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# Tracking the Next Child Nutrition Reauthorization: An Overview

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## Summary

The “child nutrition programs” (National School Lunch Program [NSLP] and certain other institutional food service programs) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) were last reauthorized by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA, P.L. 111-296). Some of the authorities created or extended in the last reauthorization law expired on September 30, 2015, but the vast majority of operations and activities continue via the funding provided by the FY2016 omnibus appropriations law (P.L. 114-113).

In the 114<sup>th</sup> Congress, both committees of jurisdiction—the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Education and the Workforce—have now completed markups of reauthorization legislation. On January 20, 2016, by a unanimous voice vote, the Senate Committee on Agriculture, Nutrition, and Forestry voted to report its WIC and child nutrition reauthorization proposal, the Improving Child Nutrition Integrity and Access Act of 2016 (later introduced as S. 3136). On May 18, 2016, the House Committee on Education and the Workforce marked up its reauthorization proposal, the Improving Child Nutrition and Education Act of 2016 (H.R. 5003). The committee approved the bill, 20 to 14, largely along partisan lines.

While both proposals extend authorities and include many of the same policies, the House committee’s proposal would make three major policy changes to the school meals programs that are not in the Senate committee’s proposal: (1) a demonstration project for up to three states to receive a block grant in lieu of funding from a number of open-ended child nutrition programs, (2) a higher threshold for school participation in the Community Eligibility Provision (CEP), and (3) increased reimbursement rates for the School Breakfast Program.

In other school meal policies, both proposals include different changes to school meal nutrition standards, including whole grain and sodium requirements. The proposals would both revamp the current law procedures for the verification of household applications for free and reduced-price school meals.

The Senate and House committees’ proposals would pilot or expand a number of alternatives for feeding low-income children during the summer months through the Summer Food Service Program (SFSP). Proposals would streamline SFSP with afterschool meals and snacks and create off-site alternatives to the congregate feeding site model. Both proposals include a continuation of the Summer Electronic Benefit Transfer (EBT) pilot, although the Senate committee would expand it and make it permanent.

The proposals are similar in their policy changes for the Child and Adult Care Food Program (CACFP) and the Farm to School Grant Program.

Both proposals would expand the types of snacks served through the Fresh Fruit and Vegetable Program. They would each expand offerings beyond fresh to frozen, dried, and canned, although the Senate committee’s proposal does so in a more limited way, creating a wider range only for certain schools and then requiring a transition to fresh only.

Both proposals include a number of changes to Special Supplemental Nutrition program for Women, Infants, and Children (WIC) policy. Only the Senate committee raises the age of child eligibility and increases infant certification periods. Both make changes to income eligibility calculation, WIC-eligible foods policy, integrity of benefit redemption, transition to EBT, and competitive bidding for infant formula and foods.

At this time, the Congressional Budget Office (CBO) has estimated that the Senate committee's proposal would increase the deficit by \$1.1 billion over 10 years (FY2016-FY2025) and that the House committee's proposal would reduce the deficit by \$67 million over 10 years (FY2017-FY2026).

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In the 114<sup>th</sup> Congress, the process to reauthorize the child nutrition programs and WIC has begun and advanced, particularly in the first half of 2016. Both committees of jurisdiction—the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Education and the Workforce—have now completed markups of reauthorization legislation. Prior to the markups, the committees of jurisdiction held related hearings.<sup>1</sup>

On January 20, 2016, by a unanimous voice vote, the Senate Committee on Agriculture, Nutrition, and Forestry voted to report its WIC and child nutrition reauthorization proposal.<sup>2</sup> Bipartisan approval of the committee’s legislation, the Improving Child Nutrition Integrity and Access Act of 2016, was the 114<sup>th</sup> Congress’s most significant first step toward reauthorizing the child nutrition and WIC programs. On July 6, 2016, Chairman Pat Roberts introduced this approved proposal as S. 3136.

On April 20, 2016, Representative Todd Rokita, chairman of the Subcommittee on Early Childhood, Elementary, and Secondary Education of the House Committee on Education and the Workforce, introduced the Improving Child Nutrition and Education Act of 2016 (H.R. 5003), a proposal to reauthorize WIC and the child nutrition programs. On May 18, 2016, the House Committee on Education and the Workforce marked up H.R. 5003, adopting an amendment in the nature of a substitute as well as five Member-offered amendments.<sup>3</sup> The committee approved the bill, 20 to 14, largely along partisan lines.<sup>4</sup> As in weeks prior to the markup, committee Republicans applauded and Democrats decried the bill’s changes to current law.<sup>5</sup>

This report offers some basic background on the last (2010) reauthorization, its expiration, and an overview of many of the policies in the Senate and House committees’ proposals. For more background on the programs’ operations (such as eligibility rules, benefits, and services) or the 2010 reauthorization, please see the following CRS products:

- CRS In Focus IF10266, *An Introduction to Child Nutrition Reauthorization*
- CRS Report R41354, *Child Nutrition and WIC Reauthorization: P.L. 111-296*
- CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*
- CRS Report R44115, *A Primer on WIC: The Special Supplemental Nutrition Program for Women, Infants, and Children*
- CRS Report R41354, *Child Nutrition and WIC Reauthorization: P.L. 111-296*

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<sup>1</sup> During the 114<sup>th</sup> Congress, the Senate committee held one hearing on WIC and/or child nutrition programs, and the House committee held four hearings on WIC and child nutrition programs. During the 113<sup>th</sup> Congress, the Senate committee held two hearings on WIC and/or child nutrition programs, and the House committee held one hearing on WIC and/or child nutrition programs. See the committee websites for further detail: <http://www.agriculture.senate.gov/hearings>; <http://edworkforce.house.gov/calendar/list.aspx?EventTypeID=189>.

<sup>2</sup> A copy of the legislation and related materials are posted on the Senate Committee on Agriculture, Nutrition, and Forestry website, <http://www.agriculture.senate.gov/hearings/committee-print-improving-child-nutrition-integrity-and-access-act-of-2016>.

<sup>3</sup> Markup documents are available at <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

<sup>4</sup> Republican Representative David Brat of Virginia voted against the bill along with Democrats.

<sup>5</sup> House Committee on Education and the Workforce Republicans, “Committee Approves Bill to Reauthorize, Improve Child Nutrition Assistance,” press release, May 18, 2016, <http://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=400707>; House Committee on Education and the Workforce Democrats, “Committee Republicans Pass Harmful Bill Restricting Access to Healthy School Meals,” press release, May 18, 2016, <https://democrats-edworkforce.house.gov/media/press-releases/-committee-republicans-pass-harmful-bill-restricting-access-to-healthy-school-meals>.

The last section of this report summarizes available Congressional Budget Office (CBO) cost estimates. On March 11, 2016, the Congressional Budget Office (CBO) published a cost estimate of the Senate committee legislation's changes to direct (i.e., mandatory) spending (CBO has not yet completed an estimate of the discretionary spending effects of the bill).<sup>6</sup> Scored against CBO's March 2015 baseline, CBO estimates that the legislation would increase the deficit by \$1.1 billion over 10 years (FY2016-FY2025). Committee leadership has said they will work to revise the proposal;<sup>7</sup> this report discusses the proposal that the committee voted to report on January 20, 2016.

