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**Conference Report [Binder] [2]**

students) are ineligible for all Federal public benefits, with limited exceptions for emergency medical services, emergency disaster relief, immunizations and testing and treatment of symptoms of communicable diseases, community programs necessary for the protection of life or safety, certain housing benefits (only for current recipients), licenses and benefits directly related to work for which a nonimmigrant has been authorized to enter the U.S, and certain Social Security retirement benefits protected by treaty or statute.

Federal public benefits include: any grant, contract, loan, professional license or commercial license, and any retirement, welfare, health, disability, food assistance, unemployment or similar benefit provided by an agency or appropriated funds of the United States.

#### *Senate Amendment*

Similar to House, except that the exception for communicable diseases is limited to treatment of the disease itself and must be triggered by a finding by HHS that testing and treatment of a particular disease is necessary to prevent its spread.

#### *Conference Agreement*

The conference agreement follows the House bill.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is not intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

The intent of the conferees is that title I, part A of the Elementary and Secondary Education Act would not be affected by section 401 because the benefit is not provided to an individual, household, or family eligibility unit.

### **3. Limited Eligibility of Qualified Aliens for Certain Federal Programs**

#### *Present Law*

With the exception of certain buy-in rights under Medicare, immigrants (or aliens) lawfully admitted for permanent residence are eligible for major Federal benefits, but the ability of some immigrants to meet the needs tests for SSI, AFDC, and food stamps may be affected by the sponsor-to-alien deeming provisions discussed below. Refugees, asylees, and parolees also generally are eligible. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the United States under color of law (PRUCOL).

*House Bill*

Legal noncitizens who are "qualified aliens" (i.e., permanent resident aliens, refugees, asylees, aliens paroled into the United States for a period of at least 1 year, and aliens whose deportation has been withheld) are ineligible for SSI, Medicaid, and food stamp benefits until they attain citizenship, with exceptions noted below. States are given the option of similarly restricting Federal cash welfare and Title XX benefits for qualified aliens, with the exception of those who are receiving benefits on the date of enactment as described below.

Refugees, asylees, and aliens whose deportation has been withheld are excepted for 5 years after being granted their respective statuses. Also excepted are legal permanent residents who have worked (in combination with their spouse and parents) for at least 10 years, and noncitizens who are veterans or on active duty or their spouse or unmarried child.

To allow individuals time to adjust to the revised policy, otherwise restricted aliens who are receiving SSI, food stamps, cash welfare, Medicaid or Title XX benefits on the date of enactment would remain eligible for at most 1 year after enactment. However, if a review determines the noncitizen would be ineligible if enrolling under the revised standards for SSI, Medicaid, and food stamps (for example, because the noncitizen failed to qualify under the refugee or work exemptions) such benefits would cease immediately. States have the option of ending cash welfare and social services benefits for current recipients after January 1, 1997.

*Senate Amendment*

Similar to House bill, except that Medicaid is included among the programs subject to State option rather than a blanket bar.

*Conference Agreement*

The conference agreement follows the Senate amendment.

**4. Five-Year Limited Eligibility of Qualified Aliens for Federal Means-Tested Public Benefit**

*Present Law*

See above.

*House Bill*

The proposal restricts most Federal means-tested benefits (including SSI, food stamps, cash welfare, Medicaid, and title XX social services benefits) for permanent resident aliens who arrive after the date of enactment for their first 5 years in the United States. Programs that are not restricted to legal noncitizens arriving in the future include emergency medical services, non-cash emergency disaster relief, school lunch and child nutrition benefits, immunizations and testing and treatment for symptoms of communicable diseases, foster care and adoption payments under parts B and E of Title IV of the Social Security Act, community programs for the protection of life or safety, certain elementary and secondary

education programs, Head Start, the Job Training Partnership Act, and higher education grants and loans.

Exceptions are made for refugees, asylees, aliens whose deportation is being withheld, and noncitizens who are veterans, on active duty, or the spouse or unmarried child of such an individual.

#### *Senate Amendment*

Excepted programs are similar to the House with the following differences:

- (1) benefits under Head Start Act and the Job Training Partnership Act are not excepted;
- (2) the exception for foster care and adoption assistance is limited to Part E of Title IV of the Social Security Act;
- (3) the exception for testing and treatment of communicable diseases is more limited and must be triggered by a finding by HHS that detection and treatment of a particular disease is necessary to prevent its spread; and
- (4) includes an exception for education assistance under titles III, VII, and VIII of the Public Health Service Act.

Excepted classes are similar to House bill.

#### *Conference Agreement*

The conference agreement follows the House bill and Senate amendment as follows. (1) The definition of Federal Means Tested Public Benefit (defined as "a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit") was deleted due to the Byrd rule. It is the intent of conferees that this definition be presumed to be in place for purposes of this title. (2) Regarding excepted programs, the conference agreement follows the House bill on testing and treatment of communicable diseases and by adding Head Start and the Job Training Partnership Act as excepted programs; the conference agreement adds refugee and entrant assistance as an excepted program; and the conference agreement follows the Senate amendment by adding education assistance under titles III, VII, and VIII of the Public Health Services Act as an excepted program.

### **5. Notification and Information Reporting**

#### *Present Law*

Notification. Under regulation, individual advance written notice must be given of an intent to suspend, reduce, or terminate SSI benefits.

Information Reporting. AFDC and SSI restrict the use or disclosure of information concerning applicants and recipients to purposes connected to the administration of needs-based Federal programs.

#### *House Bill*

Each Federal agency that administers an affected program shall post information and provide general notification to the public and to program recipients of changes regarding eligibility.

Agencies that administer SSI, housing assistance programs under the United States Housing Act of 1937, or block grants for temporary assistance for needy families (the successor program to AFDC) are required to furnish information about aliens they know to be unlawfully in the United States to the Immigration and Naturalization Service (INS) at least four times annually and upon INS request.

*Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**Subtitle B - Eligibility for State and Local Public Benefits Programs**

**6. Aliens Who Are Not Qualified Aliens or Nonimmigrants Ineligible for State and Local Public Benefits**

*Present Law*

Under Plyler vs. Doe (457 U.S. 202 (1982)), States may not deny illegal alien children access to a public elementary education without authorization from Congress. However, the narrow 5-4 Supreme Court decision may imply that illegal aliens may be denied at least some State benefits and that Congress may influence the eligibility of illegal aliens for State benefits. Many, but not all, State general assistance laws currently deny illegal aliens means-tested general assistance.

*House Bill*

Illegal aliens are ineligible for all State and local public benefits, with limited exceptions for emergency medical services, emergency disaster relief, immunizations and testing and treatment for symptoms of communicable diseases, and programs necessary for the protection of life or safety. States may, however, pass laws after the date of enactment that specify that illegal aliens may be eligible for certain State or local benefits that otherwise would be denied under this section.

*Senate Amendment*

Similar to House bill, except that the exception for communicable diseases is more limited and must be triggered by a finding by HHS that testing and treatment of a particular disease is necessary to prevent its spread.

*Conference Agreement*

The conference agreement follows the House bill.

No current State law, State constitutional provision, State executive order or decision of any State or Federal court shall provide a sufficient basis for a State to be relieved of the requirement to deny benefits to illegal aliens. Laws, ordinances, or executive orders passed by county, city or other local officials will not allow those entities to provide benefits to illegal aliens. Only the affirmative enactment of a law by a State legislature and signed by the Governor after the date of enactment of this Act, that references this provision, will meet the requirements of this section.

The phrase "affirmatively provides for such eligibility" means that the State law enacted must specify that illegal aliens are eligible for State or local benefits. Persons residing under color of law shall be considered to be aliens unlawfully present in the United States and are prohibited from receiving State or local benefits, as defined, regardless of the enactment of any State law.

The conference agreement provides that no State or local government entity shall prohibit, or in any way restrict, any entity or official from sending to or receiving from the INS information regarding the immigration status of an alien or the presence, whereabouts, or activities of illegal aliens. It does not require, in and of itself, any government agency or law enforcement official to communicate with the INS.

The conferees intend to give State and local officials the authority to communicate with the INS regarding the presence, whereabouts, or activities of illegal aliens. This provision is designed to prevent any State or local law, ordinance, executive order, policy, constitutional provision, or decision of any Federal or State court that prohibits or in any way restricts any communication between State and local officials and the INS. The conferees believe that immigration law enforcement is as high a priority as other aspects of Federal law enforcement, and that illegal aliens do not have the right to remain in the United States undetected and unapprehended.

## **7. State Authority to Limit Eligibility of Qualified Aliens for State Public Benefits**

### *Present Law*

Under Graham v. Richardson (403 U.S. 365 (1971)), States may not deny legal permanent residents State-funded assistance that is provided to equally needy citizens without authorization from Congress.

Currently, there is no Federal law barring legal temporary residents (i.e., nonimmigrants) from State and local needs-based programs. In general, States are restricted in denying assistance to nonimmigrants where the denial is inconsistent with the terms under which the nonimmigrants were admitted. Where a denial of benefits is not inconsistent with Federal immigration law, however, States have broader authority to deny benefits and States often do deny certain benefits to nonimmigrants. Also, aliens in most nonimmigrant categories generally may have difficulty qualifying for many State and local benefits because of requirements that they be State "residents."

### *House Bill*

States are authorized to determine the eligibility of "qualified aliens," nonimmigrants, and aliens paroled into the United States for less than 1 year for any State or local means-tested public benefit program. Noncitizens receiving State and local benefits on the date of enactment would remain eligible

for benefits until January 1, 1997.

Exceptions to State authority to deny benefits are made for refugees, asylees and aliens whose deportation has been withheld (for 5 years), permanent resident aliens who have worked in the United States (in combination with their spouse or parents) for at least 10 years, and noncitizens who are veterans or on active duty or their spouse or unmarried child.

#### *Senate Amendment*

Similar to House bill, except that under Byrd rule the definition of "State public benefits" (sec. 2412(c)) is deleted.

#### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment. The conference agreement does not include a definition of State public benefits in this section because the definition was dropped due to the Byrd rule. However, it is the intent of House and Senate conferees that the following definition be used by States in carrying out the authority granted by this section: "STATE PUBLIC BENEFITS DEFINED.--The term 'State public benefits' means any means-tested public benefits of a State or political subdivision of a State under which the State or political subdivision specifies the standards for eligibility, and does not include any Federal public benefit."

### **Subtitle C - Attribution of Income and Affidavits of Support** **8. Federal Attribution of Sponsor's Income and Resources to Alien**

#### *Present Law*

Federal Benefits. In determining whether an alien meets the means test for AFDC, SSI (except in cases of blindness or disability occurring after entry), and food stamps, the resources and income of an individual who filed an affidavit of support ("sponsor") for the alien (and the income and resources of the individual's spouse) are taken into account during a designated period after entry. Sponsor-to-alien deeming provisions were added to these three programs in part because several courts have found that affidavits of support, under current practice, do not obligate sponsors to reimburse government agencies for benefits provided to sponsored aliens. See below.

Amounts of Income and Resources Deemed. While the offset formulas vary among the programs, the amount of income and resources deemed under AFDC, SSI, and Food Stamps is reduced by certain offsets to provide for some of the sponsor's own needs.

Length of Deeming Period. For AFDC and Food Stamps, sponsor-to-alien deeming applies to a sponsored alien seeking assistance within 3 years of entry. Through September 1996, sponsor-to-alien deeming applies to a sponsored alien seeking SSI within 5 years of entry, after which the deeming period reverts to 3 years.

Review Upon Reapplication. Regulations implementing the food stamp program expressly require providing information on a sponsor's resources as part of recertification.

Application. No provision.

#### *House Bill*

Federal Benefits. During the applicable deeming period (see "Length of Deeming Period" below), the income and resources of a sponsor and the sponsor's spouse are to be taken into account under all Federally-funded means-tested programs (with the exception of the programs below) in determining the sponsored individual's neediness. Excepted programs are emergency medical services, emergency disaster relief, school lunch and child nutrition assistance, immunizations and testing and treatment for symptoms of communicable diseases, certain programs that protect life, safety, or public health, certain foster care and adoption assistance, Head Start, Job Training Partnership Act programs, certain elementary and secondary education programs, and higher education grants and loans.

Amounts of Income and Resources Deemed. The full income and resources of the sponsor and the sponsor's spouse are deemed to be that of the sponsored alien.

Length of Deeming Period. Deeming extends until citizenship, unless the noncitizen has worked for at least 10 years in the United States (either individually or in combination with the noncitizen's spouse and parents).

Review Upon Reapplication. Whenever a sponsored noncitizen is required to reapply for benefits under any Federal means-tested public benefits program, the agency must review the income and resources deemed to the sponsored noncitizen.

Application. For programs that already deem income and resources on the date of enactment, the changes in this section apply immediately; other programs must implement changes required within 180 days after the date of enactment.

#### *Senate Amendment*

Federal Benefits. Under the Byrd rule, the definition of "Federal means-tested program" (sec. 2403(c)(1)) is deleted.

Otherwise similar to House bill, with differences in exceptions to Federal means-tested programs noted above for the 5-year bar.

Amounts of Income and Resources Deemed. Similar to House bill.

Length of Deeming Period. Similar to House bill.

Review Upon Reapplication. Similar to House bill.

Application. Similar to House bill.

#### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment, with the modification

of certain additional excepted programs as noted in item 4 above.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is not intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

#### **9. Authority for States to Provide for Attribution of Sponsor's Income and Resources to the Alien with Respect to State Programs**

##### *Present Law*

The highest courts of at least two States have held that the Supreme Court decision barring State discrimination against legal aliens in providing State benefits without Federal authorization (Graham v. Richardson, 403 U.S. 365 (1971)) prohibits State sponsor-to-alien deeming requirements for State benefits.

##### *House Bill*

State and local governments may, for the deeming period that applies to Federal benefits, deem a sponsor's income and resources (and those of the sponsor's spouse) to a sponsored individual in determining eligibility for and the amount of needs-based benefits. State and local governments may not require deeming for the following State public benefits: emergency medical services, emergency disaster relief, school lunch and child nutrition assistance, immunizations and testing and treatment for symptoms of communicable diseases, foster care and adoption payments, and certain programs to protect life and safety.

##### *Senate Amendment*

Similar to House bill, except that the exception for communicable diseases is limited to testing and treatment of the disease itself and must be triggered by a finding by the chief State health official that it is necessary to prevent spread of the disease.

##### *Conference Agreement*

The conference agreement follows the House bill.

## 10. Requirements for Sponsor's Affidavit of Support

### *Present Law*

In General. Administrative authorities may request an affidavit of support on behalf of an alien seeking permanent residency pursuant to regulation. Requirements for affidavits of support are not specified by statute.

Under the Immigration and Nationality Act, an alien who is likely to become a public charge may be excluded from entry unless this restriction is waived, as is the case for refugees. By regulation and administrative practice, the State Department and the Immigration and Naturalization Service permit a prospective permanent resident alien (also immigrant or green card holder) who otherwise would be excluded as a public charge (i.e., because of insufficient means or prospective income) to overcome exclusion through an affidavit of support or similar document executed by an individual in the United States commonly called a "sponsor." It has been reported that roughly one-half of the aliens who obtain legal permanent resident status have had affidavits of support filed on their behalf.

Various State court decisions and decisions by immigration courts have held that the affidavits of support, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

Forms. No statutory provision. The Department of Justice issues a form (Form I-134) that complies with current sponsorship guidelines.

Notification of Change of Address. There is no express requirement under current administrative practice that sponsors inform welfare agencies of a change in address. However, a sponsored alien who applies for benefits for which deeming is required must provide various information regarding the alien's sponsor.

Reimbursement of Government Expenses. Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

Definitions. There are no firm administrative restrictions on eligibility to execute an affidavit of support. There is no definition of "Means-tested Public Benefits Program".

Effective Date. No provision.

Benefits Not Subject to Reimbursement. No provision.

### *House Bill*

In General. The proposal provides that when affidavits of support are required, they must comply with the following:

-- Affidavits of support must be executed as contracts that are legally enforceable against sponsors by Federal, State, and local agencies with respect to any means-tested benefits (with exceptions noted

below) paid to sponsored aliens before they become citizens.

- Affidavits of support must be enforceable against the sponsor by the sponsored alien.
- Reimbursement shall be requested for all Federal, State or local need-based programs with the exceptions noted below.
- To qualify to execute an affidavit of support, an individual must meet the revised definition of sponsor below.
- Governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits.
- Sponsorship extends until the alien becomes a citizen.

Forms. The Attorney General, in consultation with the Secretary of State and the Secretary of HHS, shall formulate an affidavit of support within 90 days after enactment, consistent with this section.

Notification of Change of Address. Until they no longer are potentially liable for reimbursement of benefits paid to sponsored individuals, sponsors must notify the Attorney General and the State, district, territory or possession in which the sponsored individual resides of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to \$2,000 or, if the failure occurs after knowledge that the sponsored individual has received a reimbursable benefit, of up to \$5,000.

