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Child Nutrition Legislation in the 104th Congress

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Updated January 10, 1997

Abstract. In 1995 and 1996, Congress acted four times to change federal child nutrition programs governed by the National School Lunch and Child Nutrition Acts. In the first two instances—the 1995 budget reconciliation and welfare reform bills (the Balanced Budget Act and the Personal Responsibility and Work Opportunity Act)—congressional agreements containing major revisions to child nutrition laws were vetoed by the President. However, a separate bipartisan congressional initiative to allow schools more flexibility in meeting federal nutrition standards was enacted in the spring of 1996 (the Healthy Meals for Children Act: P.L. 104-149), and a third congressional agreement, combining welfare reform and budget reconciliation provisions and including substantial child nutrition program amendments, became law at the end of August 1996 (the Personal Responsibility and Work Opportunity Reconciliation Act; P.L. 104-194).

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CRS Report for Congress

Child Nutrition Legislation In the 104th Congress

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Updated January 10, 1997



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CHILD NUTRITION LEGISLATION IN THE 104TH CONGRESS

SUMMARY

In 1995 and 1996, Congress acted four times to change federal child nutrition programs governed by the National School Lunch and Child Nutrition Acts. In the first two instances -- the 1995 budget reconciliation and welfare reform bills (the Balanced Budget Act and the Personal Responsibility and Work Opportunity Act) -- congressional agreements containing major revisions to child nutrition laws were vetoed by the President. However, a separate bipartisan congressional initiative to allow schools more flexibility in meeting federal nutrition standards was enacted in the spring of 1996 (the *Healthy Meals for Children Act*; P.L. 104-149), and a third congressional agreement, combining welfare reform and budget reconciliation provisions and including substantial child nutrition program amendments, became law at the end of August 1996 (the *Personal Responsibility and Work Opportunity Reconciliation Act*; P.L. 104-193).

The two laws enacted in 1996 (1) ensured that schools would have more control over their menu planning and how they meet federal meal standards (in the *Healthy Meals for Children Act*) and (2) in the *Personal Responsibility and Work Opportunity Reconciliation Act*, substantially restructured federal child nutrition aid to family day care homes (lessening subsidies for homes not located in lower-income areas or without a lower-income provider), lowered subsidies for summer food service programs so that they will more closely conform to those in other child nutrition programs, made a number of less significant changes to other child nutrition efforts (such as changing subsidy "rounding rules," ending start-up and expansion grants for school breakfast and summer programs, and reducing potential future spending on the Nutrition Education and Training program), and removed or reduced many federal administrative requirements on states and child nutrition providers. The Congressional Budget Office's estimate of federal child nutrition budget savings from the amendments made in the 1996 welfare reform and budget reconciliation measure is \$2.9 billion (outlays) over FY1997-FY2002. Reduced spending for family day care homes represents some 85% of this amount.

The major child nutrition issues in the 104th Congress included congressional proposals to convert federal child nutrition programs into block grants, bar program eligibility to illegal aliens, and reduce federal requirements, the extent and character of reductions in future federal financial support for child nutrition programs (e.g., the degree to which support for school meal programs should be reduced), and the Administration's reservations as to changes aimed at giving schools more control over how they meet federal nutrition standards in the meals they serve. After a prolonged debate, the enacted legislation did not include any block grant authority but "streamlined" federal rules, left the eligibility of illegal (and certain other nonimmigrant) aliens for nonschool programs up to the states, included savings representing 3%-5% of overall estimated child nutrition spending through FY2002 under prior laws (mostly from reduced aid to day care homes and summer programs, not school meal programs), and gave schools more meal-planning authority by reducing federal controls.

The basic points of *agreement* in the 1995-1996 child nutrition debates were the need to restructure and reduce federal meal subsidies for nonpoor children in family day care homes and a decision not to reduce support for the Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC program).

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CHILD NUTRITION LEGISLATION IN THE 104TH CONGRESS

INTRODUCTION

A relatively contentious 1995 debate over revision of child nutrition programs -- both within Congress and between Congress and the Administration -- largely ended when the President vetoed the 1995 congressional agreements on budget reconciliation (the Balanced Budget Act; H.R. 2491) and welfare reform (the Personal Responsibility and Work Opportunity Act; H.R. 4). The major points of difference were (1) congressional proposals to convert federal child nutrition programs (in most cases, entitlements based on need) into block grants to the states and to bar child nutrition eligibility to illegal aliens and (2) the extent and make-up of any reductions in federal child nutrition support (particularly with regard to school meal programs).

The *vetoed budget reconciliation bill* had estimated 7-year savings (FY1996-FY2002) of \$5.7 billion, 5.6%-8% of total child nutrition spending under existing laws; it reduced food assistance support for summer nutrition programs and many family day care homes and shaved subsidies in other programs, including school meal programs. It also barred illegal aliens from child nutrition eligibility. The *vetoed welfare reform agreement* was estimated to save less, \$3.9 billion through FY2002, or 3.8%-5% of spending under existing laws. While it retained a bar against illegally resident aliens and most other provisions of the reconciliation bill (e.g., day care home and summer program subsidy cuts), it contained virtually no basic revision of, or reduction in funding for, school-based nutrition programs and, instead of mandatory block grants, included block grant demonstration authority for up to seven states.

In 1996, the debate narrowed to decisions on child nutrition program eligibility for illegal aliens and how to achieve the roughly \$3 billion in federal savings (FY1997-FY2002) that was implicit in all the proposals before Congress. Block grants, larger savings, and significant changes in school meal programs were not under serious consideration. As in 1995, there was general agreement on the need to restructure and reduce aid to many day care homes and on continued federal support for the Special Supplemental Nutrition Program for Women, Infants, and Children (the WIC program).

The 1996 combination welfare reform and budget reconciliation measure (the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996; P.L. 104-193*) was enacted August 22, 1996. It will reduce future child nutrition program federal outlays by an estimated \$2.9 billion through FY200 (3.4%-4.7% of scheduled spending under prior laws). Its child nutrition component is drawn, in large measure, from the provisions of the vetoed 1995 welfare reform bill, and 85% of the child nutrition savings will come from reduced meal subsidies for family day care homes generally serving nonpoor children. Other significant revisions include lower subsidies for summer food service programs, ending start-up and expansion grants for school breakfast and summer programs, changing "rounding rules" to lower some subsidy rates in the future, making funding for the

Nutrition Education and Training program a "discretionary" rather than "mandatory" appropriation (thereby significantly reducing FY 1997 funding and, potentially, spending in later years), and removing or revising numerous federal child nutrition administrative rules. Outside the School Lunch and Breakfast programs, the eligibility of illegal (and certain other) aliens for child nutrition assistance is, in effect, left a state option.

A separate issue, relating to implementing new federal nutrition guidelines for school meals, was addressed with enactment of the *Healthy Meals for Children Act (P.L. 104-149)* on May 29, 1996. Schools opposed Agriculture Department regulations that they saw as giving them too few choices when planning menus and preparing meals to meet the federal Dietary Guidelines for Americans. After lengthy negotiations with the Department were unsuccessful, Congress approved the Healthy Meals for Children Act, a bipartisan congressional initiative that amended child nutrition law to permit schools to use "any reasonable approach" (with some federal guidance) to comply with the Guidelines.

CHILD NUTRITION AMENDMENTS IN THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Overview and Budget Effects

In general, the amendments made by the child nutrition provisions (Title VII) of the new Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193) increase the degree to which federal child nutrition support is concentrated on lower-income children (especially aid to family day care homes), align Summer Food Service program subsidies more closely with rates paid in other child nutrition programs, lessen federal requirements on child nutrition programs, and end financial and other mandates for special efforts to expand them. The major provisions of Title VII of the new act:

- restructure the family and group day care home component of the Child and Adult Care Food program, lowering federal subsidies for meals and supplements (snacks) served by eligible day care homes not located in lower-income areas or without a lower-income provider;
- reduce operating subsidies for summer food service programs;
- end a program of grants to start up and expand school breakfast and summer food service programs;
- change the "rounding rule" applied to federal subsidies for meals/snacks served to those paying "full price" in school lunch and breakfast programs and child or adult care centers (i.e., for meals/snacks offered to those *not* receiving free or reduced-price meals/snacks because of their families' limited income) -- so that subsidies are rounded down to the nearest whole cent (rather than rounded to the nearest quarter cent); and

- remove or revise numerous federal administrative rules governing operations of state and local child nutrition providers and delete over 20 out-of-date, unused, or redundant provisions of the National School Lunch and Child Nutrition Acts.

Other significant amendments (1) make the provision of assistance under the National School Lunch and Child Nutrition Acts -- except for aid under the School Lunch and Breakfast programs -- to illegally present (and certain other nonimmigrant) aliens essentially a *state option*, (2) allow *all* schools that participate under a provision of law ("provision 2") that permits them to collect applications for free and reduced-price meals less frequently (in exchange for offering all meals free) to participate under its terms for 5 years without a redetermination of their status, (3) drop subsidies for a fourth meal/snack each day in summer camps, migrant service institutions, and child care centers, (4) end a requirement for advance payments to participating child care institutions, (5) eliminate special summer food service program rules for National Youth Sports Program sponsors, (6) make funding for the Nutrition Education and Training program a discretionary appropriation, rather than mandatory spending, and (7) disqualify stores participating in the WIC program if they are disqualified for Food Stamp program violations.

Removal or revision of federal administrative rules is expected to help states and child nutrition providers control some of their costs, and the Congressional Budget Office (the CBO) estimates that the new law's changes in child nutrition law will reduce federal spending by \$2.853 billion (outlays) for FYs 1997 through 2002.¹ Annual outlay savings are projected to rise from \$128 million in FY1997 to \$670 million in FY2002. And the bulk of these savings (85%) are the result of revised subsidies for family day care homes. This \$2.9 billion in savings represent 3.4% of expected spending under pre-amendment law (including the WIC program) and 4.7% of scheduled child nutrition spending without the WIC program. The major, specific child nutrition budget effects of the new law are as follows.²

- Federal outlay savings from changes to the Child and Adult Care Food program (reduced subsidies, particularly for day care homes) are expected to grow from \$90 million in FY1997 to \$585 million in FY2002, for a 6-year total of \$2.430 billion. This represents a reduction of over 15% in expected 1997-2002 spending for this program and more than a 30% cut in funding for day care homes (the primary subject of the new law's child nutrition amendments).