On June 30, 2016, CBO published a cost estimate of the House committee's proposal (as marked up on May 18, 2016).<sup>8</sup> CBO completed a formal cost estimate of both the direct spending and the discretionary spending provisions. Scored against CBO's March 2016 baseline, CBO estimates that the legislation would reduce the deficit by \$67 million over 10 years (FY2017-FY2026).

As formulation and deliberation on the next reauthorization continues, completed CBO cost estimates, changes to committee proposals, and the 2016 elections may affect the path toward the next WIC and child nutrition reauthorization.

### Acronyms Used in This Report

<b>CACFP:</b> Child and Adult Care Food Program
<b>CBO:</b> Congressional Budget Office
<b>CEP:</b> Community Eligibility Provision
<b>EBT:</b> Electronic Benefit Transfer
<b>FFVP:</b> Fresh Fruit and Vegetable Program
<b>FMNP:</b> Farmers' Market Nutrition Program
<b>FNS:</b> Food and Nutrition Service
<b>HHFKA:</b> Healthy, Hunger-Free Kids Act of 2010 (P.L. 111-296)
<b>ISP:</b> Identified Student Percentage
<b>LEA:</b> Local Educational Agency
<b>NSLP:</b> National School Lunch Program
<b>RCCI:</b> Residential Child Care Institutions
<b>SBP:</b> School Breakfast Program
<b>SEBTC:</b> Summer Electronic Benefit Transfer for Children
<b>SFSP:</b> Summer Food Service Program
<b>SY:</b> School Year (begins July 1, ends June 30)
<b>USDA:</b> U.S. Department of Agriculture
<b>WIC:</b> Special Supplemental Nutrition Program for Women, Infants, and Children

<sup>6</sup> Congressional Budget Office (CBO), *Improving Child Nutrition Integrity and Access Act of 2016*, cost estimate, March 11, 2016, <https://www.cbo.gov/publication/51373>.

<sup>7</sup> Ellyn Ferguson, "CBO: Child Nutrition Bill Would Add \$1 Billion to Deficit," *CQ Roll Call*, March 14, 2016, <http://www.cq.com/doc/news-4851837?search=LPbRP8fo>.

<sup>8</sup> Congressional Budget Office, *Improving Child Nutrition and Education Act of 2016*, cost estimate, June 30, 2016. <https://www.cbo.gov/publication/51756>.

## Current Status of Program Operations

The “child nutrition programs” (National School Lunch Program [NSLP] and certain other institutional food service programs) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) are primarily authorized by permanent statutes, the Richard B. Russell National School Lunch Act (codified at 42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (codified at 42 U.S.C. 1771 et seq.). These statutes and programs were last reauthorized by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA, P.L. 111-296). Some of the authorities created or extended in the last reauthorization law expired on September 30, 2015.

As of the date of this report, Congress has not reauthorized the child nutrition and WIC programs, but the vast majority of operations and activities continue via funding provided by the FY2016 omnibus appropriation law (P.L. 114-113), including the appropriations law’s amendment of one expiring authority.<sup>9</sup>

In summary, a lapse in the reauthorization or extension of the HHFKA does not affect all activities equally:

- Most of the programs’ authorities to operate are in statute permanently (i.e., without expiration dates). Also, many of the programs’ authorizations of appropriations are permanent; these include NSLP, the School Breakfast Program (SBP), and the Child and Adult Care Food Program (CACFP). These programs with permanent authorizations of appropriations currently continue, without issue, via FY2016 appropriations (P.L. 114-113).
- However, a few pilot programs or temporary activities expire or sunset when they are not reauthorized. These include a California program to provide Summer Food Service Program (SFSP) snacks year-round, certain food safety audits, and preappropriated funds for a National Hunger Clearinghouse. The preappropriated funding for the National Hunger Clearinghouse was extended via appropriations language in FY2016 appropriations (P.L. 114-113), but USDA has discontinued the other activities.<sup>10</sup>
- A number of programs’ authorizations of appropriations ended after September 30, 2015. These include SFSP, WIC, WIC Farmers’ Market Nutrition Program (FMNP), and State Administrative Expenses. Programs with an expired authorization of appropriations can continue to operate so long as funding is provided; FY2016 appropriations law (P.L. 114-113) currently allows the above programs to continue to operate.

## Senate and House Committees’ Proposals: Selected Provisions

The sections to follow summarize selected provisions of the current Senate and House committee proposals; these sections organize the provisions thematically, by program. As legislative changes

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<sup>9</sup> For further background, including a list of affected or potentially affected provisions, CRS has released a congressional memorandum. Congressional clients may request a copy from (name redacted) at [redacted]@crs.loc.gov .

<sup>10</sup> Based on December 2015 and January 2016 emails between CRS and USDA staff.

may occur throughout this process, please note that the versions of legislation summarized in this report are

- the Senate committee’s legislation as the committee voted to report on January 20, 2016 (S. 3136); and
- the House committee’s legislation, H.R. 5003, as the committee amended and voted to report on May 18, 2016.<sup>11</sup>

The summaries below do not provide all specifications for the policies discussed; see legislation for further detail. In particular, these summaries generally do not include the required timeline for USDA action, nor do they include reports to Congress. Please also note that agency rulemaking is often required or implied by the legislation; such rulemaking is likely to add details or specifications.

## Authorities Extended

The Senate committee’s proposal would extend the authorizations of appropriations of the Summer Food Service Program, WIC, WIC FMNP, and State Administrative Expenses through FY2020. (Other major programs—like NSLP and SBP—have a permanent authorization of programs.)

The Senate committee’s proposal would also continue some of the authorizing provisions that sunset after September 30, 2015. Regarding the activities that are currently expired, the Senate and House committees’ proposals would continue the California pilot and the food safety audit authorities, but it would not continue the preappropriated funding for a National Hunger Clearinghouse.

The House committee’s proposal includes these same extensions, but uses a different time period. While the Senate extends most programs for the period of FY2016 to FY2020, the House committee’s bill extends for FY2017 through FY2021.

## Block Grant Funding for Child Nutrition Programs

Under current law, most funding for child nutrition programs is open-ended, mandatory, and appropriated. Funds are provided in annual appropriations acts to fulfill the legal financial obligation established by the authorizing laws, but the level of spending is not controlled through the annual appropriations process; instead, it is derived from the benefit and eligibility criteria specified in the authorizing laws. In the case of the child nutrition programs (NSLP, SBP, CACFP, SFSP, Special Milk, and related activities), funding is not capped and fluctuates based largely on the reimbursement rates and the number of meals/snacks served (i.e., participation in the programs).

