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SUBJECT: Key Issues in the Reauthorization of Child Nutrition and WIC Programs

I. EXECUTIVE SUMMARY

This memorandum provides an overview of the Child Nutrition and WIC Reauthorization Act (CNR), including background on the federal child nutrition programs it would address (section II) and details on the five-year reauthorization process (section III). Also provided below is background on the iteration of CNR currently in place, the Healthy, Hunger-Free Kids Act (HHFKA) (P.L. 111-296),¹ which was signed into law in 2010 and included sweeping reforms to nutrition standards for federal school meal programs (section IV). Finally, the memorandum summarizes Congressional CNR activity and key issues in the CNR debate (section V), closing with prospects for a broader reauthorization following Congress' latest extension of federal funding for these programs via the Fiscal Year (FY) 2016 Continuing Resolution (CR)² (section VI).

II. OVERVIEW OF FEDERAL CHILD NUTRITION PROGRAMS

Broadly speaking, the CNR reauthorizes federal child nutrition programs that provide critical financial support to schools, child care centers, and after-school programs for the provision of nutritious meals and snacks to children. The programs have expansive reach, providing more than 30 million children with low-cost or free lunches and 13.6 million children with federally-assisted school breakfasts each year.³

In addition to federal school meal programs, the legislation also reauthorizes the Special Supplemental Nutrition Program for Women, Infants, and Children Program (WIC Program). The WIC Program provides grants to states for the provision of food, nutrition counseling, and other (non-food) assistance to low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five. Since its inception in 1974, WIC has been credited with improved birth outcomes, infant feeding rates, and cognitive development, as well as health care cost savings.⁴ Over 8 million individuals participate in the WIC Program each year.⁵

¹ <http://www.gpo.gov/fdsys/pkg/PLAW-111publ296/pdf/PLAW-111publ296.pdf>

² See P.L. 114-53, available at: [https://www.congress.gov/bill/114th-congress/house-bill/719?q={%22search%22%3A\[%22%22hr719%22%22\]}&resultIndex=1](https://www.congress.gov/bill/114th-congress/house-bill/719?q={%22search%22%3A[%22%22hr719%22%22]}&resultIndex=1)

³ <http://www.fns.usda.gov/sites/default/files/pd/slsummar.pdf> and <http://www.fns.usda.gov/sites/default/files/pd/sbsummar.pdf>

⁴ <http://www.fns.usda.gov/wic/about-wic-how-wic-helps>

⁵ <http://www.fns.usda.gov/sites/default/files/pd/wisummary.pdf>

Together, these programs – administered by the U.S. Department of Agriculture’s (USDA) Food and Nutrition Service (FNS) – serve as a hunger safety-net for tens of millions of low-income children while also addressing the roughly \$190 billion/year binary challenge of obesity.⁶ Table 1 below provides further information on the programs’ respective eligibility guidelines, participation figures, and federal expenditures.

Table 1: Core Programs Encompassed in the CNR⁷

Program	Eligibility Guidelines	Participation Figures (FY 14)	Federal Expenditures (FY 14)
National School Lunch Program (NSLP)	Free meals/milk: at or below 130% of the federal poverty level (FPL); reduced priced meals: between 130%-185% of the FPL	30.5 million participants (includes free, reduced, and full-price lunch)	\$12.6 billion
School Breakfast Program (SBP)		13.6 million participants (includes free, reduced, and full-price breakfast)	\$3.7 billion
Special Milk Program (SMP)		50 million half-pints served	\$10.5 million (cash payments only; does not include commodity costs)
Summer Food Service Program (SFSP)		160.5 million meals served	\$464.9 million
Child and Adult Care Food Program (CACFP)		3.9 million participants	\$3.1 billion
Fresh Fruit and Vegetable Program (FFVP)	Elementary schools receive between \$50-\$75 per student/year; targeted to schools with highest number of children participating in free and reduced price meals ⁸	Not available ⁹	Not available ¹⁰
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	Categorical, residential and income requirements apply (the latter of which cannot exceed 185% of the FPL). Automatic income eligibility predicated on participation in other programs, such as Medicaid.	8.3 million participants	\$6.3 billion

⁶<http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2015/09/0242.xml&printable=true&contentidonly=true>

⁷ In general, with the exception of WIC, data generally derived from <http://www.fns.usda.gov/pd/child-nutrition-tables> or various subpages of the respective programs on the FNS website. For WIC, data mostly generated from <http://www.fns.usda.gov/sites/default/files//pd/wisummary.pdf> and <http://www.fns.usda.gov/wic/wic-eligibility-requirements>.

