

Child Nutrition and WIC Reauthorization Act Background Paper¹

Introduction

Child nutrition programs are effective investments in the health and development of children across the country. As programs that serve tens of millions of meals per day, they also present an opportunity for small and mid-size sustainable farmers to sell their agricultural food products and expand their markets.

Congress revisits child nutrition program legislation approximately every five years in a single omnibus bill known as the Child Nutrition and WIC² Reauthorization Act, or Child Nutrition Reauthorization for short (CNR). This bill authorizes a litany of programs many of which are school-based meal programs. The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) administers the all of the programs at the Federal level. At the State level, the programs are usually administered by State education, health or social service agencies or through FNS regional offices.

The National School Lunch Program (NSLP) – NSLP is a federally assisted meal program providing healthy, low-cost or free lunches to more than 31 million children in more than 100,000 public and non-profit private schools and residential childcare institutions. NSLP includes reimbursement for snacks served in afterschool enrichment programs.

The School Breakfast Program (SBP) – SBP is a federally assisted meal program operating in more than 89,900 public and non-profit private schools and residential childcare institutions.

The Child and Adult Care Food Program (CACFP) – CACFP provides aid to child and adult care institutions and family or group day care homes for the provision of nutritious foods that contribute to the wellness and development of young children, older adults, and chronically impaired disabled persons. Through CACFP, more than 3.3 million children and 120,000 adults receive nutritious meals and snacks each day as part of the day care they receive.

The Summer Food Service Program (SFSP) – SFSP was established to ensure that low-income children continue to receive nutritious meals when school is not in session. Free meals, that meet Federal nutrition guidelines, are provided to all children 18 years old and under at approved SFSP sites in areas with significant concentrations of low-income children.

The Special Milk Program – The Special Milk Program reimburses schools and childcare institutions for the milk they serve.

The Supplemental Nutrition Program for Women, Infants, and Children (WIC) – WIC provides Federal grants to States for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk.

The WIC Farmers Market Nutrition Program (FMNP) – FMNP was established in 1992 to provide fresh, local fruits and vegetables to WIC participants, and to expand the awareness, use of, and sales at farmers' markets. A variety of fresh, nutritious, locally grown fruits, vegetables and herbs may be purchased with FMNP coupons.

¹ This paper is an edited and updated version of a background paper originally written by Brian Shobe and Eugene Kim.

² The Supplemental Nutrition Program for Women, Infants, and Children

³ Funding not controlled by annual decisions of Congress in the annual appropriation bills. These funds are automatically obligated. Also referred to as "direct" spending.

⁴ Gunderson, Gordon. *National School Lunch Program History*. Washington: GPO, 1971. <http://www.fns.usda.gov/nslp/history>

⁵ The Supplemental Nutrition Program for Women, Infants, and Children

The Farm to School Program and Grants – The purpose of these grants is to assist eligible entities in implementing farm to school programs that improve access to local foods in eligible schools. On an annual basis, USDA awards up to \$5 million in competitive grants for training, supporting operations, planning, purchasing equipment, developing school gardens, developing partnerships, and implementing farm to school programs.

The most recent CNR – the Healthy, Hunger-Free Kids Act of 2010 – included the most significant changes to child nutrition programs since the 1970s. The 2010 CNR expanded children’s access to nutritious meals and snacks, improved the nutritional quality for school food, supported healthier school environments, and increased nutrition and food system education. It also provided mandatory funding³ to the Farm to School Grant Program for the first time.

In 2015, during the 114th Congress, efforts began to rewrite and reauthorize CNR. In the end, however, the legislative process fell apart in both 2015 and 2016 - with Congress ultimately failing to pass a new CNR. Thankfully, while CNR traditionally gets revised every five years, it does not necessarily have to be reauthorized, as most of the program authorizations are permanent or have been extended through the annual appropriations process.

Background in Brief

1. Brief History of CNR

Two laws provide the foundation for child nutrition programs: the 1946 National School Lunch Act and the 1966 Child Nutrition Act.