¹Savings calculated as reduced *budget authority* are slightly higher: \$2.963 billion through FY2002.

²In addition to these major budget effects, expanding the availability of the 5-year option for provision 2 status is expected to *cost* \$4 million through FY2002, and converting funding for the Nutrition Education and Training program to discretionary status was "scored" by the CBO as saving \$60 million through FY2002. Actual savings gained from the funding status change to the Nutrition Education and Training program will depend on what annual appropriations are provided. For FY1997, \$3.75 million has been provided (by diverting other funds), as opposed to \$10 million in FY1996.

- Outlay reductions from reduced subsidies in the Summer Food Service program are anticipated to rise from \$19 million in FY1997 to \$39 million in FY2002, for a 6-year total of \$184 million (a 9% reduction in scheduled 1997-2002 funding for summer programs under pre-existing law).
- Ending funding for start-up and expansion grants for school breakfast and summer programs is expected to lower federal outlays by \$8 million in FY1997 and \$22 million by FY2002, for a 6-year total of \$112 million. The majority of these savings come from expectations that fewer new school breakfast and summer sponsors will enroll or expand; the grants themselves would have totaled \$39 million for FY1997-FY2002.
- The revised rounding rule for subsidies for meals and snacks served to those not receiving free or reduced-price meals/snacks are anticipated to reduce federal outlays some \$15 million a year by FY2002, for a 6-year total of \$71 million. Most of these savings come from the effect of the new rounding rule on school meal program subsidies.

By 2002, the CBO expects overall child nutrition spending (as much as \$15.5 billion, including funding for the WIC program) to be between 25% and 30% *greater* than the 1996 level of some \$12.1 billion, despite the reductions associated with the new welfare reform measure. Under pre-amendment law, federal spending for child nutrition programs (excluding the WIC program) was anticipated to grow from \$8.4 billion in FY1996, and \$8.9 billion in FY1997, to \$11.8 billion in FY2002; WIC funding, adjusted for inflation, was anticipated to rise from \$3.7 billion in FY1996, and \$3.8 billion in FY1997, to as high as \$4.4 billion by FY2002. After the welfare reform reductions, estimated child nutrition spending (without the WIC program) is anticipated to grow to \$8.8 billion in 1997 and just over \$11 billion by 2002, and spending for the WIC program is untouched by the new law.

Child and Adult Care Food Program

The Child and Adult Care Food program provides federal cash subsidies (and some commodities) for meals and snacks served in child and adult day care *centers* and family and group day care *homes* for children.³ Day care home sponsoring organizations also receive separate monthly payments for administrative and oversight costs, based on the number of homes they sponsor. In FY1996, some 33,000 child day care center sites (with 13,000 sponsors) served about 1.4 million children; 1,600 participating adult day care center sites (with 1,000 sponsors) had 45,000 persons; and 190,000 child day care homes (with 1,200 sponsors) had an average daily attendance of just under 1 million children. Total federal costs were an estimated \$1.5-\$1.6 billion, of which over half went to day care homes and their sponsors.

³Child day care centers typically serve 40 or more children, and adult day care centers have an average daily attendance of about 30 persons. Day care homes generally have four to seven children. Federal subsidies for centers vary by recipients' family income; subsidies for day care homes do not.

Day Care Homes

The most important change to child nutrition programs in the new welfare act affects subsidies received by family and group day care *homes* under the Child and Adult Care Food program.⁴ The new law completely restructures them, beginning July 1997.

Federal Payments for Homes. Federal subsidy rates for meal/snacks provided by centers have, since 1982, been varied by the family income of the recipient child/adult -- much higher subsidies have been provided for free and reduced-price meals/snacks for lower income children/adults (with family income below 185% of the federal poverty guidelines). On the other hand, subsidy rates for meals/snacks served to children in eligible day care homes have not been differentiated by the family income of the child. Standard day care home rates have been 7-15% lower than those for *free* meals/snacks served to low-income children by participating centers, but much higher (3 to 9 times more) than rates for meals/snacks served to *nonpoor* children in centers. And, according to Agriculture Department estimates, approximately two-thirds of the spending for the day care home component of the Child and Adult Care Food program has gone to support meals/snacks served to *nonpoor* children with family income *above* 185% of the federal poverty guidelines (the income ceiling for receipt of free or reduced price meals in centers and school meal programs). For the July 1996-June 1997 period, the standard day care home rates are \$1.575 for each lunch/supper, 86.25 cents for breakfasts, and 47 cents for snacks.⁵ Assuming a 3% inflation adjustment in July 1997, they would rise to about \$1.62, 88 cents, and 48 cents, respectively.

With the goal of targeting federal support for day care homes more on children from lower-income families, the new act divides participating homes into two categories, or "tiers," and, in general, bases their federal reimbursement on which tier they qualify for.

Tier I homes will be (1) those located in lower-income areas (areas in which at least half of the children are in households with income below 185% of the poverty guidelines, based on census data, or are served by a school enrolling elementary students in which at least half the children are certified eligible to receive free or reduced price school meals) and (2) those operated by a provider whose income is verified by a sponsor to be below 185% of the poverty guidelines. These homes will receive their federal payments under *pre-amendment rules*, with two relatively minor differences: beginning with the next, July 1997, annual inflation adjustment (1) changes for inflation will be based on changes in the "*food at home*" component of the Consumer Price Index for All Urban Consumers (CPI-U), rather than the "*food away from home*" component and (2) after adjusting for inflation, payment rates will be *rounded down* to the nearest whole cent, rather than rounded to the

⁴Federal payments to day care *centers* are not affected by these changes. However, revision of the rounding rule and elimination of payments for a fourth meal/snack each day will reduce some payments to day care centers (see later discussion).

⁵For comparison, free lunch cash subsidies in centers are \$1.8375 a lunch and full-price cash subsidies are 17.75 cents a lunch -- in addition to some commodity assistance.

nearest quarter cent.⁶ The CBO has estimated that about 35% of meals/snacks served by day care homes will be subsidized at tier I rates: i.e., the pre-amendment law rates with the two small changes noted above.

Tier II homes will be those that do not meet tier I lower-income standards. Unless they take advantage of a conditional option (see below) to receive the higher tier I rates, tier II homes will receive sharply *lower* federal subsidies for the meals and snacks they serve. The new act sets base tier II rates at 95 cents for lunches/suppers, 27 cents for breakfasts, and 13 cents for supplements. However, these base rates will be indexed for inflation on July 1, 1997 (the effective date for the new 2-tiered system), and, because of this, when the new system is actually implemented, the initial subsidy rate for lunches/suppers will be slightly higher. Assuming a 3% inflation increase, the July 1997 lunch/supper rate will probably be 97 cents.⁷

As with tier I rates, inflation adjustments applied to tier II subsidies will be based on the CPI-U food at home component and rounded down to the nearest whole cent. And, following pre-amendment procedures, the new tier II rates will be varied for Alaska and Hawaii (as will tier I rates), and rules against subsidies for providers' children (unless they meet free or reduced-price income standards) are retained in both tiers.

The changes made by the new legislation were designed to re-target spending without imposing too great an administrative burden on homes and their sponsors: they do not mandate income-testing of individual children's families as is done in centers. However, tier II homes will be able to *elect* to receive higher tier I subsidies for meals/snacks served to individual children who are members of households with income below 185% of the poverty guidelines, if their sponsor collects the necessary information and makes the appropriate eligibility determination in accordance with federal rules. Tier II homes also will be able to opt to receive tier I subsidies for meals/snacks served to children (or children whose parents are) participating in, or subsidized under, a federally or state-supported child care or other benefit program with an income eligibility limit that does not exceed 185% of the poverty guidelines. And they will be allowed to restrict their claim for tier I reimbursement to these "program-eligible" children if they choose not to collect income statements from all parents/caretakers.

In determining homes' tier I/II status, the most current available data (census, enrollment, provider income) must be used, and a determination that a home is located in a tier I area generally will be effective for 3 years.

Federal Payments for Sponsors. Federal payments made to day care home sponsoring organizations for administrative costs (based on the number of homes sponsored) are not affected by the new 2-tier system. However, the welfare act does make two changes

⁶Although each payment rate will be rounded down, the bases used for the next adjustment will be the unrounded rates for the previous 12 months.

⁷A 3% adjustment would not be large enough to affect initial subsidy rates for breakfasts/snacks when rounded.

related to the use of the administrative funding sponsors receive. It prohibits funding for sponsors that base payments to employees on the number of homes "recruited." And it eliminates permission for sponsors to use administrative funds to conduct "outreach" to and "recruitment" of unlicensed day care homes, while retaining authorization to use these funds to assist unlicensed homes in becoming licensed and eligible for assistance.

New Federal and State Responsibilities. Under the new 2-tier system for day care homes, the Agriculture Department will have new responsibilities. It is required to provide census data necessary for determining homes' tier I/II status and will establish minimum requirements for verifying children's family income and program participation status when tier II homes elect to higher claim tier I reimbursement rates. It also is required to prescribe "simplified" meal counting and reporting procedures for use when tier II homes elect to claim tier I reimbursements for their lower-income children. By law, these procedures can include (1) setting an annual percentage of a home's meals/snacks to be subsidized at tier I rates based on the family income of children enrolled in a specific month or other period, (2) placing a home in a federal reimbursement category based on its percentage of children with household income below 185% of the poverty guidelines, or (3) any other procedures the Department judges appropriate. In addition, states are required to provide school enrollment data necessary to determine homes' tier I/II status.

Implementation Grants. The new law requires that \$5 million be reserved from FY1997 funding for the Child and Adult Care Food program and used to make grants to states to aid homes and their sponsors in putting the new 2-tier system in place.⁸ The grants are to be used to (1) assist sponsors (and other organizations) in securing and providing training, materials, automated data processing, and similar aid for sponsors' staff and (2) provide training and other assistance to participating homes. States may retain no more than 30% of their grant for their use in implementing the new system.

Study. The Agriculture Department, in conjunction with the Department of Health and Human Services, is required to undertake a comprehensive study of the participation and nutrition effects of the amendments restructuring day care home reimbursements, due in August 1998.