Reimbursement of Government Expenses. If a sponsored alien receives any benefit under any means-tested public assistance program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance. Thereafter the official may seek reimbursement in court if the sponsor fails to respond within 45 days of the request that the sponsor is willing to begin repayments. The official also may seek reimbursement through the courts within 60 days after a sponsor fails to comply with the terms of repayment. The Attorney General in consultation with the Secretary of HHS, shall prescribe regulations on requesting reimbursement. No action may be brought later than 10 years after the alien last received benefits.

Definitions. A "sponsor" is a citizen or an alien lawfully admitted to the United States for permanent residence who petitioned for immigration preference for the sponsored alien, is at least 18 years of age, and resides in any State.

A "Means-Tested Public Benefits Program" is a program of public benefits of the Federal, State or local government in which eligibility for or the amount of, benefits or both are determined on the basis of income, resources, or financial need.

Effective Date. The changes regarding affidavits of support shall apply to affidavits of support executed no earlier than 60 days or later than 90 days after the Attorney General promulgates the form.

Benefits Not Subject to Reimbursement. Governmental entities cannot seek reimbursement with respect to:

- emergency medical services;
- emergency disaster relief;
- school lunch and child nutrition assistance;
- payments for foster care and adoption assistance;
- immunizations and testing for and treatment of communicable diseases;
- certain programs that protect life, safety, or public health;

- postsecondary education benefits;
- means-tested elementary and secondary education programs;
- Head Start; and
- Job Training Partnership Act programs.

*Senate Amendment*

In General. Under the Byrd rule, the definition of "means-tested public benefits program" (sec. 2423(a)) is deleted. Otherwise similar to House bill.

Forms. Similar to House bill.

Notification of Change of Address. Similar to House bill.

Reimbursement of Government Expenses. Similar to House bill.

Definitions. Similar to House bill. Definition for "Means-tested public benefits program" deleted under the Byrd rule.

Effective Date. Similar to House bill.

Benefits Not Subject to Reimbursement. Similar to House bill except:

- does not add Head Start and Job Training Partnership Act programs to the list of excepted programs;
- the exception for foster care and adoption assistance is limited to part E of Title IV of the Social Security Act;
- the exception for testing and treatment of a communicable disease is more limited and must be triggered by a finding by HHS that it is necessary to prevent the disease's spread; and
- adds exception for education assistance under titles III, VII, and VIII of the Public Health Service Act.

*Conference Agreement*

The conference agreement generally follows the House bill and Senate amendment. The definition of Means-Tested Public Benefits Program (defined as "a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit") for purposes of this section was deleted due to the Byrd rule. It is the intent of conferees that this definition be presumed to be in place for purposes of this title. With regard to excepted programs, the conference agreement follows the House bill on testing and treatment of communicable diseases and by adding Head Start and Job Training Partnership Act as excepted programs; the conference agreement follows the Senate amendment by adding education assistance under titles III, VII, and VIII of the Public Health Services Act as an excepted program.

**Subtitle D - General Provisions**

## 11. Definitions

### *Present Law*

In General. Federal assistance programs that have alien eligibility restrictions generally reference specific classes defined in the Immigration and Nationality Act.

Qualified Alien. Some programs allow benefits for otherwise eligible aliens who are "permanently residing under color of law (PRUCOL)." This term is not defined under the Immigration and Nationality Act, and there has been some inconsistency in determining which classes of aliens fit within the PRUCOL standard.

### *House Bill*

In General. Unless otherwise provided, the terms used in this title have the same meaning as defined in Section 101(a) of the Immigration and Nationality Act.

Qualified Alien. An alien who is a lawful permanent resident, refugee, asylee, or an alien who has been paroled into the United States for at least 1 year.

### *Senate Amendment*

In General. Similar to House bill.

Qualified Alien. Similar to House bill.

### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

## 12. Verification of Eligibility for Federal Public Benefits

### *Present Law*

State agencies that administer most major Federal programs with alienage restrictions generally use the SAVE (Systematic Alien Verification for Entitlements) system to verify the immigration status of aliens applying for benefits.

### *House Bill*

The Attorney General must adopt regulations to verify the lawful presence of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption, and must authorize necessary appropriations.

### *Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**13. Statutory Construction**

*Present Law*

No provision.

*House Bill*

This title addresses only program eligibility based on alienage and does not address whether any individual meets other eligibility criteria. This title does not address alien eligibility for basic education or for any program of foreign assistance.

*Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**14. Communication Between State and Local Government Agencies and the Immigration and Naturalization Service**

*Present Law*

The confidentiality provisions of various State statutes may prohibit disclosure of immigration status obtained under them. Some Federal laws, including the Family Education Rights and Protection Act, may deny funds to certain State and local agencies that disclose a protected individual's immigration status. Various localities have enacted laws preventing local officials from disclosing the immigration status of individuals to INS.

*House Bill*

No State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

*Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**15. Qualifying Quarters**

*Present Law*

No provision.

*House Bill*

In determining whether an alien may qualify for benefits under the exception for individuals who have worked at least 40 quarters while in the United States (see sections 402 and 421 above), work performed by parents and spouses may be credited to aliens under certain circumstances. Each quarter of work performed by the parent while an alien was under the age of 18 is credited to the alien, provided the parent did not receive any Federal public benefits during the quarter. Similarly, each quarter of work performed by a spouse of an alien during their marriage is credited to the alien, if the spouse did not receive any Federal public benefits during the quarter.

*Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**Subtitle E - Conforming Amendments**

**16. Conforming Amendments Relating to Assisted Housing**

*Present Law*

No provision.

*House Bill*

This section consists of a series of technical and conforming amendments.

*Senate Amendment*

Similar to House bill.

## *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

### **Subtitle F - Earned Income Credit Denied to Unauthorized Employees**

#### **17. Earned Income Credit Denied to Individuals Not Authorized to be Employed in the United States**

(Note: For further description of this and additional earned income credit provisions, see Title IX: Miscellaneous below.)

#### *Present Law*

Certain eligible low-income workers are entitled to claim a refundable credit of up to \$3,556 in 1996 on their income tax return. The amount of the credit an eligible individual may claim depends upon whether the individual has one, more than one, or no qualifying children and is determined by multiplying the credit rate by the taxpayer's earned income up to an earned income amount. The maximum amount of the credit is the product of the credit rate and the earned income amount. For taxpayers with earned income (or adjusted gross income (AGI), if greater) in excess of the beginning of the phaseout range, the maximum credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

In order to claim the credit, an individual must either have a qualifying child or meet other requirements. A qualifying child must meet a relationship test, an age test, an identification test, and a residence test. In order to claim the credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

To satisfy the identification test, individuals must include on their tax return the name and age of each qualifying child. For returns filed with respect to tax year 1996, individuals must provide a taxpayer identification number (TIN) for all qualifying children born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all qualifying children, regardless of their age. An individual's TIN is generally that individual's social security number.

The Internal Revenue Service may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a

taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

#### *House Bill*

Individuals are not eligible for the credit if they do not include their taxpayer identification number (and, if married, their spouse's taxpayer identification number) on their tax return. Solely for these purposes and for purposes of the present-law identification test for a qualifying child, a taxpayer identification number is defined as a social security number issued to an individual by the Social Security Administration other than a number issued under section 205(c)(2)(B)(i)(II) (or that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act (regarding the issuance of a number to an individual applying for or receiving Federally funded benefits).

If an individual fails to provide a correct taxpayer identification number, such omission will be treated as a mathematical or clerical error. If an individual who claims the credit with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on such net earnings, the failure will be treated as a mathematical or clerical error for purposes of the amount of credit allowed.

#### *Senate Amendment*

Similar to House bill.

#### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**Title V: Child Protection Block Grant Programs and Foster Care,  
Adoption Assistance, and Independent Living Programs**

**Subtitle A – Child Protection Block Grant Program and Foster Care,  
Adoption Assistance, and Independent Living Programs**

*Present Law*

Under current law, there are at least 36 programs designed to help children who are victims of abuse or neglect. These programs address the child protection issue by supporting abuse reporting and investigation; abuse prevention; child and family assessment, preservation, and support; foster care; adoption; and training of social workers, foster parents, judges, and others. These programs can be divided into two general categories. The first are entitlement programs under jurisdiction of the Committee on Ways and Means and the Finance Committee, nearly all of which provide unlimited funding for foster and adoption maintenance payments, administrative costs, and training. The two exceptions are the Family Preservation and Support Program which provides capped entitlement funds to help States provide services that keep families together and prevent abuse, and the Independent Living program which provides capped entitlement funds to help children in foster care make the transition to living on their own. The second group of programs are appropriated programs. These programs are smaller and, except the Child Welfare Services Program, are generally under the jurisdiction of the Economic and Educational Opportunities Committee and the Labor and Human Resources Committee.

*House Bill*

The House provision retains all the open-ended entitlement programs to ensure that States have adequate resources to help abused children that must be removed from their homes. The provision also combines the two capped entitlement programs and many of the smaller programs into two block grants that will simplify administration, promote flexibility, and increase efficiency. Working in conjunction with the Committee on Economic and Educational Opportunity, the Ways and Means Committee has created a block grant that is identical to a block grant created by the Opportunities Committee. Across the two Committees, a total of 11 programs are combined into the new block grant structure. Programs under jurisdiction of the Opportunities Committee are mentioned briefly below to clarify the structure of the overall Federal program for helping abused children and their families.

*Senate Amendment*

The Senate amendment does not include the block grant; the amendment makes no changes in current law.

*Conference Agreement*

The conference agreement follows the Senate amendment.

**Chapter 1 – Block Grants to States for the Protection of Children**

## 1. Purpose

### *Present Law*

Child Welfare Services, now provided for in Title IV-B of the Social Security Act, are designed to help States provide child welfare services, family preservation, and community-based family support services.

### *House Bill*

The proposed Child Protection Block Grant would replace current law under Title IV-B. The purpose of the Child Protection Block Grant is to:

- (1) identify and assist families at risk of abusing or neglecting their children;
- (2) operate a system for receiving reports of abuse or neglect of children;
- (3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;
- (4) enhance the general child protective system by improving risk and safety assessment tools and protocols;
- (5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;
- (6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;
- (7) support children who must be removed from or who cannot live with their families;
- (8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;
- (9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;
- (10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and
- (11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

### *Senate Amendment*

The amendment does not change current law.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## 2. Eligible States

### *Present Law*

To be eligible for funding under Title IV-B and IV-E, States must have State plans, developed jointly with the Secretary under Title IV-B, and approved by the Secretary under Title IV-E. In addition, to receive funds under the Child Abuse Prevention and Treatment Act (CAPTA), States must comply with certain requirements including submission of a State plan.

States must have a child welfare services plan developed jointly by the Secretary and the relevant State agency which provides for single agency administration and which describes services to be provided and geographic areas where services will be available. The State plan also must meet many other requirements, such as setting forth a 5-year statement of goals for family preservation and family support and assuring the review of progress toward those goals. For foster care and adoption assistance, States must submit for approval a Title IV-E plan providing for a foster care and adoption assistance program and satisfying numerous requirements. The Child Abuse Prevention and Treatment Act (CAPTA) requires States to have in effect a law for reporting known and suspected child abuse and neglect as well as providing for prompt investigation of child abuse and neglect reports, among many other requirements.

To receive funding under Title IV-B and IV-E of the Social Security Act, States must comply with certain procedures for removal of children from their families when necessary, must develop case plans for each child that are reviewed at least every 6 months and contain specified information, and must establish specific goals for the maximum number of eligible children who will remain in foster care for more than 24 months.

Under Title IV-B, for fiscal years beginning on or after April 1, 1996, State plans must provide assurances that:

- (1) the State has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for six months or more, which determined: (i) the appropriateness of, and necessity for, the foster care placement; (ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and (iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;
- (2) the State is operating to the satisfaction of the Secretary: (i) a statewide information system on children who are or have been in foster care in the last year; (ii) a case review system for each child receiving foster care under the supervision of the State; (iii) a service program designed to help children return to families from which they have been removed; or be placed for adoption; (iv) a preplacement preventive service program designed to help children at risk remain with their families; and
- (3) the State has reviewed State policies and procedures in effect for children abandoned at birth; and is implementing (or, will implement by October 31, 1996) such policies or procedures to enable permanent decisions with respect to the placement of such children to be made expeditiously. (For fiscal years beginning before April 1, 1996, these standards were incentive funding requirements that States had to meet to receive their full Title IV-B allotment, and were known as section 427 protections.)

Title IV-E State plans must provide that reasonable efforts will be made prior to the placement of a

child in foster care to prevent or eliminate the need for removal of the child from her home and to make it possible for the child to return to her home.

Title IV-E State plans must provide that, where appropriate, all steps will be taken, including cooperative efforts with State AFDC and child support enforcement agencies, to secure an assignment of any rights to support of a child receiving foster care maintenance payments under Title IV-E.

#### *House Bill*

An "Eligible State" is one that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the Chief Executive Officer of the State. The plan must outline the State's Child Protection Program and provide several certifications regarding the nature of its child protection program.

A State plan must thoroughly describe the State Child Protection Program by describing State activities and procedures to be used for:

- (1) receiving and assessing reports of child abuse or neglect;
- (2) investigating such reports;
- (3) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;
- (4) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;
- (5) providing training for individuals mandated to report suspected cases of child abuse or neglect;
- (6) protecting children in foster care;
- (7) promoting timely adoptions;
- (8) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards; and
- (9) providing services aimed at preventing child abuse and neglect.

The State plan must also certify that the State:

- (1) has in effect laws that require reporting of child abuse and neglect;
  - (2) has in effect procedures for the immediate screening, safety assessment, and prompt investigation of child abuse or neglect reports;
  - (3) has in effect procedures for the removal and placement of abused or neglected children;
  - (4) has in effect laws requiring immunity from prosecution under State and local laws for individuals making good faith reports of suspected or known cases of child abuse or neglect;
  - (5) has in effect no later than 2 years after enactment, laws and procedures affording individuals an opportunity to appeal an official finding of abuse or neglect;
  - (6) has in effect procedures for developing and reviewing written plans for the permanent placement of each child removed from the family that: specify the goal for achieving a permanent placement for the child in a timely fashion; ensure that the plan is reviewed every 6 months; and ensure that information about the child is gathered regularly and placed in the case record.
  - (7) has in effect a program to provide independent living services to 16-19 year old youths (and, at State option, youths up to age 22) who are in the foster care system but have no family to support them.
- (Under the proposal, States also will continue to receive capped entitlement grants for Independent

Living services as under current law.)

(8) has in effect procedures or programs (or both) to respond to reports of medical neglect of disabled infants;

(9) has quantitative goals of the State child protection program;

(10) will comply with respect to fiscal years beginning on or after April 1, 1996, with the same child protection standards as under current law. Standards related to abandoned children must be met by October 1, 1997;

(11) will make reasonable efforts to prevent the placement of children in foster care and to make it possible for the child to return home. Each State must also certify that it provides services for children and families where maltreatment has been confirmed but the child remained with the family;

(12) will take all appropriate steps, including cooperative efforts, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments; and

(13) has in effect requirements for disclosure of records only to specified individuals and entities, and provisions that allow for public disclosure of findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality (except that such disclosure shall not include identifying information about the individual initiating a report of suspected child abuse or neglect).

The Secretary of HHS must determine whether the State plan includes the required materials and certifications (except material related to the certification of State procedures to respond to reporting of medical neglect of disabled infants). The Secretary cannot add new elements beyond those listed above.

#### *Senate Amendment*

The amendment does not change current law, except to require that the State plan for foster care and adoption assistance provide for the protection of the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards (see item 8).

#### *Conference Agreement*

The conference agreement follows the Senate amendment with a modification to delete the proposed amendment dealing with adult relative preferences.

### **3. Grants to States for Child Protection**

#### *Present law*

Title IV-B of the Social Security Act contains both discretionary and capped entitlement funding for helping States provide assistance to troubled families and their children. Of capped entitlement funding for family preservation and support, 1 percent is reserved for Indians. For child welfare services under Title IV-B, \$325 million is authorized annually. For family preservation and support services, \$225 million is authorized in fiscal year 1996; \$240 million in fiscal year 1997; and \$255 million in fiscal year 1998. State allotments for child welfare services are based on the State's child population and per capita income. State allotments for family preservation and support are based on the number of children in the State receiving Food Stamps. Funds must be used for: "protecting and promoting the welfare of children \*\*\* preventing unnecessary separation of children from their families \*\*\* restoring children to their families if they have been removed \*\*\* family preservation services \*\*\* community-based family support services to promote the well-being of children and families and to increase parents' confidence and competence."