Prior to the National School Lunch Act, Congress appropriated federal aid for school lunch programs on an annual basis. Without a guarantee of permanent funding, states and school districts often refrained from investing in kitchens and lunch programs because they considered the long-term funding prospects to be too risky.⁴ The 1946 Act responded to this uncertainty by giving permanent status to the National School Lunch Program (NSLP). Similar to today, participating schools were required to serve lunches that met minimum nutrition standards, serve meals at reduced prices to children who were unable to pay the full price, operate the program on a non-profit basis, and utilize commodity foods from the United States Department of Agriculture (USDA).

Congress passed the Act “*as a measure of national security, to safeguard the health and well-being of the nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food.*”⁵ In other words, from the beginning, the law was intended to support children *and* farmers. The House Agriculture Committee Report suggests some in Congress also believed the program would educate parents and family members about healthy eating: “*The educational features of a properly chosen diet served at school could not be under-emphasized. Not only is the child taught what a good diet consists of, but [their] parents and family likewise are indirectly instructed.*”⁶

Building on the success of the first two decades of the National School Lunch Program and responding to movements of the time for economic and racial justice, Congress passed the Child Nutrition Act in 1966. The Act authorized increased funding for lunches for low-income students, school kitchen equipment assistance grants, and a pilot school breakfast program, which later became the national School Breakfast Program. In passing the law, Congress specifically recognized:

³ Funding not controlled by annual decisions of Congress in the annual appropriation bills. These funds are automatically obligated. Also referred to as “direct” spending.

⁴ Gunderson, Gordon. *National School Lunch Program History*. Washington: GPO, 1971. <http://www.fns.usda.gov/nslp/history>

⁵ Pub. L. 396, Sect. 2, June 4, 1946, 60 Stat. 231.

⁶ House Committee on Agriculture Report on Pub. L. 396, 79th Congress, June 4, 1946

*the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the National School Lunch Program with its significant contributions in the field of applied nutrition research.*⁷

Congress continued to expand the scope of the National School Lunch Act and the Child Nutrition Act in the late 1960s and 70s, responding to persistent needs, service gaps, and opportunities for improvement. During this time, Congress piloted and later permanently authorized the Child and Adult Care Feeding Program (CACFP), the Summer Food Service Program (SFSP), and the Supplemental Nutrition Program for Women, Infants, and Children (WIC). Congress also standardized and reduced eligibility requirements for free and reduced-price school meals and guaranteed reimbursement rates would reflect increased program participation and higher food costs.

After 35 years of expansions and improvements, child nutrition programs suffered major setbacks in the early 1980s. Budget cuts in child nutrition programs resulted in stricter eligibility requirements, reduced reimbursement rates, the elimination of school kitchen equipment assistance grants, and weakened nutrition standards. As a result, schools increasingly turned to processed and frozen foods that were cheaper to procure and prepare.

In the early 1990s, a series of reports on the nutritional inadequacy of school meals prompted Congress to require child nutrition programs to conform to national Dietary Guidelines and establish an initiative to support increased nutrition education.⁸ The WIC Farmers Market Nutrition Program (FMNP) was created in 1992, largely due to the success of 3-year demonstration projects in ten states that started in 1989.⁹ Debates about, and policies on, child nutrition programs continued to focus on healthy eating and lifestyles in the 2000s. The Child Nutrition Reauthorization Act of 2004 required all schools to develop local school wellness policies,¹⁰ authorized the Fresh Fruit and Vegetable Program,¹¹ and authorized a national Farm to School Grant Program housed at USDA. Unfortunately, the Farm to School Grant Program was not appropriated funds at that time. Following the recommendations of a 2005 report from the Institute of Medicine, the Food and Nutrition Service published an interim rule in 2007 that introduced fruit and vegetable Cash Value Vouchers (CVVs) to the WIC food package.¹²

2. 2010 CNR Recap

Major Changes – The bill’s passage was rife with controversy. Under the “pay-as-you-go,” or PAYGO rule, generally Congress must pay for all new expenditures by either increasing revenue or decreasing expenditures elsewhere. The PAYGO rule has been waived at times but those are more of the exception than the rule. To offset the \$4.5 billion in new spending the 2010 CNR called for, Congress prematurely ended an increase in the benefit levels of the Supplemental Nutrition Assistance Program (SNAP),¹³ which had been raised in response to the economic recession in the American Recovery and Reinvestment Act of 2009 (ARRA). Congress also cut funding to the nutrition education component of

⁷ Pub. L. 89–642, Sect. 2, Oct. 11, 1966, 80 Stat. 885.