Implementation Schedule. The new 2-tier subsidy system is effective beginning July 1, 1997. However, the act directs the Agriculture Department to issue interim regulations related to the restructuring of subsidies for day care homes, provision of data necessary to implement the new system, and restrictions on sponsors' use of administrative funds for outreach and recruitment by January 1, 1997. Final regulations are required by July 1, 1997. The change barring funding for sponsors basing payments to employees on the number of homes recruited was effective on enactment.

⁸This \$5 million is to be allocated among the states based on the number of day care homes participating in fiscal year 1995, with a minimum allocation of \$30,000 for each state.

Additional Amendments⁹

Rounding Rule. As with day care home subsidies (and some school meal subsidies, see later discussion), the new law requires that, when adjusted annually for inflation, federal subsidy rates for meals and snacks served by child and adult day care centers to participants who are *not* eligible for free or reduced price meals/snacks must be rounded down to the nearest whole cent (rather than rounded to the nearest quarter cent).¹⁰

Advance Payments. States have been required to provide monthly advance payments to approved day care institutions in amounts reflecting the level of valid claims customarily received (or the state's best estimate in the case of newly participating institutions). The new act makes advance payments a state *option*.

Additional Meals/Snacks. Previous law allowed day care centers to be reimbursed for up to two meals and two snacks (or three meals and one snack) each day for each child in a child care setting for 8 or more hours a day -- as opposed to the regular two meals and one snack. The new law deletes authority for federal payments to day care centers for more than two meals and one snack for any child each day.

Paperwork, Outreach, and Administrative Provisions. Under pre-amendment law, the Agriculture Department had a responsibility to act to "expand" child care food services, and states were required to take affirmative action to expand the availability of Child and Adult Care Food program benefits, including annual notification to all non-participating day care homes. The Department also had to conduct demonstration projects to test approaches to removing or reducing barriers to participation by homes; the Department and the states were mandated to provide training and technical assistance to day care home sponsors in reaching low-income children; and states were required to provide information and training about child health and development through sponsors. The Department was further mandated to provide state agencies with information about the WIC program, and state agencies had to provide child care institutions with specific WIC materials, annually update the materials, and ensure that, at least once a year, the institutions provided parents with written information about the WIC program. Finally, the Department was required to provide "additional" technical assistance to child care institutions and sponsors having difficulty maintaining compliance with nutrition requirements, and state agencies had to provide technical assistance to institutions submitting incomplete applications to participate.

The new act deletes all of these specific requirements on the Department and the states and replaces them with general requirements that states provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the Child and Adult Care Food program and that the Agriculture Department assist states in developing plans

⁹With the exception of the change to the rounding rule (effective with the July 1, 1997, annual inflation adjustments), these amendments were effective on enactment.

¹⁰Although the result of each annual inflation adjustment will be rounded down to the nearest whole cent, the base for the next adjustment will be the unrounded amount calculated for the previous 12 month period.

to do so. It also revises a requirement that states and participating institutions make accounts and records available at all times to a requirement that they be available at "any reasonable time."

Summer Food Service Program

Under the Summer Food Service program, local public and private nonprofit sponsors receive cash subsidies (and some commodities) for food service during the summer in lower-income areas: areas where 50% or more of the children have family income below 185% of the federal poverty guidelines (i.e., are eligible for free or reduced price school meals). Sponsors may be government agencies, schools, or, with some restrictions, private nonprofit entities that run summer youth programs. They receive reimbursements for each meal/snack served, varied only by the type of meal/snack (not the children's family income), as well as separate payments for administrative costs. Summer food service support also is provided to public and private nonprofit summer camps and colleges and universities participating in the National Youth Sports program. The 1996 summer program operated at some 28,000 sites (3,400 sponsors) with an average daily attendance of 2.2 million children. Federal costs were estimated at \$253-\$265 million.

The new welfare law makes five major changes to the Summer Food Service program: lowering federal subsidies, changing the rounding rule for subsidy rates, ending authority for reimbursements for a fourth meal/snack each day, dropping special rules for National Youth Sports program sponsors, and permitting some summer sponsors to exercise an "offer versus serve" option. In addition, it makes a number of administrative amendments that delete requirements on the Agriculture Department, states, and sponsors. With the exception of the reduction in federal subsidies (effective January 1, 1997, for the summer of 1997), the summer program amendments were effective on enactment.

Reduced Federal Subsidies. Federal operating cost subsidy rates for meals/snacks served free by summer food service sponsors are substantially higher than those for free meals/snacks in other child nutrition programs. For the summer of 1996, the rates were \$2.1675 for each lunch/supper, \$1.2075 for breakfasts, and 57 cents for snacks. Assuming a 3% inflation adjustment in January 1997 (for the summer of 1997), they would rise to about \$2.23, \$1.24, and 58 cents, respectively. By comparison, the basic July 1996-June 1997 rate for free lunches in the School Lunch program (including 14.5 cents in commodity assistance) is \$1.9825, and the basic July 1996-June 1997 rate for free breakfasts in the School Breakfast program is \$1.0175.

Beginning with the summer of 1997, the new act reduces summer program subsidy rates, bringing them more closely into alignment with those for free meals/snacks in other child nutrition programs. The new base rates are set at \$1.97 for lunches/suppers, \$1.13 for breakfasts, and 46 cents for snacks. However, these rates will be indexed for inflation on January 1, 1997, and, because of this, when they actually take effect in the 1997 summer, they will be somewhat higher than the base rates laid out in the new law. Assuming a 3% inflation adjustment, they probably will be about \$2.02, \$1.16, and 47 cents, respectively.

The separate, additional inflation-indexed administrative cost payments received by summer sponsors (based on the number of meals/snacks served) are not changed by the amendments made by the new act.

Rounding Rule. As with a number of other subsidies, the new law requires that, when indexed annually for inflation, summer program operating cost subsidy rates be rounded down to the nearest whole cent (rather than rounded to the nearest quarter cent), beginning with the January 1997 adjustment.¹¹

Additional Meals/Snacks. Summer camps and institutions that primarily serve migrant children have been able to receive payments for up to four meals/snacks each day. The new act limits payments to camps and institutions serving migrants to three meals or two meals and a snack each day.

National Youth Sports Program (NYSP). Higher education institutions operating programs under the NYSP may be summer program sponsors, and, under prior law, several special rules applied to them. They could receive payments for meals/snacks served in months other than the normal program months of May through September, and children and institutions were eligible to participate "without application." Their meal/snack subsidy rates were different than other summer sponsors -- lunches and suppers were reimbursed at the School Lunch program's free lunch rate, and breakfasts and snacks were subsidized at the School Breakfast program's "severe need" rate. And they operated under different meal pattern requirements than other summer sponsors. The new act removes all of these special provisions for NYSP sponsors.

"Offer versus Serve." The new welfare law authorizes school food authorities participating as summer program sponsors to apply the "offer versus serve" rules they already use for their school meal programs -- i.e., they may permit children attending a summer program site on school premises to refuse one or more items of a meal without affecting the federal reimbursement for the meal.

Additional Amendments. Previous law gave the Agriculture Department the responsibility to "expand" the summer food service program and provide "additional" technical assistance to summer program sponsors that are having difficulty maintaining compliance with nutrition requirements. The new act eliminates these provisions of law.

State agencies have been required to establish and implement an ongoing training and technical assistance program for private nonprofit sponsors. They also had to include in their state plans (1) their method of assessing need for the summer program, (2) their best estimate of the number and character of service institution sponsors and sites to be approved (and children and meals to be served), as well as the estimating methods used, (3) their schedule for providing technical assistance and training to operators, and (4) their plans and schedule for informing potential service institution sponsors of the availability of the Summer Food Service program. The new law drops all these requirements on states.

¹¹Annual adjustments will be based on the unrounded rates for the previous 12-month period.

In general, three advance payments to summer program operators are required during any summer program. Under pre-amendment law, the second of these could not be released to any service institution sponsor that had not certified it had held training sessions for its own personnel and site personnel. The new law limits this condition for receiving the second advance payment to *nonschool* operators. It also replaces a mandate that service institutions' contracts with food service management companies require that bacteria levels conform to standards applied by the local health authority with a more general requirement that these contracts conform to all standards set by local health authorities. Finally, the new act revises a requirement that states and summer program service institutions make accounts and records available at all times to a requirement that they be available "at any reasonable time."

Start-up and Expansion Grants for School Breakfast and Summer Programs

Since 1989, provisions of the Child Nutrition Act have required that the Agriculture Department fund a program of competitively bid grants to state education agencies for the purpose of initiating or expanding school breakfast programs.¹² And 1994 amendments to the Act added a mandate for similar start-up and expansion grants for summer food service programs. These grants assist with infrastructure and other nonrecurring costs associated with setting up or adding to a program. The new welfare measure ended the authority for both types of start-up and expansion grants, effective October 1, 1996. Under previous law, these grants were mandated funding of \$5 million a year (through FY1997), \$6 million in 1998, and \$7 million a year in following years.

Eligibility of Noncitizens

Among other changes, the provisions of Title IV of the new welfare law bar illegally present (and certain other) aliens from eligibility for programs under the National School Lunch and Child Nutrition Acts. However, the child nutrition title (Title VII) effectively changes this. In the case of school meal programs, it provides that individuals eligible to receive free public education benefits are eligible for benefits under the School Lunch and School Breakfast programs, without regard to on the basis of citizenship, alienage, or immigration status. In effect, school lunch and school breakfast benefits cannot be denied because of Supreme Court decisions on denial of free public education to noncitizens. For *other* child nutrition programs (e.g., the Child and Adult Care Food program, the WIC program, summer food service programs), Title VII provides a *state option* -- it stipulates that nothing in the new law (including the provisions of Title IV) will "prohibit or require a state to provide" other benefits under the National School Lunch and Child Nutrition Acts to illegally present aliens, nonimmigrants (those admitted for a temporary purpose), short-term parolees, asylum applicants, and a few other groups of aliens granted temporary permission to remain. This option became available on enactment of the new law.

¹²Since the advent of the school breakfast start-up and expansion grant program, the proportion of schools offering federally assisted school breakfasts has increased from under half to more than two-thirds of those participating in the School Lunch program, and the number of children participating in the School Breakfast program has grown by over one-third.