For-profit foster care providers are not eligible for Federal funding under Title IV-E.

Section 1123 of the Social Security Act requires the Secretary to establish by regulation a new Federal review system for child welfare which would allow penalties for misuse of funds. Regulations are expected to be published during the summer of 1996. (This provision would not be affected by the House proposal.)

#### *House Bill*

The block grant contains both entitlement and appropriated funds. From the entitlement funds, each eligible State must receive from the Secretary an amount equal to the State share of the Child Protection Block Grant amount for the fiscal year (see below). A set-aside is provided for Indians equal to 1 percent of the entitlement money flowing into the block grant.

Each eligible State is also given funds equal to the State share of the authorization component of the block grant that is appropriated each year. Indians are given 0.36 percent of the appropriated money flowing into the block grant. Funds for the authorization component of the block grant under this section are not to exceed \$325 million each year. No funds from the block grant can be used to pay for foster care or adoption maintenance payments.

The term "child protection amount" means: \$240 million for fiscal year 1997; \$255 million for fiscal year 1998; \$262 million for fiscal year 1999; \$270 million for fiscal year 2000; \$278 million for fiscal year 2001; \$286 million for fiscal year 2002.

The term "State share" means the qualified child protection expenses of a State divided by the sum of the qualified child protection expenses of all of the States. The term "qualified State expenditure" means Federal grants to the State under the Child Welfare Services Grant and the Family Preservation and Support Services Grant in fiscal year 1994 or the average of 1992-94, whichever is greater. In determining amounts for fiscal years 1992 through 1994, the Secretary shall use information listed as actual amounts in the Justification for Estimates for Appropriation Committees of the Administration for Children and Families for fiscal years 1994 through 1996.

A State to which funds are paid under this section may use the money in any manner the State deems appropriate to accomplish the purposes of this part, but the funds must be expended not later than the end of the immediately succeeding fiscal year.

For-profit, foster care facilities are eligible to receive funds from the block grant.

Under the terms and conditions of the block grant, States are subject to several penalties:

- (1) *For misuse of funds.* If an audit determines that any amounts provided to a State have been spent in violation of this part, the Secretary must reduce the grant otherwise payable for the next fiscal year by the amount of the misspent funds, plus 5 percent of the grant;
- (2) *For failure to maintain effort.* If States fail to maintain State spending equal to State expenditures under Part B of Title IV in fiscal year 1994, the Secretary must reduce the grant payable under this section by an amount equal to the previous year's shortfall in maintenance of effort. A penalty of 5 percent of the State grant must also be imposed. States must maintain 100 percent of prior effort in fiscal years 1997 and 1998;

and 75 percent in fiscal years 1999 through 2002;

(3) *For failure to submit report.* If the Secretary determines that the State has not submitted mandatory adoption and foster care data reports within 6 months of the end of the fiscal year, the Secretary must reduce by 3 percent the amount of the State's block grant. If the report is submitted before the end of the immediately succeeding fiscal year, the Secretary shall rescind the penalty.

Except in the case of failure to maintain effort, the Secretary may not impose a penalty if the determination is made that the State has reasonable cause for failing to comply with the requirement. Further, a State must be informed before any penalty is imposed and be given an opportunity to enter into a corrective compliance plan. The provision includes a series of deadlines for submission of such corrective compliance plans and review by the Federal government. No quarterly payment can be reduced by more than 25 percent; penalty amounts above 25 percent must be carried forward to subsequent quarters.

Each territory is entitled to receive from the Secretary for any fiscal year an amount equal to the total obligations due to the territory under the Social Security Act for fiscal year 1995.

Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this part or enforce any provision of this Act.

#### *Senate Amendment*

The amendment does not change current law, except that it would amend the definition of "child care institution" to include for-profit providers (see item 6).

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **4. Data Collection and Reporting**

### *Present Law*

In 1986, Congress established the National Advisory Committee on Adoption and Foster Care Information to assist HHS in designing a new comprehensive nationwide data collection system with full system implementation expected to be completed by October 1991. However, final regulations were not issued until December 1993 with the first transmission of data due May 1995. All States are now participating in the Adoption and Foster Care Analysis and Reporting System (AFCARS). HHS is currently analyzing the first datasets transmitted from the States. The final rules require semi-annual reporting on all children in foster care. The data collection is child and case specific and is intended to yield a semi-annual snapshot of child welfare trends. It is also intended to yield information that will enable policymakers to "track" children in care and find out the reasons why children enter foster care, how long children stay in foster care, and what happens to children while in foster care as well as after they leave foster care.

In 1993, Congress authorized enhanced funding of 75 percent for both the AFCARS system and for several additional functions not originally envisioned as part of AFCARS capability. These new functions included electronic data exchange within the State, automated data collection on all children in foster care, collection and management of information necessary to facilitate delivery of child welfare services and to

determine eligibility for such services, case management, case plan development and monitoring, and information security. Enhanced funding of 75 percent for this second data system, which HHS calls the Statewide Automated Child Welfare Information System (SACWIS), expires on October 1, 1996.

*House Bill*

The House provision leaves unaltered the current State data reporting system on child protection. The enhanced funding rate of 75 percent for the Statewide Automated Child Welfare Information System (SACWIS) is extended for 1 additional year, through fiscal year 1997.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**5. Funding for Studies of Child Welfare**

*Present Law*

Sec. 426 authorizes discretionary funding for child welfare research and demonstration projects. No funds were appropriated in 1996.

*House Bill*

The Secretary is entitled to receive, for each of fiscal years 1996 through 2002, \$6 million to conduct a national study based on random samples of children who are at risk of child abuse or neglect, and \$10 million for other research.

*Senate Amendment*

The amendment does not change current law.

*Conference Agreement*

The conference agreement follows the House bill. The conferees recommend that the Secretary, in conducting the random sample study, require that the study have a longitudinal component and yield data that is reliable at the State level for as many States as she determines is feasible. The conferees also recommend that the Secretary carefully consider selecting the sample from cases of confirmed abuse or neglect and follow each case for several years while obtaining information on, among other things, the type of abuse or neglect involved, the frequency of contact with State or local agencies, whether the child involved has been separated from the family, and, if so, under what circumstances, the number, type, and characteristics of out-of-home placements of the child, and the average duration of each placement.

## 6. Definitions

### *Present Law*

The term "child care institution" means a licensed nonprofit private or public facility which accommodates no more than 25 children. The term does not apply to detention facilities, forestry camps, training schools, or centers for delinquent children.

### *House Bill*

Same as present law, except the word "nonprofit" is deleted.

### *Senate Amendment*

Same.

### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

## 7. Conforming Amendments

### *Present Law*

### *House Bill*

This section makes a series of technical and conforming amendments to the Social Security Act and the Omnibus Budget Reconciliation Act of 1986.

### *Senate Amendment*

The amendment redesignates section 1123 (42 U.S.C. 1320a-1a) the second place it appears as section 1123A.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **Chapter 2 – Foster Care, Adoption Assistance, and Independent Living Programs**

### **8. Changes in Title IV-E of the Social Security Act**

#### *Present Law*

Title IV-E Foster Care and Title IV-E Adoption Assistance are intended to help States finance foster care

and adoption assistance maintenance payments, administration, child placement services, and training related to foster care and adoption assistance.

The purpose of the Title IV-E Independent Living Program is to help older foster children make the transition to independent living.

#### *House Bill*

The most notable feature of House action on Title IV-E is that all the entitlement programs remain intact. In addition, the House retains the provision of current law that guarantees Medicaid coverage for children who receive maintenance payments from either the foster care or adoption programs. On the other hand, the House provision does change current law in three ways.

First, the current law guarantee of eligibility for foster care and adoption maintenance payments for children eligible for the Aid to Families with Dependent Children (AFDC) program was disrupted because the AFDC statute was completely rewritten to give States the authority to establish their own welfare programs. To ensure that the eligibility of poor children for maintenance payments continues, the House provision guarantees eligibility for all children from families that would have been eligible for the AFDC program as it existed in each State on the day before enactment of this legislation.

Second, the House provision allows States to use private for-profit foster care facilities. The House believes that States should be allowed to use private child care organizations because they are fully capable of providing quality services. States are responsible for ensuring that children are in safe and reliable care whether it is provided by public or private entities. The House can see no reason to automatically refuse participation by an entire sector of the child caring community.

Third, the House provided enhanced funding for the Statewide Automated Child Welfare Information System (SACWIS) because automation is a vital part of providing quality child protection services. The House has investigated progress by the States in creating SACWIS and has found that several States are now ready to begin actual implementation and that as many as half the States can be expected to have operational systems by next year if funding remains available. Thus, the House is extending the enhanced funding rate of 75 percent to encourage States to invest money in these important systems.

#### *Senate Amendment*

The amendment amends Title IV-E to include for-profit providers in the definition of "child care institutions" (see item 6). The provision also amends Title IV-E to require that the State plan for foster care and adoption assistance provide for the protection of the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards.

#### *Conference Agreement*

The conference agreement follows the Senate amendment with a modification to delete the proposed amendment dealing with adult relative preference.

Chapter 3 – Miscellaneous

9. Secretarial Submission of Legislative Proposal for Technical and Conforming Amendments

*Present Law*

No provision.

*House Bill*

Not later than 90 days after the date of enactment, the Secretary of Health and Human Services must submit to Congress a legislative proposal providing for technical and conforming amendments required by the changes made in this subtitle of the proposal.

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement follows the Senate amendment.

10. Sense of the Congress Regarding Timely Adoption of Children

*Present Law*

No provision.

*House Bill*

This section expresses the sense of Congress that too many adoptable children are spending too much time in foster care, that States must take steps to increase the number of children who are adopted in a timely manner, and that States could achieve savings if they offered incentives for the adoption of special needs children, among other provisions.

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement follows the Senate amendment.

11. Effective Date; Transition Rules

*Present Law*

No provision.

*House Bill*

The changes made in this subtitle will be effective on or after October 1, 1996. Provisions that authorize and appropriate funds in fiscal year 1996 for research and court improvements, and certain technical and conforming amendments are effective upon enactment. The proposal establishes transition rules for pending claims, actions and proceedings, and closing out accounts for programs that are terminated or substantially modified.

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement follows the Senate amendment.

**Subtitle B – Child and Family Services Block Grant**

*Present Law*

No provision.

*House Bill*

The block grant and associated activities under Subtitle B are under the jurisdiction of the Economic and Educational Opportunities Committee in the House and the Labor and Human Resources Committee in the Senate. The Child and Family Services Block Grant created by Subtitle B consolidates the following programs into a single block grant: The Child Abuse Prevention and Treatment Act, the Abandoned Infants Assistance Act, adoption opportunities under the Child Abuse Prevention and Treatment and Adoption Reform Act, the family support centers under the McKinney Homeless Assistance Act, and the Temporary Child Care and Crisis Nurseries Act. The Child and Family Services Block Grant has the same State plan and certification requirements as the Child Protection Block Grant created by Subtitle A. The two Block Grants also have the same data collection and reporting requirements for child abuse incidence data and for the implementation of foster care and adoption tracking systems. The Child and Family Services Block Grant is authorized at \$230 million for fiscal year 1996 and "such sums as may be necessary" are authorized for fiscal year 1997 through fiscal year 2002. Title II of the Child and Family Services Block Grant provides that funds be available for research, demonstrations, training and technical assistance to better protect children from maltreatment. Funds under this block grant also will establish a National Clearinghouse for Information Relating to Child Abuse, provide demonstration grants for the development of innovative programs, provide technical assistance to States to assist with child abuse investigation and the termination of parental rights proceedings, and provide training for professionals in related fields. For these Title II activities, 12 percent of the \$230 million provided for this Block Grant is authorized of which 40 percent must be available for demonstration projects. The Missing Children's Assistance Act and the Victims of Child Abuse Act of 1990 are both reauthorized.

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement follows the Senate amendment.

Title VI: Child Care

1. Short Title and References

*Present Law*

No provision.

*House Bill*

Short Title: Child Care and Development Block Grant Amendments of 1996. Unless otherwise specified, references should be considered as made to the Child Care and Development Block Grant Act of 1990.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

2. Goals

*Present Law*

No provision.

*House Bill*

This section establishes the following goals for the Child Care and Development Block Grant:

- (1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within the State;
- (2) to promote parental choice in making decisions on the child care that best suits their family's needs;
- (3) to encourage States to provide consumer information to help parents make informed child care choices;
- (4) to assist States in providing child care to parents trying to become independent of public assistance; and
- (5) to assist States in implementing the health, safety, licensing and registration standards established in State regulations.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

### 3. Authorization of Appropriations and Entitlement Authority

#### *Present Law*

The authorization of appropriations for the Child Care and Development Block Grant expires at the end of fiscal year 1995. Appropriations in fiscal year 1996 are \$935 million. (Sec. 658B of the CCDBG Act)

(Note: In addition to appropriated funds, entitlement funds are available for the Child Care Block Grant under the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs authorized by Title IV-A of the Social Security Act.)

#### *House Bill*

Authorization of Appropriations. There are authorized to be appropriated \$1,000,000,000 for each of fiscal years 1996 through 2002. (Additional mandatory funding will be provided for child care under the Social Security Act so that a total of \$22 billion will be provided for child care over the 7-year period fiscal years 1996-2002.)

Child Care Entitlement. The proposal establishes a single child care block grant and State administrative system by adding mandatory funds to the existing Child Care and Development Block Grant (CCDBG). Specifically, one discretionary and two mandatory streams of funding will be consolidated in a reconstituted CCDBG.

a. State General Entitlement. From the stream of entitlement funding, each State will receive the amount of funds it received for child care under all of the entitlement programs currently under Title IV-A of the Social Security Act (AFDC Child Care, Transitional Child Care, and At-Risk Child Care) in fiscal year 1994, in fiscal year 1995, or the average amount in fiscal years 1992 through 1994, whichever is greater. This source of funds will provide States with approximately \$1.2 billion for child care each year between 1997 and 2002.

b. Remainder. The mandatory funds remaining after the allocation to Indians (see below) and the State General Entitlement (see above) will be distributed among the States based on the formula currently used in the Title IV-A At-Risk Child Care Grant. Specifically, funds will be distributed based on the proportion of the number of children under age 13 residing in the State to the number of all of the Nation's children under age 13. States must provide matching funds at the fiscal year 1995 State Medicaid rate to receive these funds and must maintain spending at their fiscal year 1994 or 1995 level, whichever is greater, under the Title IV-A child care programs. The money available to States through this source of funds for fiscal years 1997 through 2002, respectively, will be: \$0.76 billion, \$0.86 billion, \$0.96 billion, \$1.16 billion, \$1.36 billion, and \$1.51 billion.

If a State does not use its full portion of funds, the remaining portion will be redistributed to other States according to section 402(i) of the At-Risk Child Care Grant (as such section was in effect before October 1, 1995). Thus, each State applying for these remaining funds will receive the percentage of funds that equals the percentage of children under age 13 residing in that State of all children under age 13 residing in all the States that apply for funds. The Secretary must determine whether States will use their entire portion of funds no later than the end of the first quarter of the subsequent fiscal year.

c. Appropriation. Total child care funds under this proposal will equal \$22 billion for child care over the 7-year period fiscal years 1996-2002, including both the \$15 billion in mandatory funds discussed above and

\$7 billion in discretionary funds. Under current law for the three existing AFDC-related child care programs, \$1.1 billion in mandatory funds will be spent in fiscal year 1996. In addition, a total of \$13.85 billion in mandatory funds would be authorized for child care in fiscal years 1997-2002, starting at \$2.0 billion in fiscal year 1997 and rising to \$2.7 billion in fiscal year 2002. Finally, as stated earlier, \$1 billion will be authorized annually in discretionary funds for the Child Care and Development Block Grant.

d. Indian Tribes. One percent of all funds under the section are provided to Indian tribes.

Use of Funds. Funds shall only be used to provide child care assistance. Amounts received by a State, based on the amounts received in previous years, shall be available for use by the State without fiscal year limitation. All funds from both mandatory and discretionary sources must be transferred to the lead agency under the Child Care and Development Block Grant and integrated into the State child care programs.

Not less than 70 percent of the total amount of mandatory funds received by the State in a fiscal year must be used to provide child care assistance to families that are receiving assistance under a State program, families that are attempting to transition off public assistance, and families at risk of becoming dependent on public assistance.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and Senate amendment, with a modification. The Secretary shall reserve not less than 1 percent and not more than 2 percent of the total amount appropriated (both mandatory and discretionary) in each fiscal year for payments to Indian tribes and tribal organizations.