⁸ Sims, Laura. *The Politics of Fat: Food and Nutrition Policy in America*. Armonk: M.E. Sharpe, 1998. Print

⁹ USDA Economic Research Service. *The WIC Program: Background, Trends, and Economic Issues*. Washington: GPO, 2009. Print.

¹⁰ Local wellness policies are established by local educational agencies (LEAs) and must include goals for nutrition promotion and education and physical activity. LEAs must inform and update the public about the wellness policies, permit community members to participate in their development, and periodically measure their compliance.

¹¹ The Fresh Fruit and Vegetable Program (FFVP) provides a fresh fruit or vegetable snack to all students in participating schools. The Fresh Fruit and Vegetable Program is now under the jurisdiction of the Farm Bill.

¹² The normal WIC package consists of predetermined quantities and brands of milk, cheese, eggs, cereals, peanut butter, beans/peas, and fruit or vegetable juices, fresh fruits and vegetables and whole grain choices to include breads, tortillas, brown rice and oatmeal. State agencies decide on the exact product specifications, but all products must align with the national Dietary Guidelines.

¹³ SNAP offers nutrition assistance to millions of eligible, low-income individuals (including the elderly) and families and provides economic benefits to communities. SNAP is the largest program in the domestic hunger safety net.

SNAP (SNAP-Ed). Both cuts infuriated anti-hunger advocates, some of whom argued the bill would do more harm than good.

The 2010 CNR included the most far-reaching changes to child nutrition programs since the 1970s, including:

- Requiring USDA to propose new, healthier school meal standards. The standards were implemented on a multi-year process that started in 2012 and was finished in 2017. Originally, the 2010 CNR required more and a wider variety of fruits and vegetables, more whole grains, low fat milk, and limited salt content and limited saturated and trans fats for school meals. The salt, sugar, and fat standards also apply to competitive foods,¹⁴ including a la carte vendors and vending machines that compete with federally reimbursed breakfasts, lunches, and snacks. However, subsequent administrative and legislative maneuvers have partially rolled back some of the requirements around whole grains, salt limits and fat content in milk.
- Increasing reimbursements for school lunches by six cents per meal for schools meeting the new nutrition standards¹⁵ – the first real reimbursement rate increase in 30 years.
- Reducing paperwork for parents and schools and increasing children’s access to school meals by giving schools more options to automatically certify students or even provide universal free meals (a provision known as the Community Eligibility Option).
- Establishing a nationwide time frame for introducing Electronic Benefit Transfer (EBT) systems to WIC programs, requiring WIC program benefits to be disbursed entirely through EBT by 2020.
- Funding the USDA-administered Farm to School Grant Program at \$5 million per year.¹⁶

3. The 2010 CNR’s Impact on Farmers and Communities

The Farm to School Grant Program is the only program in CNR that is explicitly designed to benefit small and mid-sized farms. However, CNR affects farmers and rural communities directly and indirectly in many ways.

Farm to School Grant Program – The Farm to School Grant Program provides technical assistance and awards grants on a competitive basis for the following Farm to School activities in schools around the country:

- Procurement of local food
- Educational activities related to agriculture, food, health, or nutrition
- Hands-on learning through school gardens

Farm to School programs benefit farmers directly by opening the doors to steady institutional markets, ranging in size from small, individual schools to large school districts with hundreds of thousands of students. Farm to School programs also benefit farmers indirectly and over the long term by increasing children’s consumption of local and regional food, understanding of agriculture and the food system, and connection to local producers.