Under the Senate and House committees’ reauthorization proposals, the open-ended, mandatory, and appropriated nature of child nutrition programs’ funding would mostly continue. However, the House committee’s proposal (§109) does include a demonstration project for up to three states

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<sup>11</sup> As of the date of this report, the bills *as introduced* are available on <http://www.congress.gov>. The House committee’s amendments—including an amendment in nature of a substitute that differs significantly from the introduced version—are available on the committee’s website: <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

to receive a block grant in place of the open-ended funding (though still mandatory and appropriated).<sup>12</sup> No such demonstration project is included in the Senate committee's proposal.

Under the House committee's proposal, up to three states would receive a fixed amount of funding for flexible purposes (a block grant), in place of the open-ended funding provided by NSLP, SBP, SFSP, Special Milk, and several related activities.

The grantee states would receive funding each year for three years, in an amount equal to the respective state's reimbursements for free and reduced-price meals provided through NSLP and SBP programs in FY2016.<sup>13</sup> Grantee states would not be eligible to receive funding from the open-ended NSLP, SBP, SFSP, Special Milk, State Administrative Expenses, and Team Nutrition programs that would continue to be available for non-grantee states.<sup>14</sup>

Grantee states would not have to follow national standards currently in place for nutrition requirements, eligibility rules, or meal price-setting, among other requirements; instead, grantee states could set their own rules in these areas. Among other required assurances, a state applying for the block grant funding would be required to assure "that each school-aged child in the [s]tate will have access to at least one affordable meal service option during the school day at the school in which the child is enrolled." The applying state would also be required to provide an implementation plan that includes the state's need-based eligibility rules, standards for meals and prices, estimated participation in the program, and monitoring and verification procedures, among other specified state-determined parameters.<sup>15</sup> The proposal includes specified "limitations to federal interference," which would restrict USDA from defining many aspects of implementation, including nutritional standards and how program participants are identified and verified. The proposal also includes reporting requirements for USDA and the participating states.

During the House committee's markup, committee members defeated an amendment that sought to block grant the NSLP and SBP nationwide and permanently.<sup>16</sup>

## School Meals (National School Lunch Program and School Breakfast Program)

### Nutrition Standards

Debates about the next child nutrition reauthorization have often centered on the school meals programs' updated nutrition standards.<sup>17</sup> An update had been required by the 2004 and 2010

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<sup>12</sup> In H.R. 5003's §109, this demonstration project is titled, "State Administration of Child Nutrition Programs." For more background on block grants, please see CRS Report R40486, *Block Grants: Perspectives and Controversies*, by (name redacted) and (name redacted)

<sup>13</sup> The proposal would not include the NSLP performance-based reimbursements provided to schools that serve meals compliant with the updated nutrition standards.

<sup>14</sup> The demonstration project would not foreclose state participation in CACFP, FFVP, or any other program not listed in the provision. States would be eligible for an additional three-year period of such funding if the state "can demonstrate success in meeting the nutritional needs of the school-aged children in the [s]tate."

<sup>15</sup> For all plan requirements, see legislative language in §109 of H.R. 5003.

<sup>16</sup> Amendment #27 offered by Representative Glenn Grothman was defeated 9-25. See House Committee on Education and the Workforce website, <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

<sup>17</sup> See, for example, "Food Fight Fizzles as Senate Nears Compromise on School Nutrition Rules," *National Public Radio*, January 20, 2016, <http://www.npr.org/sections/thesalt/2016/01/20/463618556/food-fight-fizzles-as-senate-nears-compromise-on-school-nutrition-rules>.

reauthorizations, and USDA-FNS issued the final rule in January 2012.<sup>18</sup> The 2010 reauthorization also required nutrition standards for food served outside the school meals programs (“competitive foods”); to implement this, USDA-FNS issued an interim final rule in June 2013.<sup>19</sup>

Both of the committees’ proposals would change existing nutrition standards but would do so differently.

The Senate committee’s proposal includes a number of provisions that would or could affect the current nutrition standards regulations and their implementation:

- **Change whole grains and sodium meal standards.** The proposal would require USDA to make changes to the current regulations on the whole grain and sodium requirements, using an expedited rulemaking process (e.g., within 90 days of enactment). Although these details are not included in the proposal itself, negotiations between the Senate committee, the White House, USDA, and the School Nutrition Association resulted in agreement that these edits would be (1) reducing a 100% whole-grain requirement to 80% whole-grain, and (2) delaying the Target 2 sodium requirements for two years (2019).<sup>20</sup> (§309(b))
- **Study of sodium limits.** The proposal would require USDA to contract with an independent entity to review the sodium standards in the meal regulations. The proposal lists particular study questions, such as assessing the impact of the standards on student participation rates and “whether the latest scientific research indicates that further reduction ... is necessary to safeguard the health of children.” (§309(a))
- **Advisory groups.** The proposal would require USDA to establish two groups specific to nutrition standards: (1) an interagency working group (USDA and the Centers for Disease Control and Prevention [CDC]) to issue guidance regarding fruits and vegetables in the school meals programs, and (2) an advisory panel to consider and develop recommendations on food sold outside of the reimbursable meals programs (§309(c), (d)). More generally, the proposal would also establish a School Nutrition Advisory Committee to “provide input in administration of” the NSLP and SBP (§305).
- **Fluid milk requirements.** The proposal would require USDA to review school-age children’s milk consumption and the availability of varieties of milk in

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<sup>18</sup> For the final rule and related resources, see the USDA-FNS website at <http://www.fns.usda.gov/school-meals/nutrition-standards-school-meals>.

<sup>19</sup> For further summaries and background on regulations noted in this paragraph, see “Selected Current Issues in the USDA Child Nutrition Programs” in CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*, by (name redacted).

<sup>20</sup> While not all of the details are written into the legislation itself, the School Nutrition Association (SNA) posted a January 15, 2016, statement of the terms of an agreement reached between SNA, USDA, the White House, and the Senate committee, <https://schoolnutrition.org/News/AgreementReachedOnSchoolNutritionStandards/>. The terms of the agreement were also discussed in a colloquy between Ranking Member Stabenow and Senator Hoeven during the committee’s markup (mentioned in *Congressional Quarterly* coverage at <http://www.cq.com/alertmatch/277534762?0>). In recent years, “policy riders” in appropriations laws have provided some changes to the whole grain and sodium policies. Under the FY2016 appropriations law (P.L. 114-113), some school food authorities may receive waivers to the 100% whole grain rules and USDA would be prevented from reducing sodium to the Target 2 until “the latest scientific research establishes the reduction is beneficial for children.” See also CRS Report R44240, *Agriculture and Related Agencies: FY2016 Appropriations*, coordinated by (name redacted).

schools under current regulations. Among other questions, reviews would be required to assess whether consumption and availability meet the recommendations of the 2015-2020 Dietary Guidelines. Based upon specified requirements, revision of the regulations would also be required. (§105)

The House committee's proposal includes the following nutrition standards policies:

- **Triennial review.** On the school meals nutrition standards generally, the House committee's proposal would require the Secretary to review school meals regulations "at least every three years." The Secretary would, with consultation from school stakeholders, be required to certify that certain requirements are met, including that the regulations are age-appropriate, do not increase the costs of implementing the school meals programs, and do not discourage students from participating in the school meals programs. If necessary, the Secretary would be required to revise the regulations. (§104)
- **First triennial review includes whole grains and sodium.** The first review after the enactment of the proposal would have to be concluded by December 31, 2016, and would focus on the current sodium and whole grain requirements. Specifically the proposal would require sodium standards to remain at Target 1 limits until the review had been completed. Sodium review requirements in the proposal include that any further reductions must be supported by a high research standard as well as health and food safety requirements. If the review proposed sodium reductions below Target 1, the proposal would prevent reductions from taking effect until three years after the revision had been published in the *Federal Register*. (§104)
- **Family meals.** The House committee's proposal would require the Secretary to issue guidance or regulations on "up to 4 family meal days." On such days, parents may be invited to meals, nutrition education may be provided, and the school would not be subject to nutrition standards for these meals. (§104)
- **Other flexibilities and accommodations.** The House committee's bill would also require the Secretary to provide guidance on making substitutions to accommodate product availability and to accommodate special dietary needs, including medical needs and religious dietary restrictions. (§104)
- **Nutrition standards for "competitive foods."** The House committee's bill would change the nutrition standards for competitive foods in two respects: (1) standards would not apply to fundraisers held by student groups/organizations (though schools and the state agency could determine what fundraisers may be held); and (2) any foods that may be served as part of a reimbursable meal may be served a la carte. (§204)
- **Advisory groups.** The House committee's bill includes the same School Nutrition Advisory Council (SNAC) included in the Senate committee's proposal, but does not include the other nutrition standards groups that are in Section 309 of the Senate committee's proposal. (§305)
- **Fluid milk.** Similar to the Senate committee's language. (§104)

## Eligibility Rules and Reimbursement Rates<sup>21</sup>

The Senate committee's proposal does not include changes to the school meals programs income eligibility rules nor does it change the rates of reimbursement for the school meals programs. On the other hand, the House committee's proposal would make changes in both of these areas.

### *Community Eligibility Provision*

The 2010 child nutrition reauthorization law (HHFKA, P.L. 111-296) created an option for eligible schools to serve all meals free of charge and without collecting applications, the "Community Eligibility Provision" (CEP). The House committee's proposal would make fewer schools eligible for the CEP option.

Eligibility for CEP depends on a school's "identified student percentage" (ISP), the share of enrolled students that can be identified as eligible for free school meals through direct certification.<sup>22</sup> Direct certification is a proactive process where government agencies (for example, state departments of education and departments of human services) cross-check their program rolls and certify children for free school meals based on the household's participation in other specified means-tested programs or vulnerable population status, without the household having to complete a school meals application. Under current law, a school, school district, or group of schools within a district must have an ISP of 40% or greater to use CEP. Though CEP schools serve free meals to all students, CEP schools are not necessarily reimbursed at the "free meal" rate for every meal.<sup>23</sup>

Under the House committee's proposal (**§105**), the ISP threshold would be raised from 40% to 60% beginning July 1, 2017. The provision also would allow for a grace period of one period for schools that had been eligible for CEP but would no longer be eligible under the amended law.<sup>24</sup>

### *Breakfast Reimbursement Rates*

Of the two committees' proposals, only the House committee's would make changes to the school meal reimbursement rates.

The House committee's proposal (**§202**) would increase all School Breakfast Program reimbursements. That is, the proposal would increase the reimbursement for free, reduced-price, and full-price ("paid") breakfasts. The increase would begin in School Year (SY) 2018-2019 and continue as follows:

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<sup>21</sup> This section discusses school meal eligibility rules and reimbursement rates, providing only limited background. For more background, see "School Meals Eligibility Rules" in CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*, by (name redacted).

<sup>22</sup> If eligible, CEP can also be implemented district-wide or for a selection of schools in a district.

<sup>23</sup> Instead, the law provides a funding formula: the percentage of students identified as automatically eligible is multiplied by a factor of 1.6; the result is the percentage of meals served that will be reimbursed at the free meal rate, with the remainder reimbursed at the far smaller paid meal rate. As an example, if a CEP school identifies that 40% of students are eligible for free meals, then 64% of the meals served will be reimbursed at the free meal rate and 36% at the paid meal rate. Schools that identify 62.5% or more students as eligible for free meals receive the free meal reimbursement for all meals served.

<sup>24</sup> Non-CEP schools' students that are income-eligible for free or reduced-price meals or categorically eligible for free meals may still fill out a household application to receive such subsidized meals. Students that are categorically eligible and are identified through direct certification processes would be certified for free meals without filling out applications.

- For SY2018-2019, the base rate for reimbursements would increase by two cents per breakfast above the current law rate.<sup>25</sup>
- For SY2019-2020, the prior year's rate would increase by inflation only.<sup>26</sup>
- For SY2020-2021, the prior year's rate would be adjusted by inflation and then would be increased by one cent.
- In SY2021-2022 and each subsequent year, only inflation adjustment rules apply.

Note: this amendment, due to cross-references in the authorizing statute, would also accordingly change the rate of reimbursement for breakfasts served through CACFP.<sup>27</sup>

## Application Verification

Under current law, schools are required to verify the data submitted on a sample of household applications for free and reduced-price school meals. In general, the standard verification sample under current law is the smallest of 3,000 or 3% of approved applications, with a focus on error-prone applications.<sup>28</sup> Schools may also conduct verification “for cause” for questionable applications.<sup>29</sup> Many schools employ “direct verification” (matching data from other low-income programs) to conduct their verification activities, but if data cannot be verified in this way, schools will contact households to verify.<sup>30</sup>

Both the Senate and House committees' proposals would significantly revise and rework application verification in the school meals programs. Both proposals are similar in their approach, with some differences in the specific details. Below is an overview of the major changes proposed:

- **Size of sample.** Both committees' proposals would create a sample ceiling of the smallest of 10,000 or 10% of a local education agency's (LEA's) applications. Both proposals include factors that could reduce the LEA's verification sample requirement; these include high or improved performance among certain integrity and program access activities (activities include direct verification, household responses, and direct certification).<sup>31</sup> The Senate committee's proposal (**§105**)

<sup>25</sup> As a point of comparison, SBP reimbursement rates for SY2015-2016 in the 48 contiguous states and DC are as much as \$1.99 for a free breakfast, as much as \$1.69 for a reduced-price breakfast, and \$0.29 for a full-price breakfast.

<sup>26</sup> The proposal would not change current law inflation adjustment rules. Rates of inflation referred to in this section are based upon the consumer price index (CPI) food away-from-home and other parameters specified in Section 3 of the Child Nutrition Act of 1966.

<sup>27</sup> Section 17(c)(2) of the Richard B. Russell National School Lunch Act (codified at 42 U.S.C. 1766(c)(1)).

<sup>28</sup> Current law defines “error prone application” as “a household application that ... indicates a monthly income that is within \$100, or an annual income that is within \$1,200, of the income eligibility limitation for free or reduced-price meals.” (Section 9(b)(3)(D)(i) of Richard B. Russell National School Lunch Act (codified at 42 U.S.C. 1758((b)(3)(D)(i)).