⁸ <http://www.fns.usda.gov/sites/default/files/FFVPFactSheet.pdf>

⁹ FRAC estimates that 1,956 schools (serving 740,327 students) participated in the FFVP in SY 2008-2009. See: <http://frac.org/federal-foodnutrition-programs/fresh-fruit-and-vegetable-program/>.

¹⁰ FRAC estimates that \$72.5 million was budgeted in SY 2009-10. See: <http://frac.org/federal-foodnutrition-programs/fresh-fruit-and-vegetable-program/>.

III. REAUTHORIZATION PROCESS

With the exception of WIC and certain other discretionary programs, most federal child nutrition programs are permanently authorized and thus considered mandatory. Federal spending levels are predicated on the respective programs' established benefit and eligibility parameters. However, these "appropriated entitlements," as termed by the Congressional Research Service (CRS), must be funded annually through the regular appropriations process.¹¹

The reauthorization of these programs – typically conducted every five years – provides an opportunity for Congress to effectuate changes to underlying program policies while addressing the discretionary aspects of the broader legislative package. The current incarnation of the CNR – the HHFKA – expired on September 30, 2015. In the House, the reauthorization process is spearheaded by the Education and the Workforce Committee; and in the Senate, the Agriculture Committee. However, it is important to note the role that both chambers' Appropriations Committees play in this process, especially regarding their delineation of various CNR "policy riders" to federal funding measures (more on that below).

IV. HEALTHY, HUNGER-FREE KIDS ACT OF 2010 (HHFKA)

Signed into law in December 2010, the HHFKA delineated comprehensive reforms to federal school meal programs – marking the first time in over 30 years that such fundamental changes to these programs were made.¹² HHFKA reauthorized child nutrition programs over the five-year period, while appropriating roughly \$4.5 billion in additional funding.¹³ Key provisions included:

- **Improved School Nutrition Standards** – Revamped school meal standards for all foods regularly sold in schools during the school day (including vending machines, "a la carte" lunch lines, and school stores). Evidence-based standards predicated on expert recommendations of an Institute of Medicine (IOM)-led panel and reflect updated 2010 Dietary Guidelines for Americans. Standards began to take effect in SY 2012-2013, requiring increased fruit and vegetable offerings, as well as whole-grain rich and reduced sodium food stipulations. Also included requirements re: reduced caloric, saturated fat, and total sugar content. Schools in compliance with the standards receive a reimbursement increase of 6 cents per lunch.
- **Expanded Access to Food Assistance** – Provisions aimed to increase access to school meal programs via direct certification and other measures to facilitate enrollment.
- **School Wellness Policies and Other Efforts Focused on Improved Nutrition** – Outlined enhanced standards for school wellness policies, as well as provisions to incent local farm-to-school networks, school gardens, and other similar policies.

¹¹ Funding information derived from <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43783.pdf>.

¹² <http://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act>

¹³ https://www.whitehouse.gov/sites/default/files/Child_Nutrition_Fact_Sheet_12_10_10.pdf

- **Program Integrity, Compliance** – Provisions focused on program integrity/oversight, increased training and technical assistance, and more.
- **WIC Program Policies** – Provisions required expanded use of Electronic Benefit Transfer (EBT) technology and provided additional breastfeeding support, among others.¹⁴

V. OVERVIEW OF CONGRESSIONAL CNR ACTIVITY, KEY ISSUES

In the summer of 2014, Congress began to convene preliminary CNR hearings. These preliminary hearings – and even those held more recently – have been largely stage-setting, highlighting the importance of CNR relative to childhood obesity and domestic priorities, while also focusing on compliance and cost considerations associated with the new nutrition standards.