**4. Lead Agency**

*Present Law*

The Chief Executive Officer of a State is required to designate an appropriate State agency to act as the lead agency in administering financial assistance under the Act. (Sec. 658D of the CCDBG Act)

*House Bill*

The proposal requires States to identify a lead agency to administer all the child care funds received under the Act, including funds received through other "governmental or nongovernmental" agencies (instead of other "State" agencies). States must ensure that "sufficient time and statewide distribution of the notice" be given of the public hearing on the development of the State plan. This section strikes language in current law specifying issues that may be considered during consultation with local governments on development of the State plan.

*Senate Amendment*

Same.

## *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

### 5. Application and Plan

#### *Present Law*

States are required to prepare and submit to the Secretary an application that includes a State plan. The initial plan must cover a 3-year period, and subsequent plans must cover 2-year periods. Required contents of the plan include designation of a lead agency; outline of policies and procedures regarding parental choice of providers, summary of policies that guarantee unlimited parental access, parental complaints, and consumer education; and overview of policies that ensure compliance with State and local regulatory requirements, establishment of and compliance with health and safety requirements, and review of State licensing and regulatory requirements.

In addition, the State plan must provide that all funds will be used for child care services, and that 25 percent of funds will be reserved for activities to improve the quality of child care and to increase the availability of early childhood development and before- and after-school child care. (Sec. 658E of the CCDBG Act)

State plans must also assure that payment rates will be adequate to provide eligible children with equal access to child care as compared with children whose families are not eligible for subsidies, and must assure that the State will establish and periodically revise a sliding fee scale that provides for cost sharing by families that receive child care subsidies.

#### *House Bill*

The proposal requires the State plan to cover a 2-year period. States must provide a detailed description of procedures to be used to assure parental choice of providers. Instead of "providing assurances," States must "certify" that procedures are in effect within the State to ensure unlimited parental access to the families providing care to children and to ensure parental choice of child care provider; the proposal also requires that the State plan provide a detailed description of such procedures. Instead of "providing assurances," a State must "certify" that it maintains a record of parental complaints and requires the State to provide a detailed description of how such a record is maintained and made available. The proposal changes the consumer education part of the State plan to require assurances that the State will collect and disseminate consumer education information. States must certify that they have in effect child care licensing requirements and provide a detailed description of the requirements and how they are enforced. This provision does not require that licensing requirements be applied to specific types of child care providers.

States must "certify" that procedures are in effect to ensure that child care providers receiving funds under this Act comply with applicable State or local health and safety requirements. The Secretary is required to develop minimum standards for Indian tribes and tribal organizations receiving assistance.

The proposal eliminates review of State licensing and regulatory requirements, notification to the Department of Health and Human Services (HHS) when standards are reduced, and supplementation. The proposal also eliminates the requirement that unlicensed providers be registered. The House decided to

retain a current law requirement that all States establish health and safety standards. The House provision does not specify the particular standards that must be established, but all States must have requirements on prevention and control of infectious diseases (including immunizations), building and physical premises safety, and minimum health and safety training.

A summary of the facts relied upon by the State to determine that payment rates are sufficient to ensure equal access to child care must be included in the State plan. Funds must be used for child care services, for activities to improve the quality and availability of such services, and for any other activity that the State deems appropriate to realize the goals specified above. The proposal deletes the current law requirement that States reserve 25 percent of funds for activities to improve the quality of child care and to increase availability of early childhood development and before- and after-school care. States may spend no more than 5 percent on administrative costs.

States must spend a substantial portion of the amounts available to provide child care to low-income working families who are not working their way off welfare or are at risk of becoming welfare dependent. However, States first must comply with requirement that at least 70 percent of mandatory funds must be used for welfare or at-risk families. States must demonstrate how they will meet the child care needs of welfare and at-risk families.

#### *Senate Amendment*

Same, except the Senate maintains current law (which requires States to "provide assurances" that child care providers receiving funds under this Act comply with applicable State or local health and safety requirements).

#### *Conference Agreement*

The conference agreement follows the House bill with a modification. The provision requires States to "certify" that health and safety requirements are in effect within a State applicable to child care providers.

Nothing in the legislation either prohibits or requires States to differentiate between federally subsidized child care and nonsubsidized child care regarding the application of specific standards and regulations. The cap of 5 percent on administrative costs is included in both the House and Senate passed bills. To help States implement this provision, the Department of Health and Human Services should issue regulations, in a timely manner and prior to the deadline for submission of State plans, that define and determine true administrative costs, as distinct from expenditures for services. Eligibility determination and redetermination, preparation and participation in judicial hearings, child care placement, the recruitment, licensing, inspection, reviews and supervision of child care placements, rate setting, resource and referral services, training, and the establishment and maintenance of computerized child care information are an integral part of service delivery and should not be considered administrative costs.

## **6. Activities to Improve the Quality of Child Care**

### *Present Law*

As stated above, 25 percent of State allotments must be reserved for activities to improve child care quality and to increase the availability of early childhood development and before- and after-school child

care. Section 658G specifies how these funds are to be used. Of reserved funds, States are required to use no less than 20 percent for improving the quality of care, including resource and referral programs, making grants or loans to assist providers in meeting State and local standards, monitoring of compliance with licensing and regulatory requirements, training of child care personnel, and improving compensation for child care personnel. (Sec. 658G of the CCDBG Act).

*House Bill*

A State that receives child care funds must use at least 4 percent of all funds received (both mandatory and discretionary) for activities designed to provide comprehensive consumer education to parents and the public, for activities that increase parental choice, and for activities designed to improve the quality and availability of child care.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**7. Repeal of Early Childhood Development and Before- and After-School Care Requirement**

*Present Law*

States are required to use no less than 75 percent of funds reserved for quality improvement for activities to expand and conduct early childhood development programs and before- and after-school child care. (Sec. 658H of the CCDBG Act)

*House Bill*

The set-aside for early childhood development programs and before- and after-school care is repealed.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

## 8. Administration and Enforcement

### *Present Law*

The Secretary of Health and Human Services (HHS) is required to coordinate HHS and other Federal child care agencies, to collect and publish a list of State child care standards every 3 years, and to provide technical assistance to States. The Secretary must also review, monitor, and enforce compliance with the Act and the State plan by withholding payments and imposing additional sanctions in certain cases. (Sec. 658I of the CCDBG Act)

### *House Bill*

This section strikes the current law requirement that the Secretary withhold further payments to a State in case of a finding of noncompliance until the noncompliance is corrected. Instead, the Secretary is authorized, in such cases, to require that the State reimburse the Secretary for any improperly spent funds, or the Secretary may deduct from the administrative portion of the State's subsequent allotment an amount equal to or less than the misspent funds, or a combination of such options.

### *Senate Amendment*

Same.

### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

## 9. Payments

### *Present Law*

Payments received by a State for a fiscal year may be expended in that fiscal year or in the succeeding 3 fiscal years. (Sec. 658J of the CCDBG Act)

### *House Bill*

The bill replaces the word "expended" with "obligated". However, the bill contains a drafting error. A provision that would have struck "3 fiscal years" and inserted "fiscal year" was inadvertently dropped.

### *Senate Amendment*

The Senate amendment contains the same drafting error.

### *Conference Agreement*

The conference agreement corrects a previous drafting error by striking "3 fiscal years" and inserting "fiscal year".

## 10. Annual Report and Audits

### *Present Law*

States must prepare and submit to the Secretary every year a report specifying how funds are used; presenting data on the manner in which the child care needs of families in the State are being fulfilled, including information on the number of children served, child care programs in the State, compensation provided to child care staff, and activities to encourage public-private partnerships in child care; describing the extent to which affordability and availability of child care has increased; summarizing findings from a review of State licensing and regulatory requirements, if applicable; explaining any action taken by the State to reduce standards, if applicable; and describing standards and health and safety requirements applied to child care providers in the State, including a description of efforts to improve the quality of child care. (Sec. 658K of the CCDBG Act)

### *House Bill*

The title of the section is changed from "Annual Report and Audits" to "Reports and Audits." States must collect on a monthly basis, and report to HHS on a quarterly basis, the following information on each family receiving assistance:

- (1) family income;
- (2) county of residence;
- (3) the gender, race, age of children receiving benefits;
- (4) whether the family includes only one parent;
- (5) the sources of family income, including:
  - (a) the amount obtained from employment, including self-employment;
  - (b) cash assistance or other assistance under Part A;
  - (c) housing assistance;
  - (d) food stamps; and
  - (e) other public assistance;
- (6) the number of months the family has received benefits;
- (7) the type of care in which the child was enrolled (family day care, center, own home);
- (8) whether the provider was a relative;
- (9) the cost of care; and
- (10) the average hours per week of care.

Twice each year, the State must submit the following aggregate data to HHS:

- (1) the number of providers separately identified in accord with each type of provider that received funding under this subchapter;
- (2) the monthly cost of child care services and the portion of such cost paid with assistance from this Act by type of care;
- (3) the number of payments by the State in vouchers, contracts, cash, and disregards from public benefit programs by type of care;
- (4) the manner in which consumer education information was provided and the number of parents who received it; and
- (5) total number (unduplicated) of children and families served.

### *Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**11. Report by the Secretary**

*Present Law*

The Secretary is required to prepare and submit an annual report, summarizing and analyzing information provided by States, to the House Education and Labor Committee and the Senate Labor and Human Resources Committee. This report must contain an assessment and, where appropriate, recommendations to Congress regarding efforts that should be taken to improve access of the public to quality and affordable child care. (Sec. 658L of the CCDBG Act)

*House Bill*

The Secretary must prepare and submit biennial reports, rather than annual reports, with the first report due no later than July 31, 1997; the reference to the House Education and Labor Committee is replaced with the House Economic and Educational Opportunities Committee.

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

**12. Allotments**

*Present Law*

The Secretary must reserve one-half of 1 percent of appropriations for payment to Guam, American Samoa, the Virgin Islands, the Northern Marianas, and the Trust Territory of the Pacific Islands. The Secretary also must reserve no more than 3 percent for payment to Indian tribes and tribal organizations with approved applications. Remaining funds are allocated to the States based on the States' proportion of children under age 5 and the number of children receiving free or reduced-price school lunches, as well as the States' per capita income. Any portion of a State's allotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period must be reallocated by the Secretary to the other States in the same proportion as the original allotments. (Sec. 658O of the CCDBG Act)

*House Bill*

Set-asides for the Territories, Indian tribes, and tribal organizations are maintained, except that the Trust

Territory of the Pacific Islands is deleted from the set-aside for Territories. Indian tribes are provided with a 1 percent set-aside of all funds, both entitlement and appropriated, authorized by this section each year. Under some circumstances, and with approval from the Secretary, Indian tribes are authorized to use a portion of their funds for renovation and construction of child care facilities. Within the overall block grant for social programs provided to the territories, each territory is authorized to spend whatever portion they choose of their capped amount on child care (for additional details see item 79 of Title I). Allotments to States were described in item 3 above.

*Senate Amendment*

Same as the House bill except the Indian tribes are provided with a 3-percent set-aside for child care.

*Conference Agreement*

The conference agreement follows the House bill with a modification. The Secretary shall reserve not less than 1 percent and not more than 2 percent of the total amount appropriated (both mandatory and discretionary) in each fiscal year for payments to Indian tribes and tribal organizations.

**13. Definitions**

*Present Law*

The following terms are defined: caregiver, child care certificate, elementary school, eligible child, eligible child care provider, family child care provider, Indian tribe, lead agency, parent, secondary school, Secretary, sliding fee scale, State, and tribal organization. (Sec. 658P of the CCDBG Act)

*House Bill*

Child care deposits are added as an allowable use of a child care certificate. The definition of "eligible child" is revised to one whose family income does not exceed 85 percent of the State median, instead of 75 percent. The definition of "relative child care provider" is revised by adding great grandchild and sibling (if the provider lives in a separate residence) to the list of eligible relative providers and the requirement that relatives providing care be registered is struck. Relative providers are required to comply with any applicable requirements governing child care provided by a relative, rather than State requirements. The definition for elementary and secondary school is eliminated. The Trust Territory of the Pacific Islands is dropped from the definition of "State." Native Hawaiian Organization is added to the definition of "tribal organization."

*Senate Amendment*

Same.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

#### 14. Repeals

##### *Present Law*

No provision.

##### *House Bill*

The proposal repeals the following programs: (1) Child Development Associate (CDA) Scholarship Assistance; (2) State Dependent Care Development Grants; (3) Programs of National Significance under Title X of the Elementary and Secondary Education Assistance Act of 1965 (child care related to Cultural Partnerships for At-Risk Children and Youth, and Urban and Rural Education Assistance); and (4) Native-Hawaiian Family-Based Education Centers.

(Note: Title I of the proposal also repeals child care assistance provided under current law by Title IV-A of the Social Security Act. This assistance is provided under three programs known as AFDC Child Care, Transitional Child Care, and At-Risk Child Care. Thus, the total number of child care programs merged into the Child Care and Development Block Grant is seven.)

##### *Senate Amendment*

The Senate amendment does not repeal the following programs: (1) Child Development Associate (CDA) Scholarship Assistance; (2) State Dependent Care Development Grants; (3) Programs of National Significance under Title X of the Elementary and Secondary education Assistance Act of 1965; and (4) Native Hawaiian Family-Based Education Centers.

##### *Conference Agreement*

The conference agreement follows the Senate amendment.

#### 15. Effective Date

##### *Present Law*

No provision.

##### *House Bill*

This title and the amendments made by this title take effect on October 1, 1996; the authorization of appropriations and entitlement authority under section 8103(a) take effect on the date of enactment.

##### *Senate Amendment*

Same.

##### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

SUBTITLE A -- NATIONAL SCHOOL LUNCH ACT

1. STATE DISBURSEMENT TO SCHOOLS

*Present Law*

State Agency Authority. The provision of law requiring that agreements between State education agencies and schools be permanent may not be "construed" as limiting the ability of State agencies to suspend or terminate agreements in accordance with the Secretary's regulations. [Sec. 8 of the NSLA]

Technical Amendments. "Child" for purposes of the NSLA is defined to include individuals, regardless of age, who are (a) determined to have 1 or more disabilities and (b) attending an institution for the purpose of participating in a program for individuals with mental or physical disabilities. [Sec. 8 of the NSLA]

*House Bill*

State Agency Authority. Clarifies State education agencies' authority to terminate or suspend agreements with schools participating in school meal programs. [Sec. 3401]

Technical Amendments. Makes a technical amendment placing this definition of child in the section of the NSLA containing other general definitions. [Sec. 3401]

[Note: Sec. 3401 also makes conforming amendments to cross-references in sec. 8 of the NSLA.]

*Senate Amendment*

State Agency Authority. Same provision. [Sec. 1201]

Technical Amendments. Same provision with technical differences. [Sec. 1201]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills regarding State Agency Authority and adopts the Senate provision on Technical Amendments. [Sec. 701]

2. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

*Present Law*

Lowfat Cheese Purchases. Each calendar year, the Secretary is required to purchase specific amounts of lowfat cheese on a bid basis. [Sec. 9(a)(2) of the NSLA]

Food Waste Procedures. The Secretary is required to establish administrative procedures designed to diminish food waste in schools. [Sec. 9(a)(3) of the NSLA]

Announcing Guidelines. Each school year, State education agencies and schools are required to announce

income eligibility guidelines to be used for free and reduced price lunches. [Sec. 9(b)(2) of the NSLA]

Commodities. Schools in the school lunch program are required to use, as far as practicable, commodities designated by the Secretary as being in "abundance."

The Secretary is authorized to prescribe terms and conditions under which donated commodities will be used in schools and other participating institutions. [Sec. 9(c) of the NSLA]

Nutrition Information/Requirements. By the first day of the 1996-1997 school year, the Secretary, State education agencies, schools, and school food service authorities are required, to the maximum extent practicable, to inform students and parents of the nutrition content of school meals and their consistency with the most recent Dietary Guidelines for Americans. [Sec. 9(f)(1) of the NSLA]

Unless a waiver is granted by a State education agency, schools must serve meals that are consistent with the Dietary Guidelines for Americans (using the weekly average nutrient content of the meals) by the beginning of the 1996-1997 school year. [Sec. 9(f)(2) of the NSLA]

Use of Resources. State education agencies may use resources provided under the nutrition education and training program for training aimed at improving the quality and acceptance of school meals. [Sec. 9(h) of the NSLA]

#### *House Bill*

Lowfat Cheese Purchases. Deletes the lowfat cheese purchase requirement. [Sec. 3402(a)]

Food Waste Procedures. Deletes the requirement for the Secretary to establish procedures to diminish food waste. [Sec. 3402(a)]

Announcing Guidelines. Deletes the requirements to annually announce income eligibility guidelines. [Sec. 3402(b)]

Commodities. Deletes the requirement to use foods designated as abundant.