<sup>29</sup> 7 C.F.R. 245.6a(c)(7).

<sup>30</sup> For more background on verification under current law, see Quinn Moore, Judith Cannon, and Dallas Dotter, et al., Program Error in the National School Lunch program and School Breakfast Program: Findings from the Second Access, Participation, Eligibility and Certification Study (APEC II) Volume 1: Findings, USDA-FNS, May 2015, pp. 8-9, <http://www.fns.usda.gov/sites/default/files/ops/APECII-Vol1.pdf>.

<sup>31</sup> Not all factors are listed identically in both committees' proposals. For instance, the Senate committee's proposal could reduce sample size in case of emergency, while the House's refers to reduction if USDA determines that the local educational agency USDA's establishing a framework to gauge administrative burden in case the standard sample “would render the local educational agency unable to administer” the school meals programs.

would allow the sample to be reduced to as low as 3,000 or 3%. The House committee's proposal (§104) would allow the sample to be reduced as low as 2,500 or 2.5%.

- **Diverse types of applications sampled.** Instead of a focus on error-prone applications, both proposals would require that the sample include various categories of applications, including applications with data consistent with a documented pattern of error or fraud, applications with a case number from certain low-income programs instead of income information, and close-to-the-income-limit applications. Beyond specifically listed application types, random sampling may be used to reach the required sample size. The House and Senate committees' proposals do differ in the specific ratio of application types in the sample. (§105 Senate committee proposal; §104 House committee proposal)
- **Error reduction plans for high-error schools.** Both proposals would require states to work with the LEAs that have the highest rates of certification error to develop an error reduction plan and to monitor its implementation. The proposals differ on the requirements for such a plan. For example, the Senate committee's proposal (§113), lists a number of potential discretionary measures that may be included in such a plan; in that proposal, one possible measure for states is to increase an LEA's verification sample size, but that measure may only be used for up to 50% of the LEAs with plans and may not be higher than 15,000 or 15% of applications. The House committee's proposal (§111), on the other hand, would require certain elements in an error reduction plan, including an increase in the sample size; the increase is capped at 15% of applications, but the number of LEAs with that increase is not capped.

## Selected Other School Meals Provisions

### *Paid Lunch and Non-Program Food Pricing*

HHFKA set a floor for schools' pricing of full-price ("paid") lunches and non-program foods (i.e., vending machines, a la carte line foods).<sup>32</sup> These policies had been intended to ensure that federal subsidies for free and reduced-price lunches did not end up subsidizing meals for non-needy children and non-meal foods.

The Senate committee's proposal would strike these price calculation requirements and replace them with a broader "non-federal revenue target." This proposal would require schools to contribute a calculated target of nonfederal funds; the source of these nonfederal funds may be household payments for full-price lunches but could also be other state or local contributions to the school food service program. (§106)

The House committee's proposal would only strike the price calculation requirements; it would not replace them. (§105(e))

### *Kitchen Equipment and Infrastructure*

The Senate committee's proposal would add to the Richard B. Russell National School Lunch Act policies regarding kitchen equipment and related infrastructure. It would authorize discretionary

<sup>32</sup> For more on the implementation of this policy, see, for example, USDA-FNS website at <http://www.fns.usda.gov/paid-lunch-equity-school-year-2015-16-calculations-and-tool>.

grants for equipment and other specified capital improvements (up to \$30 million in discretionary funding for FY2016 and each fiscal year thereafter). It also would require USDA to offer loan guarantees; it includes discretionary funding (up to \$5 million for FY2016 and each fiscal year thereafter) for related fees, although appropriations for the fees would not be required for loan guarantee activities to occur. (*§116*)

The House committee's proposal includes both the grants and the loan guarantees but authorizes less funding for the discretionary grants (up to \$25 million in discretionary grants "for fiscal year 2017 through fiscal year 2019"). (*§114*)

### **Potable Water**

The House committee's proposal would provide up to \$475,000 to ensure that children have access to potable water during meal service, for a period of no more than 90 days when certain requirements are met. (*§104*) This policy is not included in the Senate committee's proposal.

## **Summer Meals (Summer Food Service Program [SFSP] and Related Programs)**

Under current law, most food offered in summer months is provided in congregate settings through the SFSP or the NSLP's Seamless Summer Option (SSO, an option only for schools).<sup>33</sup> ("Congregate" settings refer to specific sites where children come to eat and are supervised.) With the exception of the California pilot mentioned earlier and the SSO option for schools, organizations that provide summer and afterschool food need to participate in two separate programs (SFSP and CACFP At-risk Afterschool).

Following related testimony in multiple 114<sup>th</sup> Congress committee hearings, as well as the introduction of a number of freestanding proposals, the Senate and House committees' proposals would pilot or expand a number of alternatives for feeding low-income children during the summer months.<sup>34</sup> Still, there are significant differences between the reauthorization proposals' SFSP provisions. (*§107 Senate committee proposal; §106 House committee proposal*)

### **Streamlining Afterschool and Summer Programs**

Both committees' proposals would authorize eligible institutions to operate SFSP and CACFP At-risk Afterschool sites under one application.

Under the Senate committee's proposal (*§107*), participating institutions would be reimbursed at SFSP rates, which are higher than CACFP's. In FY2018, up to seven states would be authorized to operate this pilot. In FY2019, three states could be added to the limit. In FY2020, two additional states could be added. In FY2021, and each fiscal year thereafter, one additional state could be added. The Secretary of Agriculture would be required to select states with low SFSP participation and states that had not yet transitioned their WIC program to Electronic Benefit Transfer (EBT). Among other requirements, eligible institutions would have to provide meals

<sup>33</sup> For further background, see "Summer Food Service Program (SFSP)" in CRS Report R43783, *School Meals Programs and Other USDA Child Nutrition Programs: A Primer*, by (name redacted)

<sup>34</sup> During 114<sup>th</sup> Congress hearings, witnesses testified about SFSP and summer alternatives before the House Committee on Education and the Workforce (April 15, 2015; June 16, 2015; June 24, 2015) and the Senate Committee on Agriculture, Nutrition, and Forestry (May 7, 2015). The 114<sup>th</sup> Congress introduced bills on summer meals, including (companion bills paired, when applicable): S. 613/H.R. 1728; S. 1539/H.R. 2715; S. 1966.

during at least 20 summer days (or school vacation days in areas that operate a continuous school calendar) in order to participate. Under this streamlined option, the daily reimbursement maximum would be one meal (during summer, only lunch/breakfast) and one snack.

Under the House committee's proposal (**§106**), participating institutions would be reimbursed at CACFP At-Risk Afterschool rates. Beginning in May 2017, up to five states would be selected for participation. Selection of states is largely based on the state's demonstrated capacity to reduce paperwork and other administrative burdens while retaining program integrity. Beginning in October 2018, up to five additional states could be added. Beginning in May 2020 and each year thereafter, the Secretary may choose additional states. Throughout the transition and expansion, the Secretary is to provide technical assistance to the states, collect best practices from them, and update technical assistance to reflect the implementing states' best practices. The daily reimbursement maximum would be the same as the Senate committee's proposal.