Apart from the pending fuller reauthorization, Congress has sought (and succeeded) to secure certain modifications to the HHFKA-revamped nutrition standards. The so-called FY 15 “cromnibus” package passed by Congress last December included various provisions intended to provide relief to schools in implementing the whole-grain standards if a financial hardship is documented, while delaying the imposition of the new sodium standards until additional scientific research establishes that the reduction is beneficial for children.¹⁵ The legislation also included provisions related to WIC, including funding to expand EBT as well as a requirement that all varieties of fresh vegetables, including white potatoes, be eligible for purchase through WIC. (However, the legislation includes parameters to subsequently consider their nutritional value, and potentially, their exclusion from the WIC package).¹⁶

A. KEY ISSUES IN REAUTHORIZATION

At the crux of the political discord over CNR is a fundamental disagreement over the appropriateness of and corresponding burden associated with the HHFKA-revamped nutrition guidelines. In general, Republicans and some Democrats have voiced concern regarding schools’ ability to comply with the new requirements, which they assert are both costly and prescriptive. The new nutrition standards have also been criticized by the School Nutrition Association (SNA), which represents school cafeteria professionals. In addition to advocating for modifications to the HHFKA-enhanced nutrition standards, SNA also requests an increase by 35 cents (up from the existing 6 cents) per meal reimbursement.¹⁷ SNA further asserts that, as a result of the new standards, over one million fewer students now choose school lunch.¹⁸

¹⁴ More information on key HHFKA provisions may be obtained at:

http://www.fns.usda.gov/sites/default/files/PL111-296_Summary.pdf;
https://www.whitehouse.gov/sites/default/files/Child_Nutrition_Fact_Sheet_12_10_10.pdf;
<http://www.fns.usda.gov/tags/healthy-hunger-free-kids-act-0>; and
<http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/01/0023.xml>.

¹⁵ <http://docs.house.gov/billsthisweek/20141208/CPRT-113-HPRT-RU00-HR83sa.pdf>; and

http://www.appropriations.senate.gov/sites/default/files/12_10_14%20fy15%20omnibus%20summary.pdf

¹⁶ Ibid.

¹⁷ <https://schoolnutrition.org/positionpaper/>

¹⁸ <https://schoolnutrition.org/PressReleases/SNABriefingstoExploreImpactofSchoolMealStandards/>

To address these concerns, CNR-related legislation introduced by Sen. John Hoeven (R-ND) and Rep. Rodney Davis (R-IL), the Healthy School Meals Flexibility Act (S. 1146/H.R. 2508), would provide permanent flexibility to school districts in complying with the HHFKA sodium and whole-grain requirements.¹⁹ Recently, Sen. Hoeven, a key member of both the Senate Appropriations and Agriculture Committees, expressed confidence that these provisions would be included in any eventual CNR package.²⁰ Due to Sen. Hoeven's efforts, a similar "policy rider" was included in the FY 16 Agriculture Appropriations bill, approved by the full Committee last July.²¹

Meanwhile, Democrats, the Administration, and many child advocates seek to safeguard the HHFKA standards from any significant modifications or "roll-backs," arguing the foundational role these standards play in ensuring a healthier future for all children. As a recent *Congressional Quarterly* article points out, though the federal school meal programs "would continue as long as Congress provides [FY] 2016 funding....without reauthorization the [HHFKA] standards would not have permanence or statutory protection."²² Key CNR legislation introduced in the current Congress also focuses on increasing access to summer meal programs.²³

Furthermore, despite assertions levied by SNA and others, the USDA contends that the vast majority of students – nearly 90% – prefer the taste of the healthier school meals (72% of parents support the new standards), and that less food is being subject to "plate waste." USDA also reports that over 95% of schools are readily complying with the updated standards and that school revenue is in fact up by roughly \$450 million. Program participation – particularly for the SBP – has increased in many parts of the country, USDA adds.²⁴ Regarding school compliance costs, USDA Secretary Tom Vilsack recently prodded school meal administrators to urge states to allocate the \$28 million USDA provided to assist school districts in implementing the standards.²⁵

¹⁹ <https://www.congress.gov/bill/114th-congress/senate-bill/1146/text>; and <https://www.congress.gov/bill/114th-congress/house-bill/2508/text>

²⁰ <http://www.politico.com/tipsheets/morning-agriculture/2015/09/2015-09-09-pro-morning-agriculture-210121>

²¹ <http://www.hoeven.senate.gov/public/index.cfm/2015/7/hoeven-agriculture-appropriations-bill-provides-flexibility-for-school-meals-in-sodium-grain-requirements>