School Meal Program Changes

The School Lunch and School Breakfast programs provide inflation-adjusted per-meal subsidies for each lunch and breakfast served by schools and residential child care institutions choosing to participate. Cash subsidies differ depending on whether the meal is served free (to children from families with income below 130% of the federal poverty guidelines), at a reduced price (to children from families with income between 130% and 185% of the poverty guidelines), or at "full price" (so-called "paid" meals served to those with income above 185% of the poverty guidelines, or who do not apply for free or reduced-price meals). Schools with high proportions of free and reduced price participants receive added subsidies. In FY1996, these school meal programs received some \$6.5 billion in federal cash and commodity assistance. School lunch participation was an estimated 25.9 million children (56% of whom ate free or reduced price lunches); school breakfast enrollment was about 6.6 million children (86% of whom were served free or reduced price breakfasts).

In addition to the provisions dealing with start-up and expansion grants for school breakfast programs and the eligibility of illegal aliens (both important for school meal programs, as noted above), the new law revises the rule governing how federal school meal cash subsidy rates are rounded so as to reduce some future rates and drops or changes a large number of federal requirements on states and schools.

Rounding Rule. Effective with the next annual inflation adjustment to school meal subsidy rates (July 1, 1997), the new act requires that the rates for "full price" lunches and breakfasts served to children *not* receiving free or reduced price meals because of their families' limited income be rounded down to the nearest whole cent (rather than rounded to the nearest quarter cent).¹³

Other Amendments. Beyond deleting a number of out-of-date, redundant, and unused provisions of law, the new act includes a number of amendments dropping or revising provisions of law governing school meal program administration and operations. They were effective on enactment.

The new Act *removes*:

- a requirement that the Agriculture Department establish "administrative procedures" designed to diminish food waste in schools;
- a requirement that schools use commodities designated as being in "abundance";
- a prohibition against states imposing any requirement with respect to teaching personnel, curriculum, and instruction in any school when carrying out provisions of the National School Lunch and Child Nutrition Acts (a similar prohibition on the federal government is retained);

¹³As with other changes in the rounding rule, annual adjustments will be based on the unrounded rates for the previous 12-month period, then rounded down.

- with respect to waivers, requirements that (1) waiver applications describe "management goals" to be achieved, a timetable for implementation, and the process to be used for monitoring progress in implementing the waiver (including cost implications), (2) the Agriculture Department state in writing the expected outcome of any approved waiver, (3) the Agriculture Department's decision on any waiver be disseminated through "normal means of communication," (4) waivers may not exceed 3 years (unless extended), (5) bar waivers relating to "offer versus serve" rules, and (6) service providers annually submit reports describing the use of their waivers and evaluating how the waiver contributed to improved services (and that states submit a summary of these);
- a requirement that the Agriculture Department provide "additional" technical assistance to school that are having difficulty maintaining compliance with nutrition requirements; and
- a mandate that the Agriculture Department and state education agencies carry out information, promotion, and outreach programs to expand the school breakfast program, including the use of "language appropriate" materials.

In other areas, the new law *revises* existing federal requirements.

- Schools have been able to "directly certify" students as eligible for free or reduced price meals by documenting their status as a member of a family receiving Aid to Families with Dependent Children (AFDC). In addition, children in AFDC families have been automatically eligible for free school meals. The new law replaces AFDC programs with new, state-designed Temporary Assistance for Needy Families (TANF) programs. And it allows direct certification and automatic eligibility for TANF children only if the state's TANF program standards are determined to be comparable to or more restrictive than its June 1995 AFDC standards.
- Schools electing to serve all children free meals for 3 successive years may receive payments for free and reduced price meals based on the number of meals served free or at a reduced price in the first year, thereby reducing their "paperwork" burden associated with taking applications and meal counts. Under previous law, schools electing this option (often referred to as "provision 2") as of *November 1994* were allowed to receive a 2-year extension if the income level of the school's population was determined to have remained stable, and schools receiving a 2-year extension were eligible to receive subsequent 5-year extensions. The new law allows *all* schools taking the provision 2 option to qualify for extensions.
- It makes clear that states can in their discretion terminate or suspend agreements with schools participating in school meal programs.
- It restates the requirement that schools serve meals that are consistent with the federal Dietary Guidelines for Americans by the beginning of the 1996-1997

school year, unless a waiver is granted by a state education agency. Meals must provide, on average over each week, at least one-third of the National Academy of Sciences' daily recommended dietary allowances (in the case of lunches) or one-quarter of the allowances (in the case of breakfasts).¹⁴

- It provides that school food authorities may not be required to submit free and reduced-price "policy statements" to state education agencies unless there is a substantive change in policy. Routine changes (e.g., adjusting income eligibility standards for inflation) will not be sufficient cause for requiring submission of a policy statement.
- It removes a requirement that state education agencies report each month the average number of children receiving free and reduced price lunches in the immediately preceding month and replaces it with a provision to report this information at the Agriculture Department's request.
- It revises a requirement that states, state education agencies, and schools make accounts and records available at all times to a requirement that they be available at "any reasonable time."

Assistance for State Administrative Expenses

Child nutrition law provides formula grants to states to help cover administrative costs associated with their child nutrition operations. The amount available each year is about 1.5% of federal cash payments for institutional meals programs (e.g., the School Lunch program) and totaled almost \$100 million in FY1996. The new act makes two changes in rules governing federal aid for state child nutrition administrative expenses. They were effective on enactment.

- It eliminates a provision of law that authorizes the Agriculture Department to withhold federal funding for state administrative expenses when a state fails to agree to participate in a study or survey under the National School Lunch or Child Nutrition Acts.
- It removes a requirement for annual plans for the use of state administrative expense funds and replaces it with a mandate to submit any substantive plan changes for approval.

¹⁴This amendment does not affect provisions of law enacted earlier in 1996 (the Healthy Meals for Children Act; P.L. 104-149) that provided that schools may use "any reasonable approach" to meeting federal nutrition standards for school meals. This law is described in the next part of this report. Given the new law's late August enactment, the amendment also deletes a directive that, prior to the beginning of the 1996-1997 school year, schools notify students and parents as to the nutrition content of school meals and their consistency with the Dietary Guidelines for Americans.

Commodity Distribution

The Agriculture Department supplies commodity support for meals served in the School Lunch, Child and Adult Care Food, and Summer Food Service programs. Schools and other institutions are "entitled" to a specific dollar value of commodities based on the number of meals they serve, and most of the commodity aid goes to the School Lunch program. The Department purchases commodities to fulfill this requirement with an eye to meeting the preferences of recipient agencies, supporting agriculture prices, and removing surpluses. In some cases cash is provided in lieu of commodity assistance, and schools also can receive "bonus" commodities donated from excess federal stocks. Entitlement commodities must, by law, make up at least 12% of total federal school lunch assistance, and, in FY1996, total entitlement commodity aid was some \$680 million.

The new welfare law makes four changes that affect commodity distribution provisions for child nutrition programs; they were effective on enactment.

- A requirement that cereal and shortening and oil products be included among products donated to the school lunch program is eliminated.
- A mandate to purchase specific amounts of low-fat cheese for school meal programs is ended.
- The requirement for formal state advisory councils on selection and distribution of commodities is replaced with a requirement that state agencies meet with local school food service personnel when making decisions regarding commodities used in school meal programs.
- Specific authority for the Agriculture Department to prescribe the terms and conditions under which donated commodities will be used in schools and other participating institutions is dropped.

The WIC Program

The WIC program provides nutritious foods to lower-income pregnant, postpartum, and breastfeeding women, and to infants and children (up to age 5). Foods are provided through vouchers issued to recipients and used to purchase prescribed items at approved retail outlets, or, less commonly, directly to recipients through the local administering agency or home delivery. Although states have some discretion, recipients' family income can be no higher than 185% of the federal poverty guidelines. In addition to meeting an income test, enrollees must be judged at "nutritional risk" by health professionals, typically through administering local health agencies. The program also provides federal financial support for state and local agency administrative costs, including those associated with nutritional risk assessments, nutrition education and counselling, health care referrals, and breastfeeding promotion -- as well as a small "farmers' market" program where WIC vouchers are used by recipients to buy fresh foods. Federal funds, as determined by appropriations levels, are made available to state health agencies (and Indian tribal organizations) under a formula that reflects caseloads, food cost inflation, need (as

evidenced by state poverty and health indices), and a specified national average per participant grant for administrative costs. In FY1996, participation averaged over 7 million women, infants, and children, and federal costs were an estimated \$3.6 billion.

Vendor Disqualification. The new law adds one new major provision affecting operations of the WIC program. Effective on enactment, WIC vendors (retailers) that have been disqualified from participation in the food stamp program will be disqualified as WIC vendors. The disqualification is for the same period of time as the food stamp disqualification and will not be subject to separate WIC program administrative and judicial review procedures.¹⁵

Other Amendments. Effective on enactment, the new law also contains a number of administrative amendments removing or revising federal requirements.

The new act *eliminates*:

- a requirement that the Agriculture Department "promote" the WIC program by producing and distributing materials, including public service announcements in English and other appropriate languages;
- a requirement for a biennial report from the Agriculture Department on the characteristics of WIC participants, participation by migrants, and other matters;
- a mandate that state agencies annually evaluate nutrition education and breastfeeding support and promotion activities;
- specific authority for local WIC agencies to use "master files" in monitoring individuals required to be included in group nutrition education classes;
- a state plan requirement for an estimate of increased participation when states opt to convert food funding to support the costs of administration and nutrition services;
- requirements as to how quickly state agencies must respond to local agency applications to participate;
- requirements as to the content of recipient suspension and termination notices;
- a directive for federal administrative standards for states, including staffing standards;
- a provision that stipulates that products specifically designed for pregnant, postpartum, and breastfeeding women, or infants, may be made available if they are commercially available or are federally approved based on clinical tests;

¹⁵The new welfare law also includes a similar rule disqualifying food stamp retailers that have been disqualified for WIC participation.

- a provision specifically allowing states to adopt benefit delivery methods that accommodate the special needs and problems of incarcerated individuals;
- a requirement for pilot projects to determine the feasibility of using "universal product codes" to aid vendors in providing the correct infant formula to WIC participants;
- specific rules governing the Agriculture Department when it solicits infant formula bids on behalf of states (authority to do so is retained);¹⁶ and
- requirements that the Agriculture Department "promote" the joint purchase of infant formula by states, "encourage" the purchase of items other than infant formula under "cost containment" procedures, inform states of the benefits of cost containment procedures, and provide technical assistance related to cost containment.

In other areas, the new legislation *changes* federal rules.