### **Summer EBT (Electronic Benefit Transfer)<sup>35</sup>**

Both proposals address the provision of benefits via EBT to children that are eligible for free and reduced-price school meals over the summer months. The Senate would expand this alternative with mandatory funding. The House would keep the existing pilot funded with discretionary funding.

The Senate committee's proposal would authorize states to make a special election, in place of congregate meal service, to issue \$30 per summer month, per eligible child, on a WIC EBT card.<sup>36</sup> This election, funded by the SFSP mandatory funding, would be provided for a limited number of children. In FY2018 (the first year), no more than 235,000 children could be served under this election; in FY2019, no more than 260,000 children; in FY2020, and each fiscal year thereafter, no more than 285,000 children. In addition to the mandatory funding authorized, up to \$50 million would be authorized to be appropriated to serve additional children. Among other criteria and considerations, USDA would be required to limit this election to eligible households that live in (1) poor areas that are rural and without congregate feeding sites, (2) poor areas that have limited access to SFSP and other authorized alternatives, or (3) areas with less than 50% of households eligible for free school meals and with limited access to SFSP and other authorized alternatives. (**§107**)

The House committee's proposal authorizes resources to continue the Summer EBT demonstrations. The proposal would authorize up to \$10 million in appropriations for each of

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<sup>35</sup> From FY2010 through FY2016, appropriations laws have provided authority and funding for an EBT demonstration project. These projects provide electronic food benefits over summer months to households with children in order to make up for school meals that children miss when school is out of session and as an alternative to the Summer Food Service Program meals. Related projects originally were authorized and funded in the FY2010 appropriations law (P.L. 111-80). In limited areas, projects have been operated and funded since then, most recently in the FY2016 appropriations law (P.L. 114-113). They received \$23 million for FY2016 (including \$7 million in §741(b)). For more information, see USDA-FNS FY2016 Congressional Budget Justification, <http://www.obpa.usda.gov/32fns2016notes.pdf>, p. "32-24"; and USDA-FNS website, "Summer Electronic Benefit Transfer for Children (SEBTC)" <http://www.fns.usda.gov/ops/summer-electronic-benefit-transfer-children-sebtc>. On January 28, 2016, prior to its FY2017's budget release, the Administration announced that a SEBTC expansion would be included in the FY2017 budget; see fact sheet, <http://www.fns.usda.gov/sites/default/files/ops/FY17SEBTCBudgetFactSheet.pdf>. Additional details about the Administration's Nationwide Summer EBT proposal are available in the FY2017 budget USDA-FNS Explanatory Notes on p. "32-34," <http://www.obpa.usda.gov/32fns2017notes.pdf>.

<sup>36</sup> The \$30 would be adjusted annually for inflation, children eligible for free or reduced-price school meals and living in an area administering this option would be eligible, and only states that have transitioned their WIC program to EBT could participate.

FY2018, FY2019, and FY2020.<sup>37</sup> The funding would only be available to those states that currently operate an SEBTC program.<sup>38</sup> Area and household eligibility rules are similar to the Senate committee's proposal. Participating children may receive from \$15 to \$30 per month. Participating states may consider differentiating benefit amounts based on any of a variety of community level factors, such as the proportion of applicants that are eligible for free meals, rather than reduced-price. During the committee's markup, an amendment passed to strike the requirement that participating states must administer benefits through WIC EBT, allowing states to use SNAP or WIC (as in the current pilot).<sup>39</sup> **(§109)**

## Off-Site Consumption Options

### *Seasonal Off-Site Election*

The Senate committee's proposal **(§107)** would, beginning in summer 2017, permit states to allow institutions to provide SFSP meals to be consumed off-site. This election would be available for children (1) in a rural area (as defined by the Secretary), or (2) in a non-rural area in which more than 80% of students are certified as eligible for free or reduced-price meals. Home delivery of meals (no more than two meals per child per delivery) is an example of how a state might use this election.

The House committee's proposal **(§106)** is substantially similar with a few differences. In addition to the Senate committee proposal's area eligibility criteria, the House committee's proposal would only allow implementation of the off-site election if "an area is eligible to participate in [SFSP] but is not currently being served." Also, the House committee's proposal would require the state, rather than USDA, to define rural.

### *Temporary Off-Site Allowances*

For institutions operating congregate feeding sites, the Senate committee's proposal would require USDA to grant a state's request for off-site consumption when the site is closed due to extreme weather considerations, violence or other public safety concerns temporarily prevent children from traveling safely to the site, or other emergency circumstances. **(§107)**

The House committee's proposal is substantially similar. **(§106)**

## Other SFSP Policies

### *Discretionary Funding for a Third Meal*

The Senate committee's proposal would authorize discretionary funding for up to six state agencies to pilot the provision of three meals per day, or two meals and one snack. **(§107)**

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<sup>37</sup> CBO interprets these resources as mandatory. Congressional Budget Office, *Improving Child Nutrition and Education Act of 2016*, cost estimate, June 30, 2016. <https://www.cbo.gov/publication/51756>.

<sup>38</sup> FY2016 grantees are Cherokee Nation, Chickasaw Nation, Connecticut, Delaware, Michigan, Missouri, Nevada, and Oregon. For more information, see April 2016 press release available at USDA-FNS website, <http://www.fns.usda.gov/pressrelease/2016/008716>.

<sup>39</sup> Amendment #29, offered by Representative Susan Davis, was agreed to by voice vote. Amendment #28 was defeated. See <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

This was not included in the House committee's proposal. A related amendment was offered in markup and defeated.<sup>40</sup>

### ***Business Partnership Demonstration Project***

The House committee's proposal would authorize USDA to award competitive grants, using available SFSP mandatory funding, to improve SFSP service delivery through "sustainable, scalable, business-driven solutions." Such grants would be available for as many as four states and could be provided for as long as three years. Additional requirements are included regarding state applications, vendors, and auditing. (***§109***)

### **Child and Adult Care Food Program (CACFP)**

The Senate and House committees' proposals (***§109, §108, respectively***) are substantially similar in their CACFP policy changes, but only the Senate committee proposal would provide an additional snack for a child in care for longer hours.

Among their changes, both proposals would allow new types of institutions into the program. Residential child care institutions (RCCIs) and boarding schools funded by the Bureau of Indian Education would be eligible for CACFP meal and snack reimbursement in addition to the school meals programs.

Under current law, two meals and one snack or one meal and two snacks are the daily limits per child regardless of duration of care. The Senate committee's proposal would provide additional food for longer-duration child care. Child care institutions would be able to claim reimbursement for an additional snack for each child that is in care for nine hours or more per day. The House committee's proposal did not include this change; an amendment to add a related change was defeated during committee markup.<sup>41</sup>

As noted under "Breakfast Reimbursement Rates", ***§202*** of the House committee's proposal would also increase reimbursement rates for breakfasts served through CACFP.