²² <http://www.cq.com/doc/news-4750402?12&search=8Y05QxPz>

²³ See for e.g., the Summer Meals Act of 2015 (S. 613/H.R. 1728), available at

[https://www.congress.gov/bill/114th-congress/senate-bill/613/text?q={%22search%22%3A\[%22%22s613%22%22\]}&resultIndex=1](https://www.congress.gov/bill/114th-congress/senate-bill/613/text?q={%22search%22%3A[%22%22s613%22%22]}&resultIndex=1) and <https://www.congress.gov/bill/114th-congress/house-bill/1728/related-bills>, respectively.

²⁴

<http://www.usda.gov/wps/portal/usda/usdamediafb?contentid=2015/09/0242.xml&printable=true&contentidonly=true>

²⁵ <http://www.cq.com/doc/news-4750402?12&search=8Y05QxPz>

B. FY 16 CONTINUING RESOLUTION

On September 30, Congress passed a short-term FY 2016 CR, funding the federal government through December 11, 2015. The stop-gap measure conforms to topline bipartisan discretionary spending limits under the Budget Control Act (BCA) of 2011 and ultimately provides lawmakers with an additional few months to complete work on pending FY 16 appropriation bills. However, the measure falls short of the fuller CNR package that many lawmakers and advocates envisioned. As opposed to delineating appropriations to buttress fundamental CNR policy reforms, the short-term CR simply extends, including for most USDA programs like the federal school meal and WIC programs, funding at FY 2015 funding levels less about 0.21 percent.²⁶

VI. CONCLUSION

Whether Committee leaders are ultimately able to reach consensus prior to the expiration of the short-term CR on December 11 is likely the strongest determinant of the CNR's overall fate. The postponement of a September 17 Senate Agriculture Committee CNR mark-up – the first in what advocates hoped to be a series of more earnest CNR deliberations – did little to assure stakeholders that progress on a comprehensive reauthorization bill was imminent. As of the date of writing, the mark-up has yet to be rescheduled and the House Education and the Workforce Committee has failed to render a CNR discussion draft of its own. The two chambers appear a long way from forging any kind of bicameral agreement.

However, both Senate Agriculture Committee Chairman Pat Roberts (R-KS) and Ranking Member Debbie Stabenow (D-MI) have recently expressed optimism that a deal on a CNR might still be reached by year-end, “depend[ing] on the parameters” Sen. Stabenow added.²⁷ “The programs continue with our without [CNR], but I would like to have it done if it’s done the right way,” Sen. Stabenow conveyed upon the CR’s passage.²⁸ Much-anticipated Congressional Budget Office (CBO) scores released late last month delineating CNR budget estimates and various policy options²⁹ may help to prod the process, both Committee leaders intimated.³⁰

²⁶ See Sec. 101(b) of the CR for the prescribed 0.2108 percent negative adjustment.

²⁷ <http://www.cq.com/doc/news-4756130?10&search=kvydfEDN> and <http://www.politico.com/tipsheets/morning-agriculture/2015/10/food-companies-push-lawmakers-on-climate-change-tpp-talks-go-into-overtime-210495>

²⁸ <http://www.politico.com/tipsheets/morning-agriculture/2015/10/food-companies-push-lawmakers-on-climate-change-tpp-talks-go-into-overtime-210495>

²⁹

https://www.cbo.gov/publication/50737?utm_source=feedblitz&utm_medium=FeedBlitzEmail&utm_content=812526&utm_campaign=Hourly%202015-09-25%2012%3a00%3a00%27

³⁰ <http://www.cq.com/doc/news-4756130?10&search=kvydfEDN> and <http://www.politico.com/tipsheets/morning-agriculture/2015/10/food-companies-push-lawmakers-on-climate-change-tpp-talks-go-into-overtime-210495>

If lawmakers truly want to advance CNR by year-end, significant policy and funding concessions will likely have to be made on both sides – and quickly. Should Congress fail to pass a meaningful CNR bill this year, it is possible they may try again next year. However, such efforts may be further stymied by the upcoming election cycle, which in and of itself bears its own set of priorities and an underbelly of partisan politics. In the meantime, TRP will certainly continue to closely follow these deliberations and keep you apprised of all key CNR developments.