowa and Kentucky. The requirement to conduct a project for subsidized food and nutrition services for “boarder babies” (abandoned infants) expires; the law provides \$400,000 a year for this purpose. The authorization to conduct a small number of demonstrations providing funds for schools providing meals or snacks to adolescents in educational/recreational programs outside of school hours expires; they have typically received funding totaling well under \$500,000 a year.

Required funding for an *information clearinghouse* for nongovernmental groups that assist low-income persons and communities with regard to food assistance and self-help activities expires September 30, 1998; funding for the clearinghouse is \$150,000 in FY1997 and \$100,000 in FY1998. A provision granting automatic eligibility for Child and Adult Care Food program benefits to pre-kindergarten *Even Start* program participants expired September 30, 1997. And, finally, the appropriations authorization for some *nutrition education, training, and technical support activities* ends September 30, 1998.⁶

Additional Issues of Note

Agriculture Department actions with regard to school meal nutrition standards and program consolidation also may prompt congressional consideration during the reauthorization process, as may calls to revise 1996 changes in the Child and Adult Care Food program’s component for day care homes. Moreover, there are calls for increased support for, and coordination of, nutrition education efforts.

At present, school meal program advocates major support is for the school breakfast and after-school program initiatives noted earlier in this report — in addition to their backing for any proposal to consolidate, coordinate, or streamline federal rules for meal programs operated by schools.⁷ However, in 1997 testimony they presented a number of additional ideas for change.

School Meal Standards

⁶ These expiring authorities do *not* include those for the Nutrition Education and Training (NET) program or the Food Service Management Institute (FSMI).

⁷ Advocates often refer to these proposals as initiatives to create a “seamless” set of child nutrition programs operated by schools under one set of rules.

The 1996 Healthy Meals for Children Act (P.L. 104-149) permits schools to use “any reasonable approach” (within federal guidelines) to ensure that their meals comply with the Dietary Guidelines for Americans; unless a state waiver was obtained, school meals had to meet the Guidelines with the beginning of the 1996-1997 school year. Enactment of this law may have resolved a dispute between schools and the Department as to the latitude schools have when planning menus and preparing meals. However, the guidance issued by the Department in July 1996, after the new law, gave schools four options (only one more than they had under regulations issued prior to the new legislation), whereas schools’ representatives had envisioned more. At present, schools may elect to use: (1) Nutrient Standard Menu Planning (NuMenus) under which they conduct a nutrient analysis (generally a computerized analysis) of the foods being prepared and make recipe/menu adjustments as needed to meet the Dietary Guidelines, (2) a variant of NuMenus, called Assisted NuMenus, under which the analysis and subsequent development of recipes and menus are conducted by an outside party (e.g., the state, a consortium of schools, an outside contractor), (3) the traditional “food-based” (as opposed to “nutrient-based”) meal pattern approach as practiced in the 1995-1996 school year, where they must provide minimum amounts of specific food components (e.g., meat or meat alternates, bread or bread alternates, vegetables, fruit, milk), or (4) an “enhanced” meal pattern approach that is based on the traditional food-based meal pattern, but has increased amounts of fruits/vegetables and grains/breads.

Sometime in 1998, it is expected that the Department will promulgate regulations further *increasing* the options schools have in meeting the Guidelines. Depending on the extent to which the new regulations give schools greater latitude than the four options noted above, Congress may again be asked to step in during the reauthorization debate. Congress also may be called on to intervene if the regulations are delayed much longer than the spring of 1998. Moreover, the American School Food Service Association (ASFSA) has asked that an existing regulatory requirement that *weighted* averages be used in menu analysis be legislatively prohibited (the requirement is now temporarily waived).

The prospect of congressional action in a related matter appears to have been put to rest with final regulations issued by the Department on March 6, 1997. These regulations allow yogurt as a meat substitute in school meals. When proposed, this policy was controversial, with schools and the dairy industry generally supporting it and the meat industry in opposition. At odds were arguments for greater flexibility for schools to offer lower-fat meals and respond to some students’ preferences opposed to concerns about the different nutrients found in meat and yogurt.

Program Consolidation

The 1994 Healthy Meals for Healthy Americans Act (P.L. 103-448) called on the Agriculture Department to develop and implement regulations to consolidate the School Lunch and Breakfast programs into a “comprehensive meal program.” In addition, the 1996 welfare reform requires the Department to develop proposed regulatory changes for the School Lunch, School Breakfast, and Summer Food Service programs in order to simplify them and coordinate them into a comprehensive meal program — due by November 1, 1997.

The Department has not yet issued its response to the 1994 and 1996 calls for rules regarding programs consolidation, coordination, and simplification. And the content of these two Departmental regulatory proposals (when they come out) may engender a push for legislative changes to facilitate them or go further.