Farm to School programs have been growing nationwide for years. According to the USDA’s Farm to School Census, 40,328 students are buying local food products and exposed to education about where their food comes from. Those schools spent an estimated \$386 million on local food in the 2011-2012 school

¹⁴ Competitive foods are foods sold separately from the federally reimbursable meals and snacks, including snacks and beverages sold by for-profit vendors, a la carte lines, school stores, and vending machines.

¹⁵ According to USDA, 90 percent of schools currently meet the new standards and are receiving the per meal increased reimbursement.

¹⁶ Since the Farm to School Grant program’s launch in 2012, 139 projects have already received funding for planning, implementation, or technical assistance.

year. While \$386 million is only a fraction of the \$18 billion¹⁷ schools nationwide spend on food annually, it represents a substantial sales opportunity for local farmers. Additionally, 31 percent of school districts are growing edible school gardens, 30 percent are conducting student field trips to farms, and 38 percent are holding taste tests and demonstrations of locally produced food. Research shows that this kind of active engagement with healthy food increases the likelihood that children will try new foods and eat healthier foods when presented with them in the cafeteria.¹⁸

A compilation of research on the benefits of Farm to School can be found on the following page of the National Farm to School Network's website:

<http://www.farmentoschool.org/Resources/BenefitsFactSheet.pdf>

Healthier Meal Standards – Taste preferences and dietary habits form at a young age. Therefore, it is important to introduce children to healthy foods early in life and continue to promote good habits as they grow. The new nutrition standards enacted through the 2010 CNR ensure that children are exposed to fresh produce, whole grains, and lean proteins throughout their school years, setting them up to become lifelong consumers of healthy food.

Regulating “Competitive” Foods – “Competitive” foods in schools include meals sold by outside vendors and fast food chains like McDonalds and Taco Bell, a la carte items sold by school cafeterias and snacks sold through vending machines, student stores, and fundraising events. They are “competitive” in the sense that they compete for families’ dollars and children’s taste buds against federally reimbursed lunches, breakfasts, snacks, and suppers offered by the school.

Prior to 2010, “competitive” foods were not subject to the same nutrition standards as federally reimbursed meals and snacks, and often contained more salt, sugar, and fat. For various reasons – taste (high salt, sugar, and/or fat content), social pressure and stigma, and convenience – students often choose the unhealthy and more expensive “competitive” foods over school meals. By requiring “competitive” foods to meet the same nutrition standards, CNR 2010 ensures that all food sold in schools meet minimum nutrition standards and increases the likelihood that students will eat the nutritionally balanced federally reimbursed meals.

Electronic Benefit Transfer (EBT) for WIC – EBT systems generally reduce stigma for program participants, paperwork for governments and vendors, and already low levels of program fraud. However, as with the SNAP EBT roll out, there is uncertainty and risk for direct marketers; a conversion to EBT can negatively affect farmers markets if they do not have the mobile technology to accept EBT. EBT can also introduce an additional layer of administration for market managers. The implementation plan for introducing EBT to WIC nationwide by 2020 is still evolving. Only a few states have implemented WIC EBT statewide¹⁹ and other states are watching developments closely.

¹⁷ “The K-12 food service industry generates \$18 to \$20 billion a year in business, with federal meal reimbursements accounting for about 60 percent of the money, according to a June report by the trade publication Food Management. That's an educated guess... publicly traded firms provide few details. Privately held companies disclose even less.” Ferguson, Ellyn. “A Debate Served Hot.” *CQ Weekly*. June 23, 2014: 891.