Deletes the authority for the Secretary to prescribe terms and conditions for the use of commodities. [Sec. 3402(c)]

Technical/Conforming Changes. Makes a technical/conforming amendment consistent with the elimination of the requirement to announce guidelines. Makes a technical/conforming amendment to delete a provision dealing with discrimination against and identification of children receiving free or reduced price lunches found elsewhere in the law. [Sec. 3402(b) & (d)]

Nutrition Information/Requirements. Deletes the requirement to inform students and parents about the nutrition content of meals and their consistency with the Dietary Guidelines. [Sec. 3402(e)]

Replaces the existing requirement to serve meals consistent with the Dietary Guidelines. Unless a waiver is granted by a State education agency, schools must serve meals that are consistent with the Dietary Guidelines by the beginning of the 1996-1997 school year. The 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). [Sec. 3402(e)]

Use of Resources. Deletes the authority to use nutrition education and training funding for improving school meals (this authority is provided elsewhere in law). [Sec. 3402(f)]

*Senate Amendment*

Lowfat Cheese Purchases. Same provision. [Sec. 1202(a) & (c)]

Food Waste Procedures. Same provision. [Sec. 1202(a)]

Announcing Guidelines. No provision.

Commodities. Same provisions. [Sec. 1202(b)]

Technical/Conforming Changes. No provisions.

Nutrition Information/Requirements. Same provision. [Sec. 1202(d)]

Use of Resources. Same provision. [Sec. 1201(e)]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. With respect to Announcing Guidelines, the conference agreement adopts the Senate provision. [Sec.702]

**3. FREE AND REDUCED PRICE POLICY STATEMENT**

*Present Law*

No provision.

*House Bill*

Provides that schools may not be required to submit free and reduced price "policy statements" to State education agencies unless there is a substantive change in the free and reduced price policy of the school. Routine changes (e.g., adjusting income eligibility standards) are not sufficient cause for requiring a school to submit a policy statement. [Sec. 3403]

*Senate Amendment*

Same provisions with a technical difference clarifying that school food authorities, rather than schools, are the entities that may not be required to submit a policy statement. [Sec. 1203]

*Conference Agreement*

The conference agreement adopts the Senate provisions. [Sec.703]

**4. SPECIAL ASSISTANCE**

*Present Law*

"Provision 2." Schools electing to serve all children free meals for 3 successive years may be paid special assistance payments for free and reduced price meals based on the number of meals served free or at a reduced price in the first year ("provision 2"). Schools electing this option *as of November 1994* may receive a 2-year extension from the State if it determines that the income level of the school's population has remained stable. Schools receiving a 2-year extension may receive subsequent 5-year extensions (except that the Secretary may require that applications be taken at the beginning of any 5-year period). [Sec. 11(a)(1) of the NSLA]

Terms and Conditions. The terms and conditions governing the operation of the school lunch program (set forth in other sections of the NSLA, except for matching requirements) apply to special assistance under the school lunch program, to the extent they are not inconsistent with the express requirements of the section governing special assistance. [Sec. 11(d) of the NSLA]

Monthly Reports. State education agencies must report each month the average number of children receiving free and reduced price lunches during the immediately preceding month. [Sec. 11(e)(2) of the NSLA]

*House Bill*

"Provision 2." Allows all "provision 2" schools to qualify for extensions. [Sec. 3404(a)]

Terms and Conditions. Deletes "terms and conditions" requirements. [Sec. 3404(b)]

Monthly Reports. Removes the requirement for monthly reports and replaces it with a provision to report this information at the Secretary's request. [Sec. 3404(b)]

*Senate Amendment*

"Provision 2." Same provision. [Sec. 1204(a)]

Terms and Conditions. Same provision. [Sec. 1204(b)]

Monthly Reports. Same provision. [Sec. 1204(b)]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 704]

**5. MISCELLANEOUS PROVISIONS AND DEFINITIONS**

*Present Law*

Accounts and Records. States, State education agencies, and schools must make accounts and records available for inspection and audit by the Secretary "at all times." [Sec. 12(a) of the NSLA]

Restrictions on Requirements. Neither the Secretary nor States may impose any requirement with respect to teaching personnel, curriculum, and instruction in any school when carrying out the provisions of the NSLA.

[Sec. 12(c) of the NSLA]

Definitions. "State" is defined to include the Trust Territory of the Pacific Islands. [Sec. 12(d)(1) of the NSLA]

"Participation rate" is defined as the number of lunches served in the second prior fiscal year. [Sec. 12(d)(3) of the NSLA]

"Assistance need rate" is defined as a rate relative to States' annual per capita income. [Sec. 12(d)(4) of the NSLA]

The Secretary is permitted to adjust reimbursement rates for Alaska, Hawaii, and outlying areas (including the Trust Territory of the Pacific Islands). [Sec. 12(f) of the NSLA]

Expedited Rulemaking. The Secretary is required to issue proposed regulations on food-based menu systems prior to the publication of final regulations for compliance with the Dietary Guidelines for Americans and must hold public meetings on the proposed regulations. Final regulations must reflect public comments. [Sec. 12(k) of the NSLA]

Waivers. The Secretary may waive any Federal requirements if the requesting State or service provider demonstrates, to the Secretary's satisfaction, that the waiver will not increase the overall Federal cost of the program and, if it does increase costs, they will be paid from non-Federal funds.

Waiver applications must 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).

The Secretary must state in writing the expected outcome of any approved waivers.

The results of the Secretary's decision on any waiver must be disseminated through "normal means of communication."

Waivers may not exceed 3 years (unless extended by the Secretary).

Waivers may not be granted with respect to "offer versus serve" rules.

Service providers must annually submit reports describing the use of their waivers and evaluating how the waiver contributed to improved services. States must annually submit a summary of providers' reports to the Secretary. The Secretary must annually submit reports to Congress summarizing the use of waivers and describing whether waivers resulted in improved services, the impact of waivers on the provision of nutritional meals, and how waivers reduced paperwork. [Sec. 12(l) of the NSLA]

Food and Nutrition Programs. The Secretary is required to award grants to private nonprofit organizations or education institutions for "food and nutrition projects" that are fully integrated with elementary school curricula. Subject to appropriations, the Secretary must make grants to each of 3 organizations or institutions in amounts between \$100,000 and \$200,000 for each of fiscal years 1995 through 1998. [Sec. 12(m) of the NSLA]

Simplified Administration of School Meal and Other Nutrition Programs. No provisions in current law; therefore, no citizenship or immigration status tests apply to programs under the NSLA or CNA, or to

commodity assistance programs.

*House Bill*

Accounts and Records. Revises the requirement to make accounts and records available at all times to a requirement that they be available at "any reasonable time." [Sec. 3405(a)]

Restrictions on Requirements. Removes the prohibition on *States* imposing personnel, curriculum, and instruction requirements. [Sec. 3405(b)]

Definitions. Replaces "Trust Territory of the Pacific Islands" with "Commonwealth of the Northern Mariana Islands."

Deletes the out-of-date definition of participation rate.

Deletes the out-of-date definition of assistance need rate.

Replaces the reference to the Trust Territory of the Pacific Islands with a reference to the "Commonwealth of the Northern Mariana Islands." [Sec. 3405(c) & (d)]

Expedited Rulemaking. Deletes the noted out-of-date requirements for regulations. [Sec. 3405(e)]

Waivers. Adds a bar against the Secretary granting any waiver that increases Federal costs.

Deletes the noted waiver requirements in present law.

Deletes the noted outcome requirement in present law.

Deletes the noted dissemination requirement in present law.

Deletes the noted time limit requirement in present law.

Deletes the noted offer versus serve prohibition in present law.

Deletes requirements for waiver reports by service providers and States, but not the Secretary's. [Sec. 3405(f)]

Food and Nutrition Programs. Deletes authority for food and nutrition project grants. [Sec. 3405(g)]

Simplified Administration of School Meal and Other Nutrition Programs. No provisions in the child nutrition provisions of the bill. However, other provisions of the bill would bar the eligibility of illegal aliens for programs under the NSLA and the CNA.

*Senate Amendment*

Accounts and Records. Same provision. [Sec. 1205(a)]

Restrictions on Requirements. Same provision. [Sec. 1205(b)]

Definitions. Same provisions. [Sec. 1205(c) & (d)]

Expedited Rulemaking. Same provision. [Sec. 1205(e)]

Waivers. Same provisions. [Sec. 1205(f)]

Food and Nutrition Programs. No provision.

Simplified Administration of School Meal and Other Nutrition Programs. Notwithstanding any other provision of law, no assistance or benefits provided under the NSLA or CNA or commodity assistance programs may be contingent on citizenship or immigration status. [Sec. 1205(g)]

### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 705] The conference agreement also adopts the Senate provision on Food and Nutrition Projects, and adopts the House provision on Simplified Administration of School Meal and Other Nutrition Programs with an amendment stating that individuals who are ineligible for free public education benefits under State or local law are also ineligible for school meal benefits under the National School Lunch Act and the Child Nutrition Act of 1966. The amendment also states that "nothing in this Act shall prohibit or require a State to provide to an individual who is not a citizen qualified alien, as defined elsewhere in the law, benefits \*\*\*" under programs other than school lunch and breakfast program under the National School Lunch Act and the Child Nutrition Act of 1966, the Commodity Supplemental Food Program, TEFAP and the food distribution program Indian reservations. [Sec. 742 ]

## 6. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

### *Present Law*

Establishment of Program. The Secretary is authorized to carry out a summer food service program to assist States to initiate, maintain, and expand nonprofit food service programs for children. [Sec. 13(a) of the NSLA]

Service Institutions: Payments. Payments to summer food service institutions may not exceed specific amounts set by law and indexed for inflation. For the summer of 1996, these rates are: \$2.1675 for each lunch/supper, \$1.2075 for each breakfast, and 57 cents for each supplement (snack). Rates are adjusted each January to reflect changes (for the 12 months ending the preceding November) in the food away from home component of the CPI-U. Each adjustment is rounded to the nearest quarter cent. [Sec. 13(b)(1) of the NSLA]

Administration of Service Institutions. Payments to summer camps and service institutions that primarily serve migrant children may be made for up to 4 meals/supplements each day. [Sec. 13(b)(2) of the NSLA]

Reimbursements: National Youth Sports Program. Higher education institutions operating under the National Youth Sports Program (NYSP) may receive reimbursements for meals/supplements served in months other than May through September, but for not more than 30 days for each child.

NYSP children and institutions are eligible to participate "without application."

NYSP institutions receive reimbursements for breakfasts and supplements equal to the "severe need" rate for school breakfasts.

Advance Program Payments. In general, 3 advance payments to summer food service program service institutions are required during any summer program. The second advance payment may not be released to an service institution that has not certified it has held training sessions for its own personnel and site personnel. [Sec. 13(e)(1) of the NSLA]

Food Requirements. The Secretary is required to provide "additional technical assistance" to those service institutions and private nonprofit organizations that are having difficulty in maintaining compliance with nutritional requirements.

Service institutions' contracts with food service management companies must require that bacteria levels conform to the standards applied by the local health authority. [Sec. 13(f) of the NSLA]

Permitting "Offer versus Serve". The "offer versus serve" option is not permitted in the summer food service program.

Food Service Management Companies. In accordance with the Secretary's regulations, service institutions must make positive efforts to use small and minority-owned businesses as sources of supplies and services.

States are required to establish a standard form of contract for use by service institutions and food service management companies. [Sec. 13(l) of the NSLA]

Records. States and service institutions must make accounts and records available for inspection and audit by the Secretary "at all times." [Sec. 13(m) of the NSLA]

Removing Mandatory Notice to Institutions. States' plans must include its plans and schedule for informing service institutions of the availability of the summer food service program. [Sec. 13(n) of the NSLA]

Plan. State plans must include: (1) the State's method of assessing need, (2) the State's best estimate of the number/character of service institutions/sites to be approved, and children and meals to be served, as well as its estimating methods, and (3) a schedule for providing technical assistance and training to service institutions. [Sec. 13(n) of the NSLA]

Monitoring and Training. With the Secretary's assistance, States must establish and implement an ongoing training and technical assistance program for private nonprofit organizations. [Sec. 13(q) of the NSLA]

Expired Program. During fiscal years 1990 and 1991, the Secretary and States must carry out a program to disseminate information to private nonprofit organizations about the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989. [Sec. 13(p) of the NSLA]

#### *House Bill*

Establishment of Program. Removes the reference to the Secretary's authority to carry out a program to assist States to "expand" summer food services. [Sec. 3406(a)]

[*Note:* Sec. 3406(a) also makes technical amendments deleting a reference to the Trust Territory of the Pacific Islands and an unnecessary cross-reference in present law.]

Service Institutions: Payments. Establishes new maximum rates for summer food service institutions. They are: \$1.82 for each lunch/supper, \$1.13 for each breakfast, and 46 cents for each supplement (snack). These new rates, adjusted for inflation, first apply to the summer of 1997. They are adjusted on January 1, 1997, and each January 1 thereafter, to reflect changes (for the 12 months ending the preceding November) in the food away from home component of the CPI-U. Each adjustment is based on unrounded rates for the prior 12-month period, then *rounded down* to the nearest lower cent increment. [Sec. 3406(b) & (n)]

[Note: Separate administrative cost reimbursement rates are not changed.]

Administration of Service Institutions. Limits payments to summer camps and institutions serving migrant children to 3 meals, or 2 meals and a supplement, each day. [Sec. 3406(c)]

Reimbursements: National Youth Sports Program. Deletes authority for reimbursements to NYSP institutions for months other than May through September.

Requires that NYSP *children* be eligible on showing residence in an area of poor economic conditions or on the basis of an income eligibility statement.

Requires that NYSP institutions receive reimbursements for breakfasts and supplements equal to the *regular* free school breakfast reimbursement rates.

Advance Program Payments. Limits to *nonschool* providers the prohibition on releasing the second advance payment without having certified training has been held. [Sec. 3406(e)]

Food Requirements. Deletes the requirement for additional technical assistance in present law.

Replaces the requirement that contracts require bacteria levels to conform to standards applied by the local health authority with a requirement that contracts be in conformance with standards set by local health authorities. [Sec. 3406(f)]

Permitting "Offer versus Serve." Adds authority for school food authorities participating as a summer food service institution to permit children attending a site on school premises operated directly by the school food authority to refuse 1 item of a meal without affecting reimbursement for the meal. [Sec. 3406(g)]

Food Service Management Companies. Deletes requirement for positive efforts to use small and minority-owned businesses in present law.

Deletes requirement for a standard form of contract in present law. [Sec. 3406(h)]

Records. Revises the requirement to make accounts and records available at all times to a requirement that they be available at "any reasonable time." [Sec. 3406(i)]

Removing Mandatory Notice to Institutions. Deletes the requirement for a plan/schedule for informing service institutions of the availability of the summer food service program. [Sec. 3406(j)]

Plan. Deletes State plan requirements for a method of assessing need, estimates of service institutions/sites to be approved and children and meals to be served, and a schedule for providing technical assistance/training. [Sec. 3406(k)]

Monitoring and Training. Deletes requirement for ongoing training and technical assistance for private nonprofit organizations. [Sec. 3406(1)]

Expired Program. Deletes out-of-date requirement to disseminate information. [Sec. 3406(m)]

*Senate Amendment*

Establishment of Program. No provision.

Service Institutions: Payments. No provisions.

Administration of Service Institutions. No provision.

Reimbursements: National Youth Sports Program. No provision.

Advance Program Payments. No provision.

Food Requirements. No provision.

Permitting "Offer versus Serve." No provision

Food Service Management Companies. No provision.

Records. No provision.

Removing Mandatory Notice to Institutions. No provision.

Plan. No provision.

Monitoring and Training. No provision.

Expired Program. No provision.

*Conference Agreement*

Establishment of Program. The conference agreement adopts the House provision.

Service Institutions: Payments. The conference agreement adopts the House provisions with an amendment that sets the reimbursement rate for lunches at \$1.97.

Administration of Service Institutions. The conference agreement adopts the House provisions.

Reimbursements: National Youth Sports Program. The conference agreement adopts the House provisions with amendments that: delete the provision of present law allowing institutions to participate without application; require that all reimbursements to NYSP institutions be at the regular summer food service program rates; and delete special meal standard and compatibility requirements for NYSP institutions.

Advance Program Payments. The conference agreement adopts the House provisions.

Food Requirements. The conference agreement adopts the House provisions.

Permitting "Offer versus Serve." The conference agreement adopts the House provisions with an amendment allowing school food authorities to permit the refusal of 1 or more items under rules that the school uses for school meal programs.

Food Service Management Companies. The conference agreement adopts the Senate provisions.

Records. The conference agreement adopts the House provision.

Removing Mandatory Notice to Institutions. The conference agreement adopts the House provision.

Plan. The conference agreement adopts the House provisions.

Monitoring and Training. The conference agreement adopts the House provision.