- AFDC recipients have been automatically income eligible for WIC assistance. The new law replaces AFDC programs with new state-designed TANF programs and allows automatic WIC eligibility for TANF recipients only if the state's TANF program standards are determined to be comparable to or more restrictive than its June 1995 AFDC standards.
- It stipulates that, after 1 year in a "temporary" accommodation, individuals will not be considered "homeless" (and eligible for special treatment).
- It removes requirements that state agencies "ensure" that (1) written information about food stamps, Aid to Families with Dependent Children (which the new law replaces with the program of Temporary Assistance for Needy Families), and the child support enforcement program is provided to WIC applicants and participants and (2) local agencies maintain and make available a list of local resources for substance abuse counselling and treatment. These are replaced with (1) general authority for state agencies to provide local agencies with materials describing other programs for which WIC participants may be eligible and (2) a requirement that local agencies maintain and make available lists of local substance abuse counselling and treatment resources.
- It revises a requirement for *annual* state plans to provide that state agencies only be required to submit substantive changes in their plan for federal approval.
- It removes state plan requirements for coordination with a specific list of special counselling services and programs and replaces them with a general directive that states coordinate WIC operations with other services and programs.

¹⁶None of the amendments affecting procurement practices affect contracts for infant formula in effect at enactment of the new law.

- It drops requirements that state plans include their plans to provide WIC benefits to unserved and underserved areas, those most in need, and incarcerated persons, but retains plan requirements for improving access for the employed and those in rural areas and reaching and enrolling migrants and women in the early months of pregnancy.
- It makes it a state *option* to provide WIC services and materials in languages other than English.
- It revises authority for the Agriculture Department to ask for information "as may be required" in a state's plan to a stipulation that plans must include only information as may "reasonably" be required.
- It changes the requirement that state and local WIC agencies make accounts and records available at all times to a requirement that they be made available at "any reasonable time."
- It makes it a local agency *option* whether to provide information about other potential sources of food assistance.
- It provides that the National Advisory Council on Maternal, Infant, and Fetal Nutrition will select its Chairman and Vice-chairman, rather than the Secretary of Agriculture.

Nutrition Education and Training Program¹⁷

States receive nutrition education and training funds to help train school food service personnel, instruct teachers in nutrition education, and teach children about nutrition. Under prior law, the Agriculture Department was *directed* to allocate \$10 million a year among states. Each state received an allotment based on its share of national school enrollment (at 50 cents a child); grants were ratably reduced if the funding was insufficient to meet the 50-cent-a-child level, but, generally, no state could receive less than \$62,500.

Funding. The new law's primary amendment affecting the Nutrition Education and Training (NET) program converts it from a program for which funding is "mandatory" (required and permanently appropriated since the 1994 amendments to the Child Nutrition Act) to one for which funding is "discretionary" (dependent on decisions made with each year's appropriations). As a result, starting with FY1997, annual funding for this program will not be "guaranteed" at the \$10 million-a-year level set under pre-amendment law. Instead, the new Act *authorizes* annual appropriations of up to \$10 million. State grants from the amount appropriated will be based on a rate of 50 cents for each child enrolled in school, with a minimum award of \$75,000. If funds are insufficient to provide grants based on the 50 cent/\$75,000 rule, the amount of each state's grant will be ratably reduced.

¹⁷Changes to this program were effective on enactment.

The immediate effect of this change was to greatly reduce FY1997 funding for the NET program to a point well below the \$10 million a year provided in recent years. The FY1997 agriculture appropriations measure (P.L. 104-180) was enacted on August 6, 1996, *before* the new welfare reform and budget reconciliation law. It assumed mandatory funding status for the NET program and contained no specific 1997 appropriation for the program. As a result, when FY1997 began, no money was available because the new law had ended the mandatory funding directive for the NET program. However, following an unsuccessful attempt in the closing days of the 104th Congress to enact a law diverting other funds to support the NET program, the Agriculture Department advised Congress (on December 11, 1996) that it was providing \$3.75 million for the 1997 NET program by redirecting other child nutrition funds. In the longer term, financial support for the program will be dependent on annual appropriations decisions.

Other Amendments. In addition to the funding amendment, the new act rewords and simplifies the federal law's statements regarding the purpose of the NET program, revises a requirement that state education agencies make accounts and records available at all times to a directive that they be available at "any reasonable time," and eliminates specific provisions of law directing how nutrition education and training funds may be spent -- replacing them with general authority for states to use nutrition education and training funds for other "appropriate activities" *as determined by the state*. The dropped provisions include *specific* permission to use funds for:

- funding a nutrition component in homemaking and health education;
- instructing teachers and school staff on how to promote better nutritional health and motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits;
- developing means of providing nutrition education in "language appropriate" materials through after-school programs;
- training related to healthy and nutritious meals;
- creating instructional programming on the "Food Guide Pyramid" (including language appropriate materials);
- funding aspects of the "Strategic Plan for Nutrition Education";
- encouraging public service advertisements to promote healthy eating habits for children (including language appropriate materials and advertisements);
- coordinating and promoting nutrition education and training activities in local school districts;
- contracting with public and private nonprofit education institutions to conduct nutrition education and training;

- increasing public awareness of the importance of breakfasts; and
- coordinating and promoting nutrition education and training activities that include the summer and child care food programs.

The new legislation also (1) ends planning and assessment grants for nutrition education and training (and their attendant comprehensive plans) and (2) eliminates specific federal requirements for state nutrition education coordinators' assessment of the nutrition education and training needs of the state.

Pilot Projects

The new welfare law makes two changes affecting pilot project authority under the National School Lunch Act (effective on enactment).

- It eliminates authorization for "universal free lunch" projects that are similar to "provision 2" authority found elsewhere in law (separate, additional authority for "universal" free meal projects is retained).¹⁸
- It makes funding for pilot projects for grants to provide meals and snacks to adolescents in programs outside school hours *optional* and authorizes "such sums as are necessary" for fiscal years 1997 and 1998.¹⁹

Coordination of School Lunch, School Breakfast, and Summer Programs

Finally, the new act requires the Agriculture Department to develop proposed changes to regulations for the School Lunch, School Breakfast, and Summer Food Service programs in order to simplify them and coordinate them into a comprehensive meal program. The Department must consult with local, state, and regional administrators in developing these proposed changes and submit a report to Congress no later than November 1, 1997.

SCHOOL MEALS AND FEDERAL NUTRITION STANDARDS: THE HEALTHY MEALS FOR CHILDREN ACT

Background

The School Nutrition Dietary Assessment (SNDA) study released in the fall of 1993 showed that school lunches often did not conform to important nutrient standards in the Dietary Guidelines for Americans; in particular, fat, sodium, and carbohydrate levels were found to be significantly out of line with the Guidelines' goals. In response, School Lunch and Breakfast program rules were changed by the Agriculture Department and Congress

¹⁸See discussion on page 13 for a description of provision 2.

¹⁹Under pre-amendment law, these projects were *required* to be funded at \$475,000 a year in fiscal years 1996 and 1997 and \$525,000 in 1998.

to (1) require that schools serve meals meeting the Guidelines by the beginning of the 1996-1997 school year (unless a time-limited waiver is granted by the state) and (2) allow schools to choose any of three alternatives for doing so. These new standards were given effect in June 1995 regulations.

Schools could use a new "food-based" meal pattern established in regulations and judged by the Agriculture Department to comply with the Guidelines, a new method for meal planning and menu preparation called "Nutrient Standard Menu Planning" (NuMenus), or a modified form of NuMenus called "Assisted NuMenus." The food-based menu option required that school meals provide minimum amounts of specific food components (e.g., meat or meat alternatives, bread or bread alternatives, vegetables, fruit, milk); however, it was significantly different from the food-based meal pattern in use under prior rules in order to address nutrient standards in the Guidelines. In contrast to the more traditional food-based approach, NuMenus required (1) a nutrient analysis of all foods offered over a school week, (2) changes in menus, when analysis indicated, to ensure that meals meet nutrition standards, and (3) a minimum number of menu items (including an entree and milk). To comply with this new system, schools were expected to use computers and special software to analyze and redesign their meal offerings. Alternatively, regulations provided that schools could use the Assisted NuMenus approach, under which they arrange for nutrition analysis and menu development by outside entities (state agencies, consultants, school consortiums) and use food-based menus under limited conditions.²⁰

Legislation

There was little debate about whether school meals should meet the Guidelines. However, schools argued that they needed flexibility greater than allowed by the three options provided under the June 1995 regulations; the Agriculture Department's addition of the third, food-based option in response to 1994 legislation did not assuage schools' concerns. Attempts to work out differences over the rules with the Department were unsuccessful. And, in response, Congress initiated a bipartisan measure, the Healthy Meals for Children Act (P.L. 104-149), that significantly expands schools' meal-planning choices in implementing the Guidelines.²¹

This law does not affect the mandate that schools serve meals meeting the Guidelines beginning with the 1996-1997 school year (unless a state grants a waiver). But it allows schools to use "any reasonable approach," within general guidelines from the Agriculture Department, to comply with the Dietary Guidelines -- including the three options set out in the June 1995 regulations, schools' 1994-1995 meal patterns, or other alternatives. It

²⁰The NuMenus and Assisted NuMenus approaches originally were proposed by the Administration in June 1994 Agriculture Department regulations. Because of a congressionally initiated change in law in late 1994 (P.L. 103-448), the food-based option was added when final regulations were issued in June 1995.

²¹In an earlier attempt to expand schools' choices, Congress included a similar amendment in the vetoed 1995 welfare reform measure (H.R. 4).

also bars the Department from requiring schools to use "nutrient analysis" in carrying out their responsibility to comply with the Guidelines.

In its original form (with no explicit mention of federal controls), the Agriculture Department opposed the new law because it felt it would likely undermine effective implementation of the Guidelines. On the other hand, schools and a bipartisan group of House and Senate members felt that their earlier efforts to gain needed flexibility had been, in effect, rebuffed. They maintained that the cost and complexity of carrying out the Department's basic scheme for meeting the Guidelines was too great (particularly with regard to the detailed menu, nutrient, and meal-planning information required of schools), that schools needed more control over meal planning to meet student preferences, and that schools were capable of complying with the Guidelines without necessarily being limited to the approaches in the June 1995 regulations. After further negotiations that included the White House, the measure was changed, and, as adopted, included language that the Administration agreed would respond to the Department's concerns by providing for some federal guidance as to the approaches that schools choose. However, House and Senate floor statements and colloquies made clear that the Department was to use the permission for federal guidelines sparingly so as to ensure maximum flexibility for schools.