¹⁸ 1) Morgan et al. “The impact of nutrition education with and without a school garden on knowledge, vegetable intake and preferences and quality of school life among primary-school students.” *Public Health Nutrition* 13.11 (2010): 1931-40; (2) Parmer et al. “School gardens: an experiential learning approach for a nutrition education program to increase fruit and vegetable knowledge, preference, and consumption among second-grade students.” *Journal of Nutrition Education and Behavior* 41.3 (2009): 212-7; (3) Heim et al. “A garden pilot project enhances fruit and vegetable consumption among children.” *Journal of the American Dietetic Association* 109.7 (2009): 1220-6; (4) De Sa, Joia and Karen Lock. “Will European agricultural policy for school fruit and vegetables improve public health? A review of school fruit and vegetable programmes.” *European Journal of Public Health* 18.6 (2008): 558-68.

¹⁹ To see a map and list of the status of WIC EBT implementation by state, go to: <http://www.fns.usda.gov/wic/wic-ebt-activities>

Reducing Rural Food Insecurity – Perhaps most importantly, child nutrition programs offer relief to families, especially those in rural areas, struggling to put food on the table and mitigate the calamitous effects of childhood hunger, malnutrition, and obesity. According to data from the U.S. Census Bureau and the U.S. Bureau of Labor, one in four children in rural areas were living in poverty in 2012. A 2010 report from the Carsey Institute showed that 29 percent of rural households with children participate in at least one of the four major child nutrition programs (National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and WIC), and about 20 percent participate in two or more. For the families of these children, food provided through the WIC program and meals and snacks provided at school, childcare centers, or afterschool programs effectively increase their disposable income and allow them to cover other basic needs or to save money for the future.

The Legislative Process for CNR

The most recent CNR – the *Healthy, Hunger-Free Kids Act of 2010* officially expired on September 30, 2015. In 2015, during the 114th Congress, efforts began to rewrite and reauthorize CNR. In the end, however, the legislative process fell apart in both 2015 and 2016 – with Congress ultimately failing to pass a new CNR. Thankfully, while CNR traditionally gets revised every five years, it does not necessarily have to be reauthorized, as most of the program authorizations are permanent or have been extended through the annual appropriations process.

In the spring of 2019, Congress signaled that they would once again be turning to CNR and attempting to put together a new 5-year bill during the 116th Congress. In more normal times, following what is often referred to as “normal order,” the legislative process starts with the annual budget resolution, produced by the budget committees of both chambers by April each year and then voted on the floor of the House and Senate. The resolution guides Congressional action on spending, but is not a bill and does not get signed by the President. Budget bills can and often do indicate through “reserve funds” the extent to which new funds will be available to spend for particular pending legislative measures. However, in recent years, the annual budget resolution process has often fallen apart before reaching any conclusion. In 2019 a budget resolution was not adopted in either the House or the Senate, therefore there is no agreement on how much additional funding they may be available, if any, for CNR.

The CNR legislation itself starts in the committees that have jurisdiction over child nutrition programs: the Agriculture, Nutrition, and Forestry Committee in the Senate and the Education and Labor Committee in the House. Please note that, unlike in the Senate, the House Agriculture Committee *does not* have any jurisdiction over programs in CNR.

Typically, early in the legislative process, Members of the House and Senate committees will introduce “marker” bills²⁰ in order to draw attention to specific issues and proposals for CNR. Occasionally, non-committee members may also introduce “marker” bills. Marker bills, especially popular ones, often influence the Committee Chairs, who write the draft bills that are eventually “marked up”, amended, and voted on by the committees and sent to the full House or Senate for further debate and action.

After both chambers pass their respective bills, party leaders will name a conference committee to negotiate the differences in the bills and draft a “conference report.” The final version of the bill, reported by the conference committee, must be passed one final time by both chambers and then signed into law by the president.

All of the above is, of course, a gross simplification, and is subject to a number of departures from the standard legislative process. Such departures have become the new normal in recent years.

²⁰ A marker bill is a legislative bill that is used to introduce specific measures or issues into a larger legislative debate. While not intended to ever come to a vote on the floor, a marker bill is proposed as a “placeholder” for specific aspects of a larger bill. The more sponsors and cosponsors that sign on to a marker bill, the greater the legislative support for the specific measures that the marker bill represents, and the greater the chance that the specific measures will make their way into legislation. Source: *American Farmland Trust*.