Expired Program. The conference agreement adopts the House provision. [Sec. 706]

## 7. COMMODITY DISTRIBUTION

### *Present Law*

Cereal and Shortening in Commodity Donations. Cereal and shortening and oil products must be included among products donated to the school lunch program. [Sec. 14(b) of the NSLA]

Impact Study and Purchasing Procedures. By May 1979, the Secretary must report on the effect of changes in commodity procurement established under 1977 amendments to the NSLA.

The Secretary must establish procedures to ensure that purchase contracts are not entered into unless the previous history and current patterns of the contracting party (with respect to compliance with meat inspection and other food wholesomeness standards) are taken into account. [Sec. 14(d) of the NSLA]

Cash Compensation for Pilot Project Schools. The Secretary must provide cash compensation to certain schools participating in a "cash/CLOC" pilot project to make up for losses sustained. Compensation is provided to schools applying before the end of 1990. [Sec. 14(g) of the NSLA]

State Advisory Council. State education agencies receiving food assistance must establish an advisory council composed of school representatives. The council advises the agency on schools' needs relating to the manner of selecting and distributing commodities. [Sec. 14(e) of the NSLA]

### *House Bill*

Cereal and Shortening in Commodity Donations. Deletes the requirement to include cereal and shortening and oil products in school lunch program donations. [Sec. 3407(a)]

Impact Study and Purchasing Procedures. Deletes out-of-date commodity procurement report requirement.

Deletes requirement for purchase procedures that take into account contractors' compliance with meat inspection/food wholesomeness standards. [Sec. 3407(b)]

Cash Compensation for Pilot Project Schools. Deletes an out-of-date requirement for compensation to certain schools in a pilot project. [Sec. 3407(c)]

State Advisory Council. Deletes the requirement for State commodity assistance advisory councils. [Sec. 3407(d)]

#### *Senate Amendment*

Cereal and Shortening in Commodity Donations. Same provision. [Sec. 1206(a)]

Impact Study and Purchasing Procedures. No provisions.

Cash Compensation for Pilot Project Schools. Same provision. [Sec. 1206(c)]

State Advisory Council. Provides that any State agency receiving food assistance must establish an advisory council (i.e., deletes the specific reference to State education agencies in present law). [Sec. 1206(b)]

#### *Conference Agreement*

Cereal and Shortening in Commodity Donations. The conference agreement adopts the provision that is common to both bills.

Impact Study and Purchasing Procedures. The conference agreement adopts the Senate provision.

Cash Compensation for Pilot Project Schools. The conference agreement adopts the provision that is common to both bills.

State Advisory Council. The conference agreement adopts the House provisions, with an amendment to replace the requirement for a formal advisory council with a requirement that State agencies to meet with local school food service personnel when making decisions regarding commodities used in meal programs. [Sec. 70]

## **8. CHILD CARE FOOD PROGRAM**

#### *Present Law*

Establishment of Program. The Secretary is authorized to carry out a program to assist States to initiate, maintain, and expand nonprofit food service for children in child care institutions. [Sec. 17(a) of the NSLA]

Payments to Sponsor Employees. No provision.

Technical Assistance. If necessary, States must provide technical assistance to institutions submitting incomplete applications to participate. [Sec. 17(d) of the NSLA]

Reimbursement of Child Care Institutions. Day care centers may be provided reimbursement for up to 2 meals and 2 supplements (or 3 meals and 1 supplement) each day for children in a child care setting for 8 or more hours a day. [Sec. 17(f)(2) of the NSLA]

Improved Targeting of Day Care Home Reimbursements: Restructured Day Care Home Reimbursements. Reimbursements for family or group day care homes are specific amounts set by law and indexed for inflation. All homes receive the same reimbursements, and reimbursements are not differentiated by family income of the child receiving a subsidized meal/supplement. For July 1996 through June 1997, these rates are: \$1.575 for each lunch/supper, 86.25 cents for each breakfast, and 47 cents for each supplement.

Rates are adjusted each July to reflect changes in the food away from home component of the CPI-U for the most recent 12-month period for which data are available. Each adjustment is rounded to the nearest quarter cent. [Sec. 17(f)(3)(A) of the NSLA]

Improved Targeting of Day Care Home Reimbursements: Grants to States. No provision.

Improved Targeting of Day Care Home Reimbursements: Provision of Data. No provision.

Reimbursement. The Secretary is required to reduce administrative payments to day care home sponsors as of August 1981 so as to achieve a 10 percent reduction in the total level of payments. [Sec. 17(f)(3)(B) of the NSLA]

Funds for administrative expenses may be used by day care home sponsors to conduct outreach and recruitment to unlicensed day care homes so that they may become licensed. [Sec. 17(f)(3)(C) of the NSLA]

States must provide monthly advance payments to approved day care institutions in an amount that reflects the full level of valid claims customarily received (or the State's best estimate in the case of newly participating institutions). [Sec. 17(f)(4)]

Nutritional Requirements. Meals served under the child and adult care food program must be "served free to needy children."

The Secretary is required to provide "additional technical assistance" to institutions and day care home sponsors that are having difficulty maintaining compliance with nutrition requirements. [Sec. 17(g)(1) of the NSLA]

Elimination of State Paperwork/Outreach Burden. States must take affirmative action to expand availability of the child and adult care food program benefits, including annual notification of all nonparticipating day care home providers. The Secretary must conduct demonstration projects to test approaches to removing or reducing barriers to participation by homes that operate in low-income areas or primarily serve low-income children. The Secretary and States must provide training and technical assistance to assist day care home sponsors in reaching low-income children. The Secretary must instruct States to provide information and training about child health and development through day care home sponsors. [Sec. 17(k) of the NSLA]

Records. States and institutions must make accounts and records available for inspection and audit by the Secretary and others "at all times." [Sec. 17(m) of the NSLA]

Modification of Adult Care Food Program. Nonresidential adult day care centers (including group living arrangements) serving chronically impaired disabled adults or persons 60 years of age or older are eligible

institutions under the child and adult care food program. Reimbursements are provided for meals served chronically disabled adults and those 60 or older in these centers. [Sec. 17(o) of the NSLA]

Unneeded Provision. The Secretary is required to provide State child and adult care food service agencies with basic information about the WIC program. State agencies must provide child care institutions with specific materials about the WIC program, annually update the materials, and ensure that at least once a year the institutions provide specific written information to parents about the WIC program. [Sec. 17(q) of the NSLA]

Effective Date. No provision.

Study. No provision.

#### *House Bill*

Establishment of Program. Removes the reference to the Secretary's authority to carry out a program to assist States to "expand" child care food services. [Sec. 3408(a)]

Payments to Sponsor Employees. Prohibits payments to day care home sponsors that base payments to employ on the number of homes recruited. [Sec. 3408 (b)]

Technical Assistance. Deletes the requirement to provide technical assistance in cases of incomplete applications. [Sec. 3408(c)]

Reimbursement of Child Care Institutions. Removes authority for reimbursement for more than 2 meals a supplement for children in care for 8 or more hours. [Sec. 3408(d)]

Improved Targeting of Day Care Home Reimbursements; Restructured Day Care Home Reimbursements. Est new reimbursement rates for day care homes as follows:

-- "Tier I" homes receive the meal/supplement rates in effect on July 1, 1996 (see present law), adjusted annually for inflation.

-- "Tier I" homes are (1) those located in areas, defined by the Secretary based on Census data, in which at least 50 percent of children are in households with income below 185 percent of the Federal poverty guidelines, (2) those located in an area served by a school enrolling elementary students in which at least 50 percent of the children are certified eligible to receive free or reduced price school meals, or (3) those operated by a provider whose household income is verified by a sponsor (under the Secretary's regulations) to be below 185 percent of the poverty guidelines.

-- "Tier II" homes are homes that do not meet tier I standards, but they may, at their option, receive the substantially higher tier I reimbursement rates under certain conditions (see below).

-- In general, tier II home rates are 90 cents for each lunch/supper, 25 cents for each breakfast, and 10 cents for each supplement, adjusted annually for inflation. Tier II homes can elect to receive higher tier I rates for meals/supplements served to children who are members of households with income below 185 percent of the Federal poverty guidelines, if the sponsor collects the necessary income information and makes the appropriate eligibility determinations in accordance with the Secretary's rules. Tier II homes also can elect to receive tier I rates for meals/supplements 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 percent of the poverty guidelines, and may restrict their claim for tier I reimbursements to these children if they choose not to collect income statements from all parents/caretakers.

The Secretary is required to prescribe simplified meal counting and reporting procedures for use by tier II homes (and their sponsors) that elect to claim tier I reimbursements for children meeting the income or program participation requirements. These procedures can include (1) setting an annual percentage of meals/supplements to be reimbursed 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 reimbursement category based on the percentage of children with household income below 185 percent of the poverty guidelines, or (3) other procedures determined by the Secretary.

The Secretary is authorized to establish minimum requirements for verifying income and program participation for tier II homes electing to claim tier I reimbursement rates.

Inflation indexing of rates for day care homes also is revised. The rates set for tier I homes (see present law) and the new tier II rates are adjusted July 1, 1997, and each July thereafter, based on the unrounded rates for the previous 12-month period, then *rounded down* to nearest lower cent increment. Inflation adjustments are based on changes in the *food at home* component of the CPI-U for the most recent 12-month period for which data are available. [Sec. 3408(e)(1)]

Improved Targeting of Day Care Home Reimbursements: Grants to States. Provides grants to States to assist family or group day care homes and their sponsors in implementing the new reimbursement rate system. For fiscal year 1997, the Secretary is required to reserve for this purpose \$5 million of the amounts made available for the child care food program and allocate it to States based on the number of homes participating in fiscal year 1995 (with a minimum of \$30,000 for each State). [Sec. 3408(e)(2)]

Improved Targeting of Day Care Home Reimbursements: Provision of Data. Requires that the Secretary provide Census data necessary for determining homes' tier I/II status and that States provide school enrollment data necessary to determine tier I/II status. In determining homes' tier I/II status, the most current available data (Census, enrollment, income) must be used. In general, a determination that a home is located in a tier I area is effective for 3 years. [Sec. 3408(e)(3)]

Reimbursement. Deletes the out-of-date requirement to reduce administrative payments to sponsors.

Deletes the authority to use administrative expense funding for outreach and recruitment.

Makes the provision of advance payments a State option. [Sec. 3408(f)]

Nutritional Requirements. Deletes a redundant provision requiring that free meals be served to needy children (this requirement is found elsewhere in law).

Deletes the requirement to provide additional technical assistance. [Sec. 3408(g)]

Elimination of State Paperwork/Outreach Burden. Removes the noted requirements in present law and replace them with a requirement that States provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the child care food program. Requires the Secretary to assist States in developing plans to do so. [Sec. 3408(h)]

Records. Revises the requirement to make accounts and records available at all times to a requirement they be available at "any reasonable time." [Sec. 3408(i)]

Modification of Adult Care Food Program. Deletes authority for reimbursements for meals to those in adult day care centers who are not chronically impaired disabled persons. Deletes authority for any reimbursements to adult day care centers that do not serve chronically impaired disabled persons. [Sec. 3408(j)]

[*Note*: Section 3408(a) & (l) make conforming amendments.]

Unneeded Provision. Deletes requirements to provide WIC information through the child care food program. [Sec. 3408(k)]

Effective Date. Establishes effective dates for changes affecting the child care food program. In general, they are effective on enactment, but amendments restructuring day care home reimbursement rates are effective July 1, 1997.

Requires the Secretary to issue interim regulations related to restructuring day care home reimbursement rates, provision of data to implement the restructured rates, and changes to sponsors' use of administrative funds by January 1, 1997. Final regulations on these changes must be issued by July 1, 1997. [Sec. 3408(m)]

Study. Requires the Secretaries of Agriculture and Health and Human Services to undertake a study of the effects of amendments restructuring day care home reimbursements, due 2 years after enactment. Requires State agencies to provide certain data to support the study. [Sec. 3408(n)]

#### *Senate Amendment*

Establishment of Program. Same provisions. [Sec. 1207(a)]

Payments to Sponsor Employees. Same provision. [Sec. 1207(b)]

Technical Assistance. Same provision. [Sec. 1207(c)]

Reimbursement of Child Care Institutions. Same provision. [Sec. 1207(d)]

Improved Targeting of Day Care Home Reimbursements: Restructured Day Care Home Reimbursements. Same provisions, except that the new rates for tier II homes are \$1 for lunches/suppers, 30 cents for breakfasts, and 15 cents for supplements. [Sec. 1207(e)(1)]

The conferees understand that the Secretary has historically provided different family and group day care home payments in Alaska and Hawaii. The conferees expect that the tier I and tier II reimbursements provided for in this measure also will be varied for Alaska and Hawaii.

Improved Targeting of Day Care Home Reimbursements: Provision of Data. Same provisions. [Sec. 1207(e)]

Reimbursement. Same provisions, except replaces the existing permission to use funds for outreach/recruitment with permission to use funds to assist unlicensed homes in becoming licensed. [Sec. 1207(f)]

Nutritional Requirements. Same provisions. [Sec. 1207(g)]

Elimination of State Paperwork/Outreach Burden. Same provisions. [Sec. 1207(h)]

Records. Same provision. [Sec. 1207(i)]

Modification of Adult Care Food Program. No provision.

Unneeded Provision. Replaces the existing requirement for providing WIC information with a requirement that State agencies ensure that, at least once a year, child care institutions provide written information to parents that includes basic WIC information. [Sec. 1207(j)]

Effective Date. Same provisions. [Sec. 1207(k)]

Study. Same provisions. [Sec. 1207(l)]

#### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. With respect to the provisions in disagreement:

Improved Targeting of Day Care Home Reimbursements: Restructured Day Care Home Reimbursements. The conference agreement adopts the House provisions with an amendment setting the reimbursement rate at 95 cents for lunches/suppers, 27 cents for breakfasts, and 13 cents for supplements.

Reimbursement. The conference agreement adopts the Senate provisions.

Modification of Adult Care Food Program. The conference agreement adopts the Senate provision.

Unneeded Provision. The conference agreement adopts the House provision. [Sec. 708]

## 9. PILOT PROJECTS

### *Present Law*

"Universal free lunch" pilots, similar to "provision 2" authority found elsewhere in law, are required. [Sec. 18(d) of the NSLA]

A demonstration project for grants to provide meals and supplements to adolescents in programs outside school hours is required; assistance is in accordance with that provided under the child and adult care food program. For each of fiscal years 1996 and 1997, the Secretary must expend \$475,000 (\$525,000 in 1998), unless there is an insufficient number of suitable applicants. [Sec. 18(e) of the NSLA]

Pilot projects are authorized to evaluate the effects of contracting with private organizations to act as a State agency in cases where the Secretary is administering a child nutrition program in place of a State. [Sec. 18(a) of the NSLA]

A pilot project is authorized to assist schools in offering students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including organically produced commodities). [Sec. 18(g) of the NSLA]

A pilot project is authorized to assist schools in offering students additional choices of dairy products, lean meat, and poultry products (including organically produced commodities). [Sec. 18(h) of the NSLA]

Pilots are authorized to reduce paperwork, application, and meal counting requirements, and make program changes that will increase school meal program participation -- while receiving Federal payments equal to the prior year adjusted for inflation/enrollment. [Sec. 18(i) of the NSLA]

#### *House Bill*

Deletes separate authority for the "universal free lunch" projects, which are similar to "provision 2" authority found elsewhere in the law. [Sec. 3409(a)]

Makes the pilot demonstration project for grants to provide meals and supplements to adolescents in programs outside school hours optional and authorizes "such sums as are necessary" for fiscal years 1997 and 1998. [Sec. 3409(b)]

Deletes authority for the pilot projects to: evaluate effects of contracting with private organizations; assist schools in offering students additional choices of fruits, vegetables, legumes, cereals and grain-based products, dairy products, lean meat and poultry products (including organically produced commodities); reduce paperwork, application and meal counting requirements and make program changes to increase school meal program participation. [Sec. 3409(c)]

#### *Senate Amendment*

The Senate amendment contains the same provisions that delete authority for the "universal free lunch" projects and make the pilot demonstration project for grants to provide meals and supplements to adolescents in programs outside school hours optional (authorizing "such sums as are necessary" for fiscal 1997 and 1998). [Sec. 1208(a), (b)] The Senate amendment does not contain the House provisions that delete authority for the pilot projects to: evaluate effects of contracting with private organizations; assist schools in offering students additional choices of fruits, vegetables, legumes, cereals and grain-based products, dairy products, lean meat and poultry products (including organically produced commodities); reduce paperwork, application and meal counting requirements and make program changes to increase school meal program participation.