The Healthy Meals for Children Act was approved as H.R. 2066 (H.Rept. 104-561) on May 14, 1996, in the House and on May 16, 1996, in the Senate.²² It was enacted as P.L. 104-149 on May 29, 1996.

LEGISLATIVE BACKGROUND: WELFARE REFORM AND BUDGET RECONCILIATION

1995 Welfare Reform in the House

The original House Republican welfare reform proposal, introduced as the Personal Responsibility Act (H.R. 4) in early 1995, proposed to eliminate virtually all federal food assistance programs and activities (including food stamps, Older Americans Act nutrition programs, and child nutrition and commodity donation efforts) and replace them with a food assistance block grant apportioned among the states. Within minimal federal standards, states would use their block grant to provide whatever food aid they chose to whomever they determined eligible, but with federal funding reduced significantly below what was scheduled to be spent under the existing food assistance laws. However, this proposal was substantially revised as reported by the House Economic and Educational Opportunities Committee. Approved by the House with some amendments on March 24, 1995, H.R. 4 created two food assistance block grants, replacing *child nutrition* programs

²²The House and Senate bills were identical, and no Senate or conference reports were issued. A Senate companion bill also was introduced: S. 1613.

only.²³ The two grants were to replace all automatic federal child nutrition "entitlements" to states and providers (e.g., schools) dependent on "need" (e.g., meals served), plus the WIC program (a "discretionary" grant program with spending dependent on annual appropriations decisions).

The bill's *school-based nutrition block grant* took the place of existing support for school-operated child nutrition programs. States would receive annual grants to provide assistance to schools in establishing and carrying out food service programs for students, including school breakfast and lunch programs and school-sponsored programs for before- and after-school child care, low-cost milk services, and summer meals. In effect, these were roles that schools could take on under the existing School Lunch and School Breakfast programs, and, to a much lesser extent, in the Child and Adult Care Food program, the Special Milk program, and the Summer Food Service program. Under the block grant, states, rather than the federal government, determined program design and set eligibility conditions and benefits for schools and children, as well as minimum nutrition standards (based on nutrition research or model standards to be developed by the National Academy of Sciences). However, they were required to ensure that not less than 80% of their grant was used to provide free or low-cost meals or snacks to "economically disadvantaged" students (those with family income below 185% of the federal poverty guidelines).²⁴ States were *entitled* to a share of an annual grant rising (between 4% and 4.2% a year) from \$6.681 billion in FY1996 to \$7.849 billion in FY2000.²⁵ Their share was based on their portion of the previous year's spending on school-based meal programs and, increasingly over time, their share of meals served nationally under the block grant programs.

The proposed *family nutrition block grant* funded nutrition programs outside schools. States would receive annual grants to provide for (1) services and food assistance to lower-income pregnant, postpartum, and breastfeeding women, infants, and young children judged to be at nutritional risk (replacing the WIC program), (2) food service in day care centers and family day care homes providing child care to lower-income children (in place of the Child and Adult Care Food program),²⁶ (3) summer food service to lower-income children (replacing the Summer Food Service program), (4) milk to lower-income children

²³Although it did not block grant other programs, H.R. 4 greatly changed the Food Stamp program; food donation programs for the needy (already structured as grants to states) were merged; and Older Americans Act nutrition programs were expected to be revised in separate amendments to that Act. Food stamp and food donation program revisions were reported separately by the House Agriculture Committee.

²⁴Under federal school meal programs, children from families with income below 185% of the federal poverty guidelines are eligible to receive either free or reduced price meals.

²⁵Of course, spending for individual program efforts within the grant (e.g., lunch programs) could grow faster or slower than the size of the overall grant, and block grant supporters maintained that the school lunch funding available rose at the rate of 4.5% a year.

²⁶No provision was made for continuing *adult* day care center assistance in H.R. 4. It was anticipated that separate legislation revising Older Americans Act programs would provide for this.

in nursery school, child care, and other out-of-school settings (as with the non-school portion of the Special Milk program), and (5) meals to pre-school homeless children in shelters (in place of the Homeless Children Nutrition program). States were given control over program design, eligibility conditions, and benefits -- so long as they did not provide benefits to those with family income above 185% of the federal poverty guidelines, established nutrition standards based on research or National Academy of Sciences model standards, and used not less than 80% of their grant on "WIC-like" services and benefits. Annual appropriations for this grant were *authorized* at \$4.606 billion in FY1996, rising (between 3.3% and 3.7% a year) to \$5.308 billion in FY2000. State shares were based on their portion of the previous year's spending and, increasingly over time, their share of national participation under the block grant programs.

Finally, a separate title of H.R. 4 also barred eligibility for assistance under the two child nutrition block grants to unlawfully resident aliens (and certain lawfully present "nonimmigrant" aliens) and required that noncitizens with "sponsors" have their sponsor's income "deemed" to them in determining financial eligibility for child nutrition aid.

Overall federal child nutrition spending under the two block grants would have continued to increase, but at a *slower pace* -- about 4% a year as opposed to over 5% a year projected under existing federal laws. When compared to CBO estimates of expected federal outlays under child nutrition laws, full appropriations for both block grants would have totaled \$5.2-\$7.1 billion less for FY1996-FY2000 and \$8.1-\$11.7 billion less through FY2002. These savings represented 8%-10% of anticipated overall child nutrition spending (including the WIC program) under existing laws for FY1996-FY2000 and a potential 7-year reduction of 8%-12% through FY2002.²⁷

Just as important as the overall level of block grant funding was the *distribution* of the spending reductions. The lion's share of savings, at least three-quarters, was accomplished by establishing the family nutrition grant. This grant provided funding for WIC-like activities that was \$100-\$200 million a year *higher* than the CBO's inflation-adjusted projections by guaranteeing them at least 80% of each year's grant. But this guarantee dramatically cut (by well over 50% through FY2002) money available for support of child care and summer food service programs. Under the family nutrition grant, WIC-like activities (which were appropriated about \$3.5 billion for FY1995, projected to rise to almost \$4.4 billion in FY2002 using the CBO's inflation adjustments) would have

²⁷The higher savings figures cited here assume that federal appropriations for a separate WIC program (which is not an entitlement) would continue to grow at about 3%-4% a year if child nutrition laws were not changed. The lower figures assume no significant increase in WIC spending under existing laws. Neither savings figures include up to \$300 million in potential spending reductions from lowered federal spending on administration and activities not directly replaced by the block grants (e.g., nutrition education and training grants, federal technical assistance).

The savings figures cited here are those available at the time the House and Senate acted on their welfare reform and budget reconciliation measures (i.e., using the CBO March 1995 "baseline" estimates of spending under existing laws). Later savings figures (done in December 1995, using an updated CBO baseline) indicated significantly smaller savings under the House bill: \$4.0-\$5.8 billion through FY2000 and \$5.8-\$9.4 billion through FY2002 (6%-9% through 2000 and 6%-10% through 2002).

been supported with just under \$3.7 billion in FY1996, rising to an estimated \$4.6 billion in FY2002. But potential food assistance funding for child care and summer programs -- that, under existing laws, was over \$1.7 billion in FY1995 and was projected to rise to about \$3.1 billion by FY2002 -- would have ranged from about \$900 million in FY1996 to an estimated \$1.2 billion in FY2002.²⁸

The future growth in spending for school meal programs (including associated commodity and state administrative cost assistance) also would have been reduced, but by significantly less: just over \$900 million for FY1996-FY2000 and \$2.2 billion through FY2002 (or 2.5% and 4%, respectively, of spending scheduled under existing laws).²⁹

1995 Welfare Reform in the Senate

The Senate's version of the welfare reform bill (H.R. 4), approved September 19, 1995, approached child nutrition programs very differently from the House. Although, as with the House bill, the bulk of the Senate's budget savings came from reduced support for child care and summer programs, it reduced overall child nutrition spending by much less, included no block grants, and achieved savings by revising existing program rules.³⁰

The largest change proposed by the Senate was a restructuring of the *family day care home* component of the Child and Adult Care Food program. It created a new "two-tier" system for paying subsidies to day care homes, effectively reducing subsidies for day care homes not located in lower-income areas or without a lower-income provider in order to target assistance more on lower-income children. Other significant Senate amendments (1) substantially reduced subsidies for summer programs, (2) dropped an extra payment of 2 cents a lunch to schools with high proportions of lower-income students receiving free and reduced-price meals, (3) required that, when indexed for inflation, all child nutrition per-meal/snack subsidy rates be rounded down to the nearest lower cent (rather than rounded to the nearest quarter cent), (4) reduced subsidies for school breakfasts served to nonpoor children, (5) suspended inflation adjustments to per-meal subsidies for all meals served to

²⁸Because the House bill allowed states to transfer funds among block grants and specifically stipulated that the school-based nutrition grant could be used for child care and summer programs operated by schools (partially basing the state allocation formula on this assumption), the actual level of support for child care and summer programs under the grants would likely have been higher than the figures cited here -- but not by enough to approach anticipated spending under existing laws given the cut in basic support under the family nutrition grant. However, it should be noted that the bill barred states from using the family nutrition grant to provide benefits to recipients with family income above 185% of the federal poverty guidelines (a limit not placed on the existing child care and summer programs), reducing the potential "need" for block grant funds in child care and summer programs.

²⁹By some estimates allocating savings between the block grants differently (i.e., fewer savings allocated to the family nutrition grant and larger savings from the school-based grant), school lunch and breakfast reductions were larger than indicated here because, as allowed by the House bill, significant amounts of the school-based grant were assumed to be spent on outside-of-school programs (e.g., child care and summer programs sponsored by schools).

³⁰In addition, with regard to *child nutrition programs*, the Senate's bill did not contain the House's sponsor deeming requirements and rules against illegal aliens and nonimmigrants.

nonpoor children for 2 years and suspended indexing of commodity and milk assistance subsidy rates for 1 year, (6) eliminated start-up and expansion grants for school breakfast and summer programs, (7) lowered the required funding level for nutrition education and training, and (8) ended several reporting requirements and called on the Agriculture Department to review remaining requirements so that they might be reduced or ended. The WIC program was left untouched.