In addition, the American School Food Service Association (ASFSA) continues to call for legislative (and administrative) initiatives that would create a “seamless” set of meal programs operated by schools. In effect, the ASFSA asks that rules be changed so that schools can run the *full range* of child nutrition programs (including school meal, child care, after-school, and summer programs) under a single set of standards and subsidies — thereby reducing their administrative burden and expanding the availability of the programs.⁸ However, no *specific* plan has been submitted. Fully implementing this type of initiative (e.g., uniform operating standards and federal subsidies) could be costly, and the Administration (and others) are hesitant to go forward. [*Note:* An expected series of program coordination “policy guidances” may remove some criticism of burdens on schools desiring to operate multiple child nutrition programs.]

H.R. 3874 responds to some of the calls for program coordination in its amendments calling for a single agreement between state agencies and schools running multiple programs and a common claiming procedure for these schools to obtain their federal subsidies.

Assistance to Day Care Homes

The Child and Adult Care Food program (CACFP) provides federal subsidies for meals and snacks served in participating family day care *homes* (in addition to aid for day care *centers*). Day care home sponsoring organizations also receive separate payments for administrative and oversight costs. In FY1997, an average of some 190,000 participating day care homes (with up to 1,100 sponsors) had an average daily participation of 970,000 children. The total cost of the CACFP in FY1997 was \$1.6 billion, with over half going to support day care homes and their sponsors.

The major child nutrition revision in the 1996 welfare reform law restructured the day care home component of the CACFP and greatly reduced federal subsidies for meals and snacks served by participating homes *not* located in lower-income areas or *without* a lower-income provider (so-called “tier II” homes), effective July 1997. Day care homes are small, typically serving 4-6 children. Under prior law, inflation-indexed subsidy rates for the affected tier II day care homes would have been an estimated \$1.62 for each lunch/supper, 88 cents for each breakfast, and 48 cents a snack at the normal July 1997 update — these rates are only slightly lower than those paid in other child nutrition programs for free meals/snacks to children from lower-income families. Under the new law, they are 98 cents, 33 cents, and 13 cents, respectively (but will continue to be inflation-indexed in the future). [*Note:*

⁸ Separately, the State of Oregon is seeking approval of a demonstration project that would allow the state to adjust program rules so that schools would operate child nutrition programs under a uniform set of rules and subsidy rates, with federal funding provided as a single annual grant adjusted for enrollment changes and inflation.

Tier II homes *may* claim higher “old-law” rates for individual children for whom low-income documentation is obtained. These old-law rates (the higher rates noted above) continue, with minor changes, for homes in lower-income areas or with lower-income providers, so-called “tier I” homes.] On enactment, the CBO estimated that the 1996 revision would save \$2.4 billion in federal outlays for FY1997-FY2002.

The new law was largely based on a recognition that many children in participating homes are from families with an income above the level (185% of the federal income poverty guidelines) that would qualify them for free or reduced-price meals in schools or day care centers — coupled with a reluctance to require individual means-testing in day care homes.

Tier II providers and their sponsors have expressed confusion over the new rules issued under the 1996 welfare reform law, and serious concern that, at the very least, subsidies were cut too sharply. With such a large subsidy reduction, they worry that homes will drop out of the CACFP (or may not apply), and that others will raise the fees they charge to make up for lost federal CACFP subsidies. This could have negative effects in their eyes — reducing support for lower-income children in tier II homes, increasing costs to lower-income working families, and lessening the “licensing effect” of federal CACFP subsidies (i.e., homes must be licensed in order to participate, and the prospect of substantial federal subsidies encourages day care home providers to seek licenses). On the other hand, greatly increased federal support for child care legislated in 1996 and 1997 may lessen the effect of the new two-tier system in the CACFP, and preliminary reports indicate that the majority of homes are continuing to receive higher tier I subsidy rates (contrary to expectations) — although the total number of participating homes dipped in the last quarter of FY1997 and the first quarter of FY1998.

Nutrition Education

Child nutrition education initiatives take several forms. The two most prominent are the Nutrition Education and Training (NET) program and an Agriculture Department initiative called “Team Nutrition” or the “school meals initiative.” The NET program was historically mandated funding at \$10 million a year. However, the 1996 welfare reform law converted it to a “discretionary” program, and federal funding has since dropped to \$3.75 million a year. This program makes grants directly to states to provide nutrition education services to school food service administrators, teachers, and students. The Team Nutrition program is an initiative established by the Agriculture Department which aims at addressing specific school meal nutrition education problems with direct federal grants; for FY1998 it is funded at \$8 million. Both the Agriculture Department and advocates appear to support some consolidation of federal child nutrition education funding. In addition, nutrition education supporters would increase overall nutrition education funding to something approximating pre-welfare reform levels and return nutrition education support to “entitlement” status.