#### *Conference Agreement*

The conference agreement adopts the provisions. [Sec. 709]

## **10. REDUCTION OF PAPERWORK**

#### *Present Law*

In carrying out the NSLA and the CNA, the Secretary is required to reduce paperwork required of State and

local agencies and others (e.g., parents) to the maximum extent practicable. In carrying out this requirement, the Secretary is required to consult with State/local administrators and convene a meeting of these administrators (not later than September 1990), and obtain suggestions from members of the public on reducing paperwork. By November 1990, the Secretary is required to report to Congress concerning the extent to which reduction in paperwork has occurred. [Sec. 19 of the NSLA]

*House Bill*

Deletes out-of-date paperwork reduction requirements. [Sec. 3410]

*Senate Amendment*

Same provision. [Sec. 1209]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 710]

## 11. INFORMATION ON INCOME ELIGIBILITY

*Present Law*

The Secretary is required to provide State agencies with information needed to determine income eligibility for free or reduced price meal. It must be provided by May 1990. Not later than July 1990, the Secretary must review model application forms under the NSLA and the CNA and simplify the format/instructions for these forms. [Sec. 23 of the NSLA]

*House Bill*

Deletes out-of-date income verification and application form requirements. [Sec. 3411]

*Senate Amendment*

Same provision. [Sec. 1210]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 711]

## 12. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS

*Present Law*

By November 1991, the Secretary and the Secretary of Health and Human Services are required to develop a "nutrition guidance" publication. They must distribute it within 6 months. The Secretary must revise menu planning guides to include recommendations for implementing the nutrition guidance in the publication. In carrying out any school meal program, summer program, or child care food program, school food authorities

must apply the published nutrition guidance, and the Secretary must ensure that meals and supplements are consistent with the nutrition guidance. The Secretary and the Secretary of Health and Human Services must jointly update the guidance publication. [Sec. 24 of the NSLA]

*House Bill*

Deletes the noted provisions of present law dealing with development and implementation of a nutrition guidance. [Sec. 3412]

*Senate Amendment*

Same provision. [Sec. 1211]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 712]

**13. INFORMATION CLEARINGHOUSE**

*Present Law*

The Secretary is required to enter into a contract with a nongovernmental organization to establish and maintain a clearinghouse for information for nongovernmental groups on food assistance and self-help initiatives. The clearinghouse is required to be funded at \$200,000 in fiscal year 1996, \$150,000 in 1997, and \$100,000 in 1998. [Sec. 26 of the NSLA]

*House Bill*

Deletes the requirement for funding of a nutrition information clearinghouse. [Sec. 3413]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the Senate provision.

**SUBTITLE B -- CHILD NUTRITION ACT OF 1966**

**14. SPECIAL MILK PROGRAM**

*Present Law*

"United States" is defined to include the Trust Territory of the Pacific Islands. [Sec. 3(a)(3) of the CNA]

*House Bill*

Replaces Trust Territory of the Pacific Islands with "Commonwealth of the Northern Mariana Islands." [Sec. 3421]

*Senate Amendment*

Same provision. [Sec. 1251]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec 721]

**15. FREE AND REDUCED PRICE POLICY STATEMENT**

*Present Law*

No provision.

*House Bill*

Provides that schools may not be required to submit a free and reduced price "policy statement" to State education agencies unless there is a substantive change in the free and reduced price policy of the school. Routine changes (e.g., adjusting income eligibility standards) are not sufficient cause for requiring a school to submit a policy statement. [Sec. 3422]

*Senate Amendment*

Similar provisions with a technical amendment clarifying that school food authorities, rather than schools, are the entities that may be required to submit a policy statement. [Sec. 1252]

*Conference Agreement*

The conference agreement adopts the Senate provision. [Sec. 722]

**16. SCHOOL BREAKFAST PROGRAM AUTHORIZATION**

*Present Law*

Training and Technical Assistance. Through State education agencies, the Secretary must provide technical assistance and training to school breakfast program schools to assist them in complying with nutrition requirements and providing appropriate meals to children with medically certified special dietary needs. The Secretary also must provide additional technical assistance to schools that are having difficulty maintaining compliance with nutrition requirements. [Sec. 4(e)(1) of the CNA]

Startup and Expansion. The Secretary and State education agencies are directed to carry out information, promotion, and outreach programs to further the policy of expanding the school breakfast program to all

schools where it is needed, including the use of "language appropriate" materials. The Secretary is to report to Congress no later than October 1, 1993, concerning efforts to increase school participation. [Sec. 4(f) of the CNA]

The Secretary is required to use \$5 million a year (through fiscal year 1997), \$6 million in 1998, and \$7 million in each subsequent year to fund a program of competitively bid grants to State education agencies for the purpose of initiating or expanding the school breakfast and summer food service programs. [Sec. 4(g) of the CNA]

#### *House Bill*

Training and Technical Assistance. Deletes technical assistance and training requirements. [Sec. 3423(a)]

Startup and Expansion. Effective October 1, 1996, deletes the requirement for information, promotion, and outreach grants to expand the school breakfast program. [Sec. 3423(b)]

#### *Senate Amendment*

Training and Technical Assistance. Deletes the requirement to provide *additional* technical assistance. [Sec. 1253(a)]

Startup and Expansion. Same provision. [Sec. 1253(b)]

#### *Conference Agreement*

The conference agreement adopts the startup and expansion provisions that are common to both bills and adopts the Senate provision regarding Training and Technical Assistance. [Sec. 723]

## **17. STATE ADMINISTRATIVE EXPENSES**

#### *Present Law*

Commodity Distribution Administration. States are permitted to use a portion of the funds available for State administrative expenses to assist in administering the commodity distribution program. [Sec. 7(e) of the CNA]

Studies. The Secretary may not provide State administrative expense funding to a State unless the State agrees to participate in any study or survey of NSLA or CNA programs conducted by the Secretary. [Sec. 7(h) of the CNA]

Approval of Changes. States must annually submit a plan for the use of State administrative expense funds. [Sec. 7(f) of the CNA]

#### *House Bill*

Commodity Distribution Administration. Deletes specific authority to use State administrative expense money for commodity distribution administration (this authority is found elsewhere in law). [Sec. 3424(a)]

Studies. Deletes the provision barring State administrative expense funding when a State fails to agree to participate in a study or survey. [Sec. 3424(a)]

Approval of Changes. Removes the requirement for annual plans for State administrative expense funds and replaces it with a requirement to submit any substantive plan changes for the Secretary's approval. [Sec. 3424(b)]

*Senate Amendment*

Commodity Distribution Administration. Same provision. [Sec. 1254(a)]

Studies. Same provision. [Sec. 1254(a)]

Approval of Changes. Same provisions. [Sec. 1254(b)]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 724]

The conference agreement repeals Section 7(e) of the Child Nutrition Act so as to simplify the language in, and eliminate redundant provisions of, the Act. The managers note that no provisions of the Child Nutrition Act prohibit States from using State administrative expense (SAE) funds to administer the Commodity Distribution Program, which is authorized through the National School Lunch Act, and stress that the repeal of Section 7(e) should not be construed as barring or discouraging States from using SAE funds for this purpose.

## 18. REGULATIONS

*Present Law*

The Secretary is required to develop, and provide to State agencies for distribution to schools, model language that bans the sale of competitive foods of minimal nutritional value, along with a copy of the regulations concerning competitive foods. [Sec. 10(b) of the CNA]

*House Bill*

Deletes the out-of-date requirement for model language on competitive foods. [Sec. 3425]

*Senate Amendment*

Same provision. [Sec. 1255]

*Conference Agreement*

The conference agreement adopts provisions common to both bills. [Sec. 725]

## 19. PROHIBITIONS

*Present Law*

Neither the Secretary nor the States may impose any requirement with respect to teaching personnel, curriculum, or instruction in any school when carrying out the provisions of the special milk and school breakfast programs. [Sec. 11(a) of the CNA]

*House Bill*

Removes the prohibition on *States* imposing personnel, curriculum, and instruction requirements. [Sec. 3426]

*Senate Amendment*

Same provision. [Sec. 1256]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 726]

**20. MISCELLANEOUS PROVISIONS AND DEFINITIONS**

*Present Law*

"State" is defined to include the Trust Territory of the Pacific Islands. [Sec. 15(1) of the CNA]

"School" is defined to include nonprofit child care centers in Puerto Rico. [Sec. 15(3) of the CNA]

*House Bill*

Replaces the reference to the Trust Territory of the Pacific Islands with a reference to the Commonwealth of the Northern Mariana Islands. [Sec. 3427]

Makes a conforming amendment deleting the inclusion of nonprofit child care centers as schools in Puerto Rico. [Sec. 3427]

*Senate Amendment*

Same provisions. [Sec. 1257]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 727]

**21. ACCOUNTS AND RECORDS**

*Present Law*

States, State education agencies, schools, and nonprofit institutions must make accounts and records available for inspection by the Secretary "at all times." [Sec. 16(a) of the CNA]

*House Bill*

Revises the requirement to make accounts and records available at all times to a requirement that they be available at "any reasonable time." [Sec. 3428]

*Senate Amendment*

Same provision. [Sec. 1258]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 728]

**22. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN**

*Present Law*

Definitions. "Homeless individual" is defined to include an individual whose primary nighttime residence is a temporary accommodation in the residence of another. [Sec. 17(b)(15) of the CNA]

Secretary's Promotion of WIC. The Secretary must "promote" the WIC program by producing and distributing materials, including public service announcements in English and other appropriate languages. [Sec. 17(c)(5) of the CNA]

Eligible Participants. The Secretary must report biennially to Congress and the National Advisory Council on Maternal, Infant, and Fetal Nutrition on the income and nutritional risk characteristics of WIC participants, participation by migrants, and other appropriate matters. [Sec. 17(d)(4) of the CNA]

Nutrition and Drug Abuse Education. State agencies must ensure that drug abuse education is provided to all pregnant, postpartum, and breastfeeding WIC participants, and to parents/caretakers of WIC children.

Nutrition education and breastfeeding promotion and support must be evaluated annually by State agencies.

State agencies must ensure that written information about food stamps, AFDC, and the child support enforcement program is provided to WIC applicants and participants.

Each local WIC agency may use a master file to document and monitor the provision of nutrition education to individuals that are required to be included in group nutrition education classes.

State agencies must ensure that local agencies maintain and make available a list of local resources for substance abuse counseling and treatment. [Sec. 17(e) of the CNA]

State Plan. State agencies must annually submit a State plan for WIC operations and administration.

State agency WIC plans must include a plan to coordinate operations with special counseling services such as the expanded food and nutrition education program, immunization programs, local breastfeeding promotion programs, prenatal care, well-child care, family planning, drug abuse education, substance abuse counseling and treatment, child abuse counseling, AFDC, food stamps, maternal and child health care, and Medicaid (including Medicaid programs that use "coordinated care providers").

State agency WIC plans must include a plan to provide benefits to unserved and underserved areas in the State if sufficient funds are available.

State agency WIC plans must include a plan to provide benefits to those most in need and to provide eligible individuals not participating with program information, with an emphasis on reaching and enrolling eligible women in the early months of pregnancy and including provisions to reach and enroll eligible migrants.

State agency WIC plans must include a specific plan for provision of WIC benefits to incarcerated persons if they opt to provide benefits to these persons.

State agency WIC plans must include a plan to improve access to participants and applicants who are employed or reside in rural areas by addressing their needs through procedures/practices that minimize the time they must spend away from work and the distances they must travel.

State agency WIC plans must include an estimate of the increased participation that will result from cost-saving initiatives (including an explanation of how the estimate was developed) if the State chooses to request "funds conversion authority" (using food money for administration).

State agency WIC plans must include other information "as the Secretary may require."

State agencies must establish procedures under which members of the general public are provided an opportunity to comment on the development of the State plan.

State agencies must, on receiving a completed local agency application, notify the applicant in writing within 30 days of the approval or disapproval of the application (accompanied by a statement of reasons for any disapproval). Within 15 days of receiving an incomplete application, the State agency must notify the applicant of added information need to complete the application.

State agencies must, in cooperation with local WIC agencies, publicly announce and distribute information at least annually on the availability of WIC benefits to offices and organizations that deal with significant numbers of potentially eligible individuals. The information must be distributed in a manner designed to provide it to those most in need of benefits, including pregnant women in the early months of pregnancy. Local agencies with cooperative arrangements with hospitals must advise potentially eligible persons of the availability of benefits and provide them with the opportunity to be certified as eligible in the hospital.

State agency plans for fiscal year 1994 must advise the Secretary of procedures for reducing the purchase of low-iron infant formula.

State and local WIC agencies must make accounts and records available for inspection and audit by the Secretary "at all times."

Notices issued to WIC participants who are suspended or terminated during their certification period

because of a shortage of funds must include the categories of participants whose benefits are being suspended or terminated (in addition to other information required by the Secretary).

The Secretary must establish standards for proper, efficient, and effective administration, including standards that will ensure sufficient State agency staff.

Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants, are to be made available at the Secretary's discretion if they are commercially available or are approved by the Secretary based on clinical tests.

State agencies must (a) provide nutrition education, breastfeeding promotion, and drug abuse education in languages other than English and (b) use appropriate foreign language materials in areas where a substantial number of low-income households speak a language other than English.

State agencies may adopt methods of delivering benefits to accommodate the special needs and problems of incarcerated individuals.

Local agencies must provide information about other potential sources of food assistance to WIC applicants who apply but cannot be served. [Sec. 17(f) of the CNA]

Information. On completion of the 1990 Census, the Secretary must make available an estimate (by State and county) of the number of women, infants, and children who are members of families with incomes below 185 percent of the Federal poverty guidelines. [Sec. 17(g)(6) of the CNA]

Procurement of Infant Formula. The Secretary must require State agencies to report breastfeeding data for the biennial report by the Secretary on participant characteristics.

No State may receive a WIC allocation unless it meets certain conditions related to cost containment prior to September 1989.

States having cost-containment contracts in effect in 1989 need not meet new cost containment provisions until the term of the contract runs out.

The Secretary is required to establish pilot projects to determine the feasibility of using "universal product codes" to aid vendors in providing the correct infant formula to WIC participants.

The Secretary must follow certain specific rules in soliciting cost containment bids for infant formula on behalf of States.

The Secretary must promote the joint purchase of infant formula by States, encourage the purchase of supplemental foods other than infant formula under cost containment procedures, inform States of the benefits of cost containment, and provide technical assistance related to cost containment.

The Secretary must use \$10 million a year (from carryover funds) for infrastructure development, special projects of regional or national significance, and special breastfeeding support and promotion projects. [Sec. 17(h) of the CNA]

National Advisory Council. The Secretary designates the Chairman and Vice-Chairman of the National Advisory Council on Maternal, Infant, and Fetal Nutrition. [Sec. 17(k) of the CNA]

Completed Study: Community College Demonstration: Grants for Information and Data Systems. The Secretary must, by May 1989, conduct a study on appropriate methods of drug abuse education instruction. The Secretary must prepare and distribute drug abuse education materials. Specific appropriations for the study and materials are authorized for fiscal year 1989, and, for later years, "such sums as may be necessary" are authorized for distributing drug abuse education materials and making referrals under drug abuse education programs. [Sec. 17(n) of the CNA]

The Secretary is authorized to conduct a pilot project for WIC clinics in community colleges offering nursing education programs. [Sec. 17(o) of the CNA]

The Secretary is authorized to make grants to State agencies to improve WIC information and data systems. Appropriations for this are authorized through fiscal year 1994. [Sec. 17(p) of the CNA]

### *House Bill*

Definitions. Makes clear that, after 365 days in a temporary accommodation, individuals will not be considered homeless. [Sec. 3429(a)]

[*Note:* Sec. 3429(a) also makes a technical/conforming amendment to the definition of "drug abuse education."

Secretary's Promotion of WIC. Deletes the requirement that the Secretary promote the WIC program. [Sec. 3429(b)]

Eligible Participants. Deletes the requirement for the Secretary's biennial report on participants. [Sec. 3429(c)]

Nutrition and Drug Abuse Education. Makes provision of drug abuse education optional.

Deletes the requirement to annually evaluate nutrition education and breastfeeding promotion/support.

Removes the requirement for providing information about food stamps, AFDC, and child support enforcement. Replaces it with authority for State agencies to provide local agencies with materials describing other programs for which WIC participants may be eligible.

Deletes the specific authority for using a nutrition education master file.

Requires that local agencies maintain and make available lists of local substance abuse counseling and treatment resources. [Sec. 3429(d)]

State Plan. Revises the State plan submission requirement to stipulate that State agencies only be required to submit substantive changes in their plan for the Secretary's approval.

Removes the noted specific State plan requirements for coordination. Replaces them with a requirement that State plans include a plan to coordinate WIC operations with other services or programs that may benefit participants and applicants.

Adds a requirement that State WIC plans include a plan to improve access for those who are employed, or who reside in rural areas.

Removes the noted specific State plan requirements for reaching those most in need and not participating. Retains a requirement that State plans include a plan for reaching and enrolling women in the early months of pregnancy and migrants.