The CBO estimated that the Senate's amendments would reduce overall child nutrition outlays by \$2.3 billion for FY1996-FY2000 and \$3.7 billion through FY2002, or under half its estimate of savings under the House bill. These savings amounts represented 3.4% of the CBO's expected child nutrition spending level under existing laws (including an inflation-adjusted WIC program) for FY1996-FY2000 and 3.7% through FY2002.³¹ Some 70% of these savings (\$1.6 billion through 2000 and \$2.6 billion through 2002) were achieved by restructuring and lowering day care home subsidies. About 4% (\$100- \$200 million) came from reduced summer program subsidies. And most of the remaining savings resulted from the changes primarily affecting school meal programs.

While the Administration opposed the House bill's block grants, it expressed some support for the Senate's restructuring of subsidies for family day care homes and its changes to subsidy indexing. And Democratic congressional alternatives included day care home provisions very similar to the Senate's.

1995 Budget Reconciliation in the House and Senate

Following House and Senate approval of their welfare reform (H.R. 4) initiatives, the two chambers passed their versions of the 1995 budget reconciliation measure (the Balanced Budget Act; H.R. 2491) on October 26 (House) and October 27, 1995 (Senate). The House incorporated the child nutrition block grant provisions of H.R. 4 it had approved in March 1995. On the other hand, the Senate chose to adopt a changed version of the child nutrition provisions of its welfare reform bill. The Senate's budget reconciliation initiative increased child nutrition savings (above those in its welfare reform bill) to \$2.7 billion through FY2000 and \$4.4 billion through FY2002 by adding a reduction in the level of child nutrition program *commodity assistance*, further lowering subsidies for summer programs, and lengthening the suspension of inflation adjustments to milk and commodity assistance subsidy rates to 2 years.

1995 Budget Reconciliation Conference Agreement

House and Senate passage of their respective welfare reform and budget reconciliation bills set the stage for a prolonged and contentious House-Senate conference debate over the child nutrition provisions of each version, with the same conferees on both measures.

³¹If inflation adjustments for the WIC program are not included, the percentage reductions increase slightly to 3.5% and 3.8%, respectively. If spending for the WIC program is not included at all (it was left untouched by the Senate bill), the percentage reductions are 4.7% and 5.1%, respectively. The estimates presented here are those using the CBO's March 1995 baseline projections of spending under current law when the Senate bill was considered; later (December 1995) lowered these savings slightly.

The major "sticking point" was the proposal for child nutrition block grants in the House bills. In the budget reconciliation agreement, block grant supporters were unable to get conferees to adopt any child nutrition block grant provisions. A tentative conferees' agreement on (1) proposals (made in conference) that removed or modified many federal administrative requirements on states and child nutrition providers coupled with (2) some optional block grants was left out in large part because of the Senate's "Byrd Rule" limits on "extraneous" reconciliation bill amendments without significant federal budget effects. However, the later *welfare reform* agreement (to which the Byrd Rule did not apply) included provisions for a state-option block grant demonstration for school meal programs, along with amendments, suggested from the House, dropping or revising numerous federal child nutrition administrative requirements

The child nutrition component of the conference agreement on the *budget reconciliation* bill (the Balanced Budget Act; H.R. 2491; H.Rept. 104-350) -- passed by the Senate and House on November 17 and 20, 1995 -- followed much of the Senate's reconciliation legislation. However, House-Senate conferees expanded on and added to the Senate's amendments to more nearly approach the larger savings in the House bill. The CBO estimated that the conference agreement would achieve federal outlay savings of \$5.7 billion for FY1996-FY2002 (up from \$4.4 billion in the Senate bill). These savings represented a 5.6% reduction in expected child nutrition spending (including anticipated funding for an inflation-indexed WIC program) through FY2002 -- a reduction of just under 8% if the WIC program is left out of the calculation.³² And they included some \$500 million attributable to the agreement's ban on illegal aliens' eligibility for child nutrition assistance.³³

- The largest programmatic change in the conference agreement was restructuring and lowering subsidies for family day care homes (\$3 billion, or just over half, of the total reductions achieved). Conferees expanded on the Senate's proposal by further reducing subsidy rates, eliminating subsidies for a fourth meal/snack each day in certain child care settings, and dropping aid for the nondisabled in adult day care.
- Federal per-meal/snack cash subsidy rates were substantially changed. The Senate proposal that all subsidy rates be rounded down to the nearest cent was included, as were a lowered subsidy for breakfasts served to non-poor students and a 2-year suspension of inflation indexing for cash subsidies for all meals/snacks served to nonpoor children and milk assistance. Elimination of an extra 2 cents a lunch for schools with high proportions of children receiving free and reduced-price lunches was adopted, but phased in over 2 years. And

³²At this point in congressional consideration, "traditional" CBO 5-year savings estimates (through FY2000) were no longer relevant since reconciliation was aimed at balancing the budget by FY2002. Later (December 1995) estimates by the CBO reduced the savings in the reconciliation agreement to a total of \$5.4 billion through FY2002.

³³For child nutrition programs, this included a bar against nonimmigrants' eligibility, but not the House's requirement that sponsors' income be "deemed" to sponsored noncitizens.

subsidy rates for summer programs were reduced as recommended in the Senate reconciliation measure; National Youth Sports Program sponsors' eligibility for summer program aid was narrowed and the subsidies they receive were reduced; and support for a fourth meal/snack each day in summer camps and migrant projects was dropped.

- Budget savings from summer program reductions were about \$350 million. And some \$1.85 billion in program outlay savings came from the changes to cash subsidy rates noted above and, as discussed below, less commodity assistance (primarily affecting school lunch programs) and smaller modifications dealing with start-up/expansion grants, nutrition education and training funds, an information clearinghouse, and pilot projects.
- The reconciliation conference agreement provided for separate commodity assistance subsidy rates for poor and non-poor children for the first time by lowering the subsidy rate for meals served to nonpoor children and effectively suspending indexing of the rate for meals served free or at a reduced-price for 2 years. It also required that, when indexed, commodity rates be rounded down to the nearest cent and reduced the overall amount of commodity assistance guaranteed by law.
- Other significant changes in the reconciliation agreement included elimination of start-up and expansion grants for school breakfast and summer programs, conversion of funding for the Nutrition Education and Training program from "mandatory" to "discretionary" (i.e., making funds dependent on annual appropriations decisions), and ending authority for an information clearinghouse and certain pilot projects testing means of expanding school meal programs.

1995 Welfare Reform Conference Agreement

House-Senate conferees on the separate welfare reform legislation (H.R. 4) reached agreement on December 20, 1995 (H.Rept. 104-430), and the House and Senate approved it on December 21 and 22, 1995. With respect to child nutrition programs, this congressional accord differed greatly from that reached for budget reconciliation, and the CBO-estimated savings were roughly \$1.8 billion less than under the reconciliation agreement: \$3.9 billion for FY1996-FY2002.³⁴ Just under \$400 million of this expected outlay reduction arose from the bill's bar against illegal aliens' child nutrition program eligibility.³⁵ And, even more than the budget reconciliation agreement, the bulk of the child nutrition savings were achieved through reductions in spending for family day care homes (some three-quarters of the total) and summer programs (almost 10%). The budget reductions in the welfare reform agreement represented about 3.8% of projected child

³⁴As with the reconciliation measure, December 1995 CBO reestimates reduced the welfare reform agreement's savings to \$3.8 billion through FY2002.

³⁵This amendment included the provisions incorporated earlier in the reconciliation agreement (see page 27 and footnote 33), but savings were less because of a change in the assumed effective dates.

nutrition spending under existing laws through 2002 (including the WIC program), or just over 5% of spending without an accounting for the WIC program.

Congress' welfare reform measure incorporated the reconciliation agreement's provisions restructuring and lowering subsidies for family day care homes, reducing assistance for summer programs, and barring eligibility for illegal aliens. But it contained virtually *no* basic revision of school meal programs -- accounting for its lower expected savings. Beyond the day care home and summer program changes, and the bar against eligibility for illegal aliens, the agreement included (1) elimination of school breakfast and summer program start-up and expansion grants, (2) conversion of funding for the Nutrition Education and Training program from mandatory to discretionary spending, (3) an end to authority for an information clearinghouse and certain pilot projects exploring means of expanding school meal programs, (4) amendments removing a large number of federal administrative requirements and out-of-date or "unnecessary" provisions of law, (5) a provision allowing schools to use "any reasonable approach" in meeting federal nutrition standards,³⁶ and (6) a demonstration pilot permitting up to seven states to opt for a *block grant* replacing their school lunch and breakfast programs. All but the last three items had been included in the reconciliation agreement. And a number of provisions not in either chamber's bill (e.g., those removing federal administrative requirements and giving schools more flexibility in meeting federal nutrition standards) were added by conferees at the House's insistence to provide some administrative relief when it became clear that overarching block grant authority would not be included.

Perhaps the most significant feature (although not in terms of dollar savings) of the welfare reform agreement on child nutrition program changes was its optional child nutrition block grant demonstration, adopted as a partial reconciliation of the conferees' strong differences over the mandatory grants proposed by the House. These provisions allowed up to seven states to opt for a block grant in lieu of receiving funding under the federal School Lunch and Breakfast programs and associated commodity assistance. To qualify for a grant a state was required to commit to (1) offering free meals to students with family income below 130% of the federal poverty guidelines and "lower-cost" meals to those with family income between 130% and 185% of the guidelines, (2) ensuring that the proportion of lower-income students served and the funding supporting them was maintained at pre-block-grant levels, and (3) implementing nutrition standards consistent with the goals of federal guidelines. For the first year, block grant funding was the projected amount available under regular school meal programs; in later years, limited adjustments for changes in food prices and school enrollment were provided. Opting states could not reverse their election until the end of the block grant authorization period (the end of FY2000), and the Agriculture Department was prohibited from waiving any of the block grant requirements noted above.

³⁶Also see this report's earlier discussion of school meals and federal nutrition standards for later legislation on this issue.

Presidential Vetoes of 1995 Legislation

On December 6, 1995, the President vetoed the 1995 congressional agreement on budget reconciliation (the Balanced Budget Act; H.R. 2491). This was followed with a veto of Congress' welfare reform legislation (the Personal Responsibility and Work Opportunity Act; H.R. 4) on January 9, 1996.