H.R. 3874 would remove the \$10 million limit on authorized NET appropriations, but would not make funding mandatory.

Additional ASFSA Proposals

The American School Food Service Association (ASFSA) supports the proposals (discussed earlier) for free breakfasts for elementary school students, restoration of start-up and expansion grants for school breakfast and summer programs, and expanded support for after-school programs. These, together with its call for rule changes allowing for “seamless” operation of child nutrition programs by schools (noted above) and support for increased nutrition education funding, form the focus of its legislative agenda. However, in March 1997 testimony in the Senate and other venues, it has supported additional substantial changes along the following lines. A number would increase child nutrition spending and are relatively controversial.

- It maintains that the current system for auditing schools’ meal programs — the Coordinated Review Effort (CRE) — is excessively burdensome, given the amount of money that is reclaimed or at risk, and needs modification (e.g., increasing the threshold above which amounts are recouped from schools).
- It argues for reducing the present “3-tier” subsidy system to a “2-tier” system. Under the 3-tier system, there are different federal subsidy rates for free, reduced-price, and full-price school meals. The lowest participation is among children eligible for reduced-price school meals (no more than 40 cents for a lunch or 30 cents for a breakfast). They are from “near-poor” (or “working poor”) families with income between 130% and 185% of the federal income poverty guidelines (between about \$20,000 and \$29,000 a year for a 4-person family). The ASFSA would like to eliminate or restructure the reduced-price tier to increase participation by allowing more children to receive free meals and to reduce some paperwork/administrative burdens.
- Schools have the option of claiming federal subsidies under 3 special provisions of law (called provision 1, provision 2, and provision 3) that reduce the amount of paperwork required of them and their administrative costs. If opting schools meet certain requirements, these provisions allow them to collect eligibility information less often than once every school year and avoid separately counting free, reduced-price, and full-price meals in order to claim their subsidies. The ASFSA calls for making it easier for schools to use these options (e.g., by lengthening the time between required collection of eligibility information if the school’s demographics have not changed).
- It asks for elimination of a rule requiring schools to offer a variety of milk consistent with student preferences in the prior year (unless demand for a particular variety was less than 1% of milk consumed at the school). In effect, it argues that the rule requires offering varieties of milk with relatively limited demand.
- It calls for elimination of what is seen as an administratively burdensome rule requiring that certain schools running breakfast programs “account” for their costs in order to receive their full federal subsidy (this is not the case for the majority of schools and other child nutrition providers).

- It supports increasing what is now a relatively minimal state matching requirement for receiving federal child nutrition funds.
- It asks that rules governing waivers from federal child nutrition requirements be changed to make waivers easier to get.

WIC Directors' Concerns

WIC agency directors are very concerned about the extent to which they are facing substantial jumps in costs for nutrition services (including nutrition risk assessments) and administration — as states shift more costs (like those for rent and computer support) directly onto WIC agencies and support from Medicaid and other child health programs is reduced. They feel that the funding they receive for these costs through the WIC program is becoming increasingly inadequate and have called for several measures to allow them to move money allocated for food costs to nutrition services and administration (e.g., the ability to use some money obtained as rebates from infant formula providers for nutrition services and administration). However, the Administration and others are worried that these initiatives will lead to reduced participation because less money will be available for food benefits and oppose most of the WIC directors' agenda in this regard. [*Note:* For more detail on WIC issues, see *The WIC Program*, CRS Report 96-172.]

Appropriations Committee Report on the WIC Program

In March 1998, the Surveys and Investigations Staff of the House Committee on Appropriations submitted a relatively critical report on the WIC program to the Committee; it was released during the week of April 20, 1998. With regard to program funding and WIC agencies' caseload management practices, it (1) questioned the "full-funding" participation figures used to measure the adequacy of federal WIC appropriations, the value of outreach efforts, and whether WIC agencies are effectively managing their caseloads to limit them to those most in need, (2) noted that the level of unspent money carried over (or "spent forward") between fiscal years is above a "reasonable" level, and (3) reported that the full range of effective controls on the cost of WIC food packages has not been implemented in many states. As to program eligibility standards, the report pointed out the potential for the issuance of significant benefits to ineligible persons — noting the lack of income documentation in many cases and the lack of nationally uniform WIC nutrition risk criteria. Finally, the report criticized the limited extent of investigative oversight of WIC vendors and recipients to prevent trafficking and other abuses.

The Appropriations Committee report could influence the FY1999 appropriation recommended by the Committee and a number of amendments included in H.R. 3874 address concerns raised by the report