### **Farm to School Grant Program<sup>42</sup>**

Beginning FY2017 and each year thereafter, the Senate committee's proposal would increase annual mandatory funding (from \$5 million to \$10 million) for the Farm to School Grant Program. It would also increase maximum grant amounts (from \$100,000 to \$200,000). The proposal would also authorize up to \$10 million in discretionary appropriations each year (FY2016-FY2020). Among other updates, the proposal would add "implementing agricultural literacy and nutrition education" as an allowable use for grants and require USDA to make improving procurement and distribution a goal of grant making. (***§110***)

The House committee's proposal is substantially similar, except that maximum grants would be \$150,000 and the proposal does not include authorization of additional discretionary funds. (***§109***)

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<sup>40</sup> Amendment #26 offered by Ranking Member Bobby Scott was offered and defeated 15-19. See <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

<sup>41</sup> Amendment #25, offered by Representative Suzanne Bonamici, was defeated 15-19. See <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

<sup>42</sup> For more information on program grants and grantees, see the USDA-FNS program website, <http://www.fns.usda.gov/farmtoschool/farm-school-grant-program>.

## Fresh Fruit and Vegetable (“Snack”) Program (FFVP)<sup>43</sup>

Under current law, with the exception of a pilot included in the 2014 farm proposal, the fruit and vegetable snacks served through this program must be fresh—not frozen, dried, or canned. The Senate and House committees’ proposals would make distinct changes.

The Senate committee’s proposal (*§III*) would create “hardship exemption” criteria and a process under which some schools could serve frozen, dried, or canned fruits and vegetables instead of only fresh items. Subject to USDA’s and the states’ implementation, schools with limited access to quality fresh fruits and vegetables year-round or with limited facilities to store, prepare, or serve fresh fruits and vegetables would be able to participate in the snack program by providing frozen, dried, or canned fruit and vegetable snacks. In the first year of a hardship exemption, the school could serve up to 100% of their fruit and vegetable snacks in these forms; however, the ceiling would drop over four years, moving from 100% to 60% to 20% to 0%, transitioning the exempt schools from 0% fresh offerings to 100% fresh offerings.

The House committee’s proposal (*§IIO*) would allow participating schools to serve all forms of fruits and vegetables, changing the program’s name to “Fruit and Vegetable Program.” The proposal would also allow schools to serve snacks that include tree nuts. USDA would be required to promulgate guidance to limit fruit, vegetable, and tree nut snacks to meeting the respective nutrition standards that are currently in place for competitive food items—including sodium, sugar, and total fat limits.<sup>44</sup>

## Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)<sup>45</sup>

On WIC, most of the Senate and House committees’ provisions (*§204, §206, respectively*) are similar, but the proposals have a few key differences.

### Authorization of Appropriations

Currently, WIC’s authorization of appropriations does not have a numerical cap; it authorizes “such sums as are necessary.”<sup>46</sup> The House committee’s proposal would set its authorization of appropriations at \$6.35 billion each year through FY2021.<sup>47</sup> The Senate committee’s proposal would maintain “such sums as are necessary” through FY2020.

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<sup>43</sup> This program is authorized by the Richard B. Russell National School Lunch Act but is funded by the Section 32 of the Act of August 24, 1935 (P.L. 74-320, as amended; 7 U.S.C. 612c). Since first piloted in 2002, this program has been amended by both farm bills and child nutrition reauthorization laws. The 2014 farm bill (P.L. 113-79, Section 4214) authorized a pilot project for canned, frozen, or dried fruits and vegetables.

<sup>44</sup> The interim final rule is currently codified at 7 C.F.R. 210.11.

<sup>45</sup> For more information on how the WIC program currently operates (including eligibility rules, EBT, vendor, and infant formula and infant food competitive bidding), see CRS Report R44115, *A Primer on WIC: The Special Supplemental Nutrition Program for Women, Infants, and Children*, by (name redacted).

<sup>46</sup> Section 17(g)(1)(A) of the Child Nutrition Act of 1966, codified at 42 U.S.C. 1786(g)(1)(A).

<sup>47</sup> WIC received \$6.35 billion in FY2016 appropriations. For recent years’ WIC funding, see Table 2 in CRS Report R44441, *FY2017 Agriculture and Related Agencies Appropriations: In Brief*, coordinated by (name redacted).

## Eligibility and Certification of Participants

Only the Senate committee's proposal would make changes to child eligibility and the certification period for infants:

- **Child eligibility.** Under current law, in all states, children (who meet all other eligibility criteria) are eligible for WIC benefits until they reach five years of age. The Senate committee's proposal would create a state option where children may participate in WIC until their sixth birthday or until they enter full-day kindergarten (whichever comes first).
- **Infant certification period.** Currently, states have the option to certify infants and children for up to one-year periods. The Senate committee's proposal would allow states to certify infants for up to two years at a time.

The above changes are not included in the House committee's proposal.<sup>48</sup> Both committees' proposals do include similar changes to the calculation of income in the WIC program:

- **Income eligibility calculation.** When counting a household's income for WIC eligibility, the House and Senate committees' proposals would require all states to exclude certain Department of Defense payments (Basic Allowance for Housing, Basic Allowance for Subsistence) and the amounts of child support paid if household members are legally obligated to pay child support.

## WIC-Eligible Foods (Food Package)

The supplemental food package in a given state is the result of federal regulation and state policies. "Supplemental foods" is defined in federal WIC law as

those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children and foods that promote the health of the population served by the program authorized by this section [WIC], as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary [of Agriculture]. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.<sup>49</sup>

Both committees' proposals include changes to this definition.

The Senate committee's proposal would allow the list of supplemental foods to consider commercial availability and participant demand. It also would require the inflation adjustment of the cash value voucher (used to purchase fruits or vegetables) to round to the nearest dollar.

The House committee's proposal includes similar language to the Senate committee's proposal with a few additions. In addition to considerations of commercial availability and participant demand, the House committee proposes a limit that any changes "shall not limit the overall fruit intake of children." The proposal would also require an examination of current fluid milk criteria. The House committee proposal also includes some additional accommodations for special dietary needs and other requirements for food package formulation.

<sup>48</sup> During House markup, Representative Katherine Clark offered these provisions along with other WIC changes in Amendment #24. It was defeated 13-21, along party lines. See House Committee on Education and the Workforce website, <http://edworkforce.house.gov/calendar/eventsingle.aspx?EventID=400678>.

<sup>49</sup> Section 17(b)(14) of the Child Nutrition Act of 1966 (codified at 42 U.S.C. 1786(b)(14)).