The 1995 Debate

There were five major areas of particular interest in the 1995 child nutrition reform debate: block grants, the size of budget savings to be achieved, the proportional "balance" of spending reductions among child nutrition programs, and the extent of changes affecting family day care homes and summer programs.

- Proponents of the House's child nutrition block grants maintained that they were needed to help control federal spending, limit aid to the nonpoor, and give states, schools, and other providers the flexibility needed to design more efficient, less costly, and locally tailored programs by removing most federal requirements. Significant annual increases in federal financial support were provided, and savings from more efficient child nutrition delivery systems could make up for any losses in federally guaranteed support. Opponents were seriously concerned about ending national eligibility and nutrition standards and the federal guarantee of "entitlement" funding according to need, the overall reduction in the growth of spending contemplated in the block grant plan, the possibly "skewed" distribution of federal support among the states that could result from the relatively "fixed" block grant funding scheme, and the potential inability of a block grant system to respond to increased need caused by economic downturns. In the end, Congress agreed to a limited block grant demonstration for school meal programs and elimination of a relatively large number of what were perceived as overly prescriptive or unneeded federal administrative requirements, rather than mandatory block grants or, as a proposed compromise, optional grants available to all states. This optional block grant demonstration also provoked opposition because it was viewed by some as opening the door to undermining a federal commitment to the nutritional well-being of children, and opting states could find themselves "locked into" grants that might make it difficult to provide adequate support in times of greater need. Supporters of the demonstration argued that it was the least that could be done to test whether a block grant approach could help states design more efficient child nutrition services.
- The Administration and congressional Democrats supported changes to noticeably reduce future federal child nutrition spending (e.g., up to about \$2.4 billion through FY2002 in the Senate Democrats' welfare reform alternative). But they and others saw the congressional budget reconciliation and welfare reform conference agreements (particularly the \$5.7 billion in the budget reconciliation agreement) as "going too far" in reducing child nutrition spending. Supporters of Congress' agreements argued that larger savings were needed as

part of the effort to control and balance the federal budget by 2002 and noted that most of the savings were from assistance to nonpoor children. However, as the debate progressed, differences over the extent of any reductions narrowed -- largely because of the relatively big food stamp savings in the reconciliation and welfare reform measures, the difficulty of achieving major additional reductions without substantially affecting school meal programs, CBO reestimates, and the loss of potential savings as FY1996 began without enacted legislation.

- Above about \$2.4-\$2.6 billion through 2002 (the child nutrition savings level achievable with bipartisan support by restructuring and reducing subsidies for day care homes and some other minor changes), there was concern over the *distribution* of any additional savings among the various child nutrition programs. While there was general agreement that there should be no decrease in support for the WIC program, the Administration and congressional Democrats were opposed to reductions for family day care homes beyond roughly the levels included in the Senate welfare reform bill. Any added savings, they maintained, should, *if necessary*, be spread over other child nutrition programs, including school meal programs. To do so, they expressed guarded support for amendments such as changing rounding rules and other provisions in the Senate's welfare reform measure. Supporters of the congressional agreements argued that larger reductions in support for family day care homes and major savings from funding for summer programs were warranted by the need to curtail subsidies for the nonpoor (in day care homes) and keep summer subsidies in line with other child nutrition programs. They also were wary of any reductions affecting school meal programs, especially the School Lunch program. Although the savings in the reconciliation agreement was too high for some, only about half its savings were from day care homes and summer programs. The vetoed welfare reform measure, on the other hand, scaled back savings by dropping virtually all amendments affecting school meal programs, and 85% of its savings came from lessened day care home and summer program support.
- Closely related to concerns over the balance of any spending reductions among programs was a debate over the *depth* of subsidy reductions for family day care homes and summer programs. The need for some change in these subsidies was not controversial. However, the size of the cuts incorporated in the 1995 congressional agreements were viewed by opponents as creating the *potential* for homes and summer programs dropping their participation entirely.

In addition to these child-nutrition-specific issues, there were significant differences over the proposed bar against eligibility for illegally resident aliens. The Administration and others argued against it. In particular, they noted the undue eligibility determination burden it would place on schools and other providers. Supporters saw the ban as justified by recipients' illegal status and the cost of providing unwarranted benefits.

Preliminary 1996 Proposals

With the President's vetoes of the 1995 budget reconciliation and welfare reform bills, negotiations over a possible compromise began between the Administration and congressional leaders. In January 1996, they ended with no agreement. Early in the spring of 1996, the Administration and the National Governors Association (NGA) put forward welfare reform proposals including child nutrition amendments.³⁷ Their proposals, like the later Republican leaders' initiative, got the bulk of their child nutrition savings (some three-quarters) from reduced support for family day care homes serving generally nonpoor children.

Drawing on the changes proposed in the vetoed 1995 congressional agreements, the Administration's newest initiative (introduced as S. 1841) (1) restructured and reduced family day care home subsidies along the lines proposed in the vetoed 1995 congressional agreements (though it did not lower subsidies as much); (2) required that, when indexed for inflation, all child nutrition subsidy rates be rounded down to the nearest whole cent (as in the 1995 reconciliation agreement), (3) reduced the overall amount of commodity assistance guaranteed by law (as in the 1995 reconciliation agreement), (4) ended funding for start-up and expansion grants for school breakfast and summer programs (as in the 1995 agreements), and (5) converted funding for the Nutrition Education and Training program from mandatory to discretionary (as in the 1995 agreements). Block grant authority (even optional authority), reductions in summer program subsidies, and ineligibility for illegal aliens were not included. The CBO estimated that the Administration's proposal would save \$3.2 billion for FY1997-FY2002.

The NGA proposal (drafted, but not introduced as a bill) included all the child nutrition provisions of the vetoed welfare reform agreement, except for the seven state optional block grant demonstration. The CBO estimated it would save \$3.3 billion through FY2002, including just over \$300 million due to its bar against eligibility for illegal aliens.

In late May 1996, House and Senate Republican leaders introduced a new omnibus welfare reform measure, entitled the Personal Responsibility and Work Opportunity Act of 1996 (H.R. 3507; S. 1795; S. 1823). Like the Governors' proposal, it included the child nutrition amendments in the vetoed welfare reform bill, without optional block grants, and was estimated to reduce future spending by \$3.3 billion through FY2002, including about \$300 million in savings from barring child nutrition program eligibility for illegal aliens.

³⁷A coalition in the House also proposed a welfare reform package (the Bipartisan Welfare Reform Act; H.R. 3266) that included changes in child nutrition programs taken from those in the vetoed reconciliation and welfare reform bills. It reflected both the Administration's proposal and the NGA approach and, in effect, combined many of the child nutrition features of the two vetoed bills, without any block grant authority or noncitizen provisions. A related proposal in the Senate (the "Chafee-Breaux" welfare reform alternative) was tentatively drafted and discussed during congressional consideration of the 1996 welfare reform-budget reconciliation measure, but was not introduced as a separate bill.

The 1996 Welfare Reform and Budget Reconciliation Legislation

In late June 1996, the House Budget Committee reported a 1996 welfare reform and budget reconciliation measure, and on July 18, 1996, it was amended and passed by the House. The child nutrition component of this bill (H.R. 3734; H.Rept. 104-651) was very close to the Republican leaders' initiative; it included the provisions of the vetoed 1995 welfare reform bill, without any block grant authority and with minor changes dropping some of the administrative amendments proposed earlier. And, as with the Republican leaders' and the Governors' proposals, federal savings were estimated at \$3.3 billion through FY2002, including some \$300 million from ending eligibility for illegally resident aliens; roughly three-quarters of the savings came from reduced family day care home subsidies.

The Senate's 1996 welfare reform and budget reconciliation bill (S. 1956, S. Prt. 104-59) passed with child nutrition and other amendments on July 23, 1996, and was adopted as its version of H.R. 3734. It made different changes to child nutrition programs and achieved somewhat smaller savings than the House -- \$2.9 billion through FY2002. Although the Senate version also ended start-up and expansion funding for school breakfast and summer programs, made nutrition education and training funds discretionary, and removed a number of federal administrative requirements, it reduced day care home subsidies less than the House and did not include some of the House's administrative amendments. Unlike the House, it did not reduce support for summer programs, but required that subsidy rates for all child nutrition programs be rounded down to the nearest whole cent. And no citizen status test was to be allowed for any child nutrition program. Some 85% (\$2.4 billion) of its savings came from changes affecting family day care homes.

The House-Senate conference on the 1996 welfare reform and budget reconciliation measure (H.R. 3734) began immediately on Senate passage of its version and was concluded, with far less controversy over child nutrition amendments than the conferences on the 1995 bills, on July 29-30, 1996. House and Senate adoption of the conference agreement on what had become titled the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (H.R. 3734; H.Rept. 104-725) quickly followed on July 31 and August 1, 1996. The President signed the measure on August 22, 1996 (P.L. 104-193). Its provisions are discussed in the first part of this report.

The 1996 Debate

The differences over changes to child nutrition programs in 1996 were much narrower than in 1995. Block grant authority was not included in any major proposal under consideration, and a savings level of roughly \$3 billion through FY2002 -- about 3.5% of projected spending including the WIC program and a bit under 5% of non-WIC spending -- was implicit in all the versions before Congress. As a result, the debate resolved itself into negotiations over (1) how to spread the amount saved over the various child nutrition programs (with school meal programs to be largely spared from reductions) and (2) what to do about the child nutrition eligibility of illegal aliens.

With regard to how much of the savings individual programs should bear, the conference agreement came close to "splitting the difference" between the House and Senate: e.g., restructured subsidy rates for day care homes were not reduced as much as the House proposed, but more than the Senate's bill; reduced subsidies for summer programs were included, but the new subsidy rates were higher than those advanced by the House; rounding subsidies down to the nearest cent (with its largest effect on school meal programs) was required, but only for meals served to nonpoor children. Federal outlay savings achieved in the conference agreement were estimated at \$2.9 billion for FY1997-FY2002, close to the Senate's figure, or the House's savings without a ban on illegal aliens.

Finally, the House's call for a bar against child nutrition eligibility for illegal aliens was reconciled with the Senate's prohibition of any citizen status test by, in effect, making the decision on illegal (and certain other nonimmigrant) aliens with regard to programs *other than* the School Lunch and Breakfast programs a state option, with no budget savings projected by the CBO.