## Other WIC Topics

Both of the committees' proposals are substantially similar in other WIC areas, with similarities and differences summarized below:

- **Measures related to the integrity of benefit redemption.** The Senate and House committees' proposals would require all states to educate participants on the safe and legal disposal of unused or excess infant formula purchased with WIC benefits. The proposals also include several policy changes related to accurate invoicing of WIC infant formula purchases, so that manufacturer rebates are issued more precisely.
- **WIC vendors.** The Senate committee's proposal would require states to add notification requirements if a state were to place a moratorium on authorizing new vendors. The House committee's proposal places these notification requirements on USDA instead. In setting maximum allowable reimbursement levels for certain vendors, both proposals would require states to exclude WIC vouchers that had not been redeemed in full (would not include EBT purchases). The proposals would require the Secretary to review states' vendor authorization processes.
- **Changes to competitive bidding for infant formula and infant foods.** The proposals would make a number of changes related to the competitive bidding and contract award process for infant formula and infant foods, including allowing an infant formula contractor in a state to terminate its contract if the state raises Medicaid income eligibility (with exact parameters of this increase and contract termination to be determined by the Secretary)<sup>50</sup> and requiring states to issue a justification statement to USDA before entering into exclusive contracts for infant food. On infant food competitive bidding, the House committee's proposal would require additional state considerations and actions that were not included in the Senate committee proposal; for instance, it would require the state to provide a report that includes net savings. Also, the House committee's proposal requires the justification statement before the state "solicits bids for a contract" rather than before entering into a contract.
- **Transition to EBT.** HHFKA of 2010 set a requirement that states transition their WIC benefit systems from voucher-based to EBT by October 1, 2020. The Senate committee's proposal would authorize discretionary funding (up to \$25 million annually for FY2016-FY2020) for "enhancing and accelerating" EBT implementation. The House committee's proposal would authorize discretionary funding also, but for fewer years (\$25 million annually for FY2017-FY2019). Both proposals would also create penalties for states that fail to comply with the implementation timeline.

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<sup>50</sup> WIC applicants that participate in Medicaid are deemed income eligible for the program; this Medicaid-WIC relationship is called adjunctive eligibility. In addition to this change for infant formula contracts in Section 204(a) of the Senate committee proposal and Section 206(a) of the House committee proposal, Section 204(b)/206(b) would require the Comptroller General of the United States to conduct a study to examine the impact of adjunctive eligibility on WIC.

## CBO Cost Estimates<sup>51</sup>

This section tracks CBO’s cost estimates of the committees’ child nutrition reauthorization proposals, as of the date of this report:

- On March 11, 2016, CBO published a cost estimate of the Senate committee’s proposal (as marked up on January 20, 2016).<sup>52</sup> CBO completed a formal cost estimate of the direct spending (i.e., mandatory spending), but has not released an estimate of the discretionary spending provisions. This proposal was scored against CBO’s March 2015 baseline and cost estimates are for a budget window of FY2016-FY2025.
- On June 30, 2016, CBO published a cost estimate of the House committee’s proposal (as marked up on May 18, 2016).<sup>53</sup> CBO completed a formal cost estimate of both the direct spending and the discretionary spending provisions. This proposal was scored against CBO’s March 2016 baseline and cost estimates are for a budget window of FY2017-FY2026.

CBO explains, “Any differences in the [proposals’] estimates reflect differences in both the language of the legislation and in the baselines used for the estimates.”<sup>54</sup> In other words, the different budget windows and baselines limit the significance of comparing the cost estimates as an exact measure of their policy differences.

The sections that follow include selected information from the cost estimates. Other committee-proposed policies, not listed here or discussed in this report, would increase direct spending or increase revenues. See CBO’s cost estimates for further details.

### Cost Estimate of Senate Committee’s Proposal (March 11, 2016)

Based on changes to direct spending and revenues, CBO estimates that the legislation would *increase the deficit* by \$269 million over 5 years (FY2016-FY2020) and approximately \$1.1 billion over 10 years (FY2016-FY2025). More specifically, CBO estimated that some of the policies discussed in this CRS report would impact direct spending in the child nutrition programs. CBO estimates (in outlays over the 10-year budget window FY2016-FY2025) that, if enacted,

- changes to school meals’ application verification requirements would *reduce direct spending* by \$294 million;
- discretionary funding for school meals equipment grants would increase participation in the school meals programs, *increasing direct spending* by \$224 million;
- changes to the provision of summer meals (including streamlining with CACFP, EBT, and off-site consumption) would *increase direct spending* by \$568 million;

<sup>51</sup> For explanation of CBO baselines and scorekeeping, see CRS Report 98-560, *Baselines and Scorekeeping in the Federal Budget Process*, by (name redacted)

<sup>52</sup> Congressional Budget Office, *Improving Child Nutrition Integrity and Access Act of 2016*, cost estimate, March 11, 2016. <https://www.cbo.gov/publication/51373>.

<sup>53</sup> Congressional Budget Office, *Improving Child Nutrition and Education Act of 2016*, cost estimate, June 30, 2016. <https://www.cbo.gov/publication/51756>.

<sup>54</sup> *Ibid.*, p. 17.

- increases to the Farm to School Grant Program’s mandatory funding would *increase direct spending* by \$44 million; and
- changes to CACFP (all changes in §109) would *increase direct spending* by \$445 million.

### Cost Estimate of House Committee’s Proposal (June 30, 2016)

Based on changes to direct spending and revenues, CBO estimates that the legislation would *reduce the deficit* by \$131 million over 5 years (FY2017-FY2021) and \$67 million over 10 years (FY2017-FY2026).

For certain policies that were in the House committee’s proposal but not the Senate committee’s proposal, CBO estimates (in outlays over the 10-year budget window of FY2017-FY2026) that, if enacted,

- the block grant demonstration project (“State Administration of Child Nutrition Programs”) would *not affect direct spending* as no states are expected to participate;<sup>55</sup>
- increases to the threshold for CEP participation would result in 6,500 schools no longer participating in CEP, fewer students in those schools participating at free and paid meal rates, and a *reduction of direct spending* by approximately \$1.6 billion; and
- increases to SBP reimbursements would *increase direct spending* by \$801 million.

In some of the areas where both proposals would amend policy, CBO estimates (in outlays over the 10-year budget window of FY2017-FY2026) the following for the House committee’s proposal, if enacted:

- changes to school meals’ application verification requirements would *reduce direct spending* by \$261 million;
- discretionary funding for school meals equipment grants would increase participation in the school meals programs, *increasing direct spending* by \$42 million;
- changes to the provision of summer meals (including streamlining with CACFP, off-site consumption, and demonstration projects) would *increase direct spending* by \$929 million;
- increases to the Farm to School Grant Program’s mandatory funding would *increase direct spending* by \$49 million; and
- changes to CACFP (all changes in §108) would *reduce direct spending* by \$33 million.

For discretionary programs (i.e., spending subject to appropriation), CBO estimates that the House committee’s proposal would cost \$29.8 billion over the five-year (FY2017-FY2021)

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<sup>55</sup> “Based on consultation with state officials and policy experts, CBO does not expect that any state would take up this option.” Ibid., p. 9.

period, assuming the appropriation of necessary amounts.<sup>56</sup> The vast majority (\$29.6 billion) of this estimate is based on the reauthorization of WIC and WIC FMNP programs.

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<sup>56</sup> Ibid., p. 12.

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