Deletes the noted specific State plan requirements as to how incarcerated persons will be provided benefits.

Deletes the noted specific State plan requirements as to improving program access for the employed and rural residents. [Note: An earlier provision adds a general State plan requirement for improved access for these persons.]

Deletes the noted State plan requirement for an estimate of increased participation when funds conversion authority is chosen by the State.

Revises authority for the Secretary to require other information as the Secretary may require to a stipulation that plans must include other information as the Secretary may "reasonably" require.

Makes a conforming amendment deleting a provision that permits State agencies to submit only those parts of plans that differ from previous years.

Deletes the public comment procedures requirement.

Deletes these processing requirements for local WIC agency applications.

Deletes the noted requirements for announcing and distributing information and certification in hospitals.

Deletes an out-of-date requirement that States advise the Secretary on procedures to reduce purchases of low-iron infant formula.

Revises the requirement to make accounts and records available at all times to a requirement that they be available at "any reasonable time."

Deletes noted requirements as to the content of suspension/termination notices.

Deletes the requirement for staffing standards

Deletes the noted provision stipulating that products designed for women and infants may be made available in the WIC program if commercially available or approved based on tests.

Makes optional the provision of services and use of materials in languages other than English.

Deletes specific authority for delivery methods to accommodate incarcerated individuals.

Makes optional the requirement to provide information about other potential sources of food assistance. [Sec. 3429(e)]

Information. Deletes out-of-date requirement for a report on those income-eligible for the WIC program based on the 1990 Census. [Sec. 3429(f)]

Procurement of Infant Formula. Deletes the requirement for States to report data on breastfeeding for a biennial report that is eliminated elsewhere in the bill.

Deletes an out-of-date requirement to meet cost containment conditions.

Deletes an out-of-date provision relating to cost containment contracts.

Deletes the requirement for universal product code pilots.

Deletes conditions on the Secretary when soliciting infant formula bids on behalf of States.

Deletes noted requirements of the Secretary related to promoting cost containment.

Removes breastfeeding promotion and support projects as a use for the Secretary's special fund of \$10 million a year.

None of the amendments affecting procurement practices are to apply to contracts for infant formula in effect on enactment. [Sec. 3429(g)]

National Advisory Council. Provides that the Advisory Council elect its Chairman and Vice-Chairman. [Sec. 3429(h)]

Completed Study: Community College Demonstration: Grants for Information and Data Systems. Deletes requirements for a 1989 drug abuse education study and preparation of materials. Deletes funding for distributing materials and referrals. [Sec. 3429(I)]

Deletes authority for a pilot for WIC clinics in community colleges. [Sec. 3429(I)]

Deletes out-of-date authority for information and data system improvement grants. [Sec. 3429(I)]

Disqualification of WIC Vendors. Adds provisions for disqualifying WIC vendors that have been disqualified from participation in the Food Stamp Program. Disqualification is for the same period as the food stamp disqualification and is not subject to separate administrative and judicial review. [Sec. 3429(j)]

#### *Senate Amendment*

Definitions. Same provisions. [Sec. 1259(a)]

Secretary's Promotion of WIC. Same provision. [Sec. 1259(b)]

Eligible Participants. Same provision. [Sec. 1259(c)]

Nutrition and Drug Abuse Education. No provision.

State Plan. Same provisions, except the Senate amendment (1) requires plans for improving access to those who are employed, or who reside, in rural areas; (2) includes no provisions to delete the public comment

procedures requirement, delete requirements for announcing and distributing information and certification in hospitals, or to make optional the provision requiring services and use of materials in languages other than English. [Sec. 1259(d)]

Information. Same provision. [Sec. 1259(e)]

Procurement of Infant Formula. Same provisions, except that the Senate amendment has no provision to remove breastfeeding promotion and support projects as a use for the Secretary's special fund. [Sec. 1259(f)]

National Advisory Council. Same provision. [Sec. 1259(g)]

Completed Study: Community College Demonstration; Grants for Information and Data Systems. Same provisions. [Sec. 1259(h)]

Disqualification of WIC Vendors. Same provisions. [Sec. 1259(i)]

#### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. With respect to provisions in disagreement:

Nutrition Education and Drug Abuse Education. The conference agreement adopts the House provision with an amendment retaining the requirement for drug abuse education.

State Plan. The conference agreement: adopts the House provision regarding plans to improve access to the employed and those in rural areas; adopts the Senate provision on requirements for public comment procedures and for announcing and distributing information and certification in hospitals, and; adopts the House provision making optional the provision requiring services and use of materials in languages other than English.

Procurement of Infant Formula. The conference agreement adopts the Senate provision retaining breastfeeding promotion and support projects as a use for the Secretary's special fund. [Sec. 729]

### **23. CASH GRANTS FOR NUTRITION EDUCATION**

#### *Present Law*

The Secretary is authorized to make cash grants to State education agencies for demonstration projects in nutrition education. [Sec. 18 of the CNA]

#### *House Bill*

Deletes authority for cash grants for nutrition education demonstration projects. [Sec. 3430]

#### *Senate Amendment*

Same provision. [Sec. 1260]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 730]

**24. NUTRITION EDUCATION AND TRAINING**

*Present Law*

Findings. Congress finds that:

- the proper nutrition of children is a matter of highest priority;
- the lack of understanding of good nutrition principles and their relation to health can contribute to children's rejection of nutritious foods and plate waste;
- many school food service personnel and teachers do not have adequate training;
- the lack of parental knowledge of nutrition can be detrimental on children's nutritional development; and
- there is a need to create opportunities for children to learn about good nutrition. [Sec. 19(a) of the CNA]

It is the purpose of the provisions for a nutrition education and training program to (a) encourage dissemination of information to children and (b) establish a system of grants to State education agencies for nutrition education and training programs. [Sec. 19(b) of the CNA]

Use of Funds. State agencies may use nutrition education and training funds for:

- funding a nutrition component in consumer homemaking and health education programs;
- 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;
- develop 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) for teachers, food service staff, and parents;
- funding aspects of the Secretary's "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 (including those under the summer and child care food programs). [Sec. 19(f) of the CNA]

States may receive planning and assessment grants for nutrition education and training. [Sec. 19(f) of the CNA]

Nothing in the provisions for a nutrition education and training program prohibits agencies from making available or distributing materials, resources, activities, or programs to adults. [Sec. 19(f) of the CNA]

Accounts, Records, and Reports. State education agencies must make accounts and records available for inspection and audit by the Secretary "at all times." [Sec. 19(g) of the CNA]

State Coordinators for Nutrition: State Plan. A State nutrition coordinator's assessment of the nutrition education and training needs of the State must include identification of all students in need of nutrition education and identification of State and local resources for materials, facilities, staff, and methods for nutrition education. [Sec. 19(h) of the CNA]

State nutrition coordinators' comprehensive plans for nutrition education (prepared after receiving a planning and assessment grant) must meet certain specific standards. [Sec. 19(h) of the CNA]

Authorization of Appropriations. Funding for the nutrition education and training program is permanently appropriated at \$10 million a year. State grants are based on a rate of 50 cents for each child enrolled, except that no State may receive less than \$62,500. [Sec. 19(I) of the CNA]

Assessment. By October 1, 1990, each State must assess its nutrition education and training program. [Sec. 19(j) of the CNA]

#### *House Bill*

Findings. Deletes the noted findings in present law and replaces them with a finding that "effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged." [Sec. 3431(a)]

Removes provisions referring to dissemination of information from the statement of purpose (they are included in the findings as noted above). [Sec. 3431(a)]

Use of Funds. Deletes the noted provisions for use of nutrition education and training funds. Adds a provision allowing funds to be used for "other appropriate activities, as determined by the State." [Sec. 3431(b)]

Deletes authority for nutrition education and training planning and assessment grants. [Sec. 3431(b)]

Deletes the noted provision relating to materials and activities for adults. [Sec. 3431(b)]

Accounts, Records, and Reports. Revises the requirement to make accounts and records available at all times to a requirement that they be available at "any reasonable time." [Sec. 3431(c)]

State Coordinators for Nutrition: State Plan. Deletes the noted specific requirements for nutrition education and training State assessments. [Sec. 3431(d)]

Deletes all specific requirements on comprehensive nutrition education plans prepared after a planning and assessment grant (these grants are eliminated elsewhere in the bill). [Sec. 3431(d)]

Authorization of Appropriations. Beginning with fiscal year 1997, appropriations are *authorized* at \$10 million a year (through 2002). State grants are based on a rate of 50 cents for each child enrolled, except that no State will receive less than \$75,000. If funds are insufficient to provide grants based on the 50 cent/\$75,000 rule, the amount of each State's grant is ratably reduced. [Sec. 3431(e) & (g)]

Assessment. Deletes the out-of-date requirement for State assessments of their nutrition education and training programs. [Sec. 3431(f)]

*Senate Amendment*

Findings. Same provisions. [Sec. 1261(a)]

Use of Funds. Same provisions. [Sec. 1261(b)]

Accounts, Records, and Reports. Same provision. [Sec. 1261(c)]

State Coordinators for Nutrition: State Plan. Same provisions. [Sec. 1261(d)]

Authorization of Appropriations. Same provisions. [Sec. 1261(e) & (g)]

Assessment. Same provision. [Sec. 1261(f)]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 731]

**SUBTITLE C -- MISCELLANEOUS PROVISIONS**

**25. COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SF**

*Present Law*

No provisions.

*House Bill*

Requires the Secretary to develop proposed changes to regulations under the school lunch, school breakfast, and summer food service programs for the purpose of simplifying and coordinating them into a comprehensive meal program. Requires that the Secretary consult with local, State, and regional administrators in developing the proposed changes. Not later than November 1, 1997, the Secretary must submit to Congress a report on the proposed changes. [Sec. 3441]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provisions. [Sec. 741]

**26. ROUNDING RULES**

*Present Law*

When indexed, reimbursement rates for the school lunch, school breakfast, special milk, and commodity assistance programs are rounded to the nearest quarter cent. [Sec. 3 and 4 of the CNA; Sec. 6 and 11 of the NSLA]

*House Bill*

No provision. [Note: Provisions amending the law governing the summer food service program and the child and adult care food program require that, when indexed, their reimbursement rates be rounded down to the nearest lower cent increment.]

*Senate Amendment*

Requires that, when indexed, reimbursement rates for the school breakfast, school lunch, special milk, and commodity assistance programs be rounded down to the nearest lower cent increment. [Sec. 1262]

[Note: As with the House bill, amendments affecting the summer food service program and the child and adult care food program include comparable rounding rules.]

*Conference Agreement*

The conference agreement adopts the Senate provisions with an amendment making the new rounding rules applicable only to full price meals in the school breakfast and school lunch programs and full price meals in child care centers. [Sec. 704]

Title VIII -- Food Stamps and Commodities Distribution

SUBTITLE A -- FOOD STAMP PROGRAM

1. DEFINITION OF CERTIFICATION PERIOD

*Present Law*

For households subject to periodic (monthly) reporting, eligibility certification periods must be 6-12 months, but the Secretary may waive this rule. For households receiving federally aided public assistance or general assistance, certification periods must coincide with the certification periods for the other public assistance programs. For other households, certification periods generally must not be less than 3 months -- but they can be (1) up to 12 months for those consisting entirely of unemployable, elderly, or primarily self-employed persons or (2) as short as circumstances require for those with a substantial likelihood of frequent changes in income or other circumstances and for any household on initial determination. The Secretary may waive the maximum 12-month period to improve program administration. [Sec. 3(c)]

*House Bill*

Replaces existing provisions as to certification periods with a requirement that certification periods not exceed 12 months -- but can be up to 24 months if all adult household members are elderly or disabled. Requires that State agencies have at least 1 contact with each certified household every 12 months. [Sec. 1011]

*Senate Amendment*

Same provision. [Sec. 1111]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 801]

2. DEFINITION OF COUPON

*Present Law*

"Coupon" is defined to mean any coupon, stamp, or type of certificate issued under provisions of the Food Stamp Act. [Sec. 3(d)]

*House Bill*

Expands the definition of coupon to include: authorization cards, cash or checks issued in lieu of a coupon, or access devices (including an electronic benefit transfer card or personal identification number). [Sec. 1012]

*Senate Amendment*

Same provision. [Sec. 1112]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 802]

**3. TREATMENT OF CHILDREN LIVING AT HOME**

*Present Law*

Parents and their children 21 years of age or younger who live together must apply for food stamps as a single household (thereby reducing aggregate household benefits) -- except for children who are themselves parents living with their children and children who are married and living with their spouses. [Sec. 3(i)]

*House Bill*

Removes the exception, from the requirement that related persons apply together as a single household, for children who are themselves parents living with their children and children who are married and living with their spouses. [Sec. 1013]

*Senate Amendment*

Same provision. [Sec. 1113]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 803]

**4. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS**

*Present Law*

Certain persons who live together may apply for food stamps as separate households (thereby increasing aggregate household benefits) if they purchase food and prepare meals separately and (1) are unrelated or (2) are related but are not spouses or children living with their parents [see item 3 for the proposed change in the household definition]. In addition, elderly persons who live with others and cannot purchase food and prepare meals separately because of a substantial disability may apply as separate "households" as long as their co-residents' income is below prescribed limits. [Sec. 3(i)]

*House Bill*

Permits States to establish criteria that prescribe when persons who live together (and might otherwise be allowed to apply as separate households) must apply for food stamps as a single household -- without regard to common purchase of food and preparation of meals. [Sec. 1014]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the Senate provision.

## 5. ADJUSTMENT OF THE THRIFTY FOOD PLAN

### *Present Law*

Maximum food stamp benefits are defined as 103 percent of the cost of the Agriculture Department's "Thrifty Food Plan," adjusted for food-price inflation each October to reflect the plan's cost in the immediately preceding June -- and rounded down to the nearest dollar. [Sec. 3(o)]

### *House Bill*

Sets maximum monthly food stamp benefits at 100 percent of the cost of the Thrifty Food Plan, effective October 1, 1996, adjusted annually as under present law. Requires that the October 1996 adjustment not reduce maximum benefit levels. [Sec. 1015]

### *Senate Amendment*

Same provision. [Sec. 1114]

### *Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 804]

## 6. DEFINITION OF HOMELESS INDIVIDUAL

### *Present Law*

For food stamp eligibility and benefit determination purposes, a "homeless individual" is a person lacking a fixed/regular nighttime residence or one whose primary nighttime residence is a shelter, a residence intended for those to be institutionalized, a temporary accommodation in the residence of another, or a public or private place not designed to be a regular sleeping accommodation for humans. [Sec. 3(s)]

### *House Bill*

Provides that persons whose primary nighttime residence is a temporary accommodation in the home of another may only be considered homeless if the accommodation is for no more than 90 days. [Sec. 1016]

### *Senate Amendment*

Same provision. [Sec. 1115]

### *Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 805]

## 7. STATE OPTION FOR ELIGIBILITY STANDARDS

*Present Law*

The Secretary is directed to establish uniform national standards of eligibility for food stamps, with certain variations allowed for Alaska, Hawaii, Guam, and the Virgin Islands, and in other cases (e.g., imposition of monthly reporting requirements). States may not impose any other standards of eligibility as a condition of participation in the program. [Sec. 5(b)]

*House Bill*

Explicitly permits nonuniform standards of eligibility for food stamps. [Sec. 1017]

*Senate Amendment*

Same provision. [Sec. 1116]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 806]

**8. EARNINGS OF STUDENTS**

*Present Law*

The earnings of an elementary/secondary student are disregarded as income until the student's 22nd birthday. [Sec. 5(d)(7)]

*House Bill*

Provides an earnings disregard for elementary/secondary students until the student's 20th birthday. [Sec. 1018]

*Senate Amendment*

Same provision, except that during fiscal year 2002 earnings will be disregarded until the student's 18th birthday. [Sec. 1117]

*Conference Agreement*

The conference agreement adopts the House provision with an amendment providing for the counting of earnings of elementary/secondary students once they reach age 18. [Sec. 807]

**9. ENERGY ASSISTANCE**

*Present Law*

Payments or allowances for energy assistance provided by State or local law are, under rules set by the Secretary, disregarded as income. [Sec. 5(d)(11) and 5(k)]

Payments or allowances for weatherization assistance are disregarded as energy assistance (although weatherization payments could otherwise be disregarded as lump-sum payments, vendor payments, or reimbursements). [Sec. 5(d)(11) and 5(k)]

Federal Low-Income Home Energy Assistance Program (LIHEAP) benefits are disregarded as income. [Sec. 5(d)(11) and 5(k) of the Food Stamp Act and sec. 2605(f) of the Low-Income Home Energy Assistance Act]

Certain utility allowances/reimbursements under Department of Housing and Urban Development (HUD) programs are disregarded as income. [Sec. 5(d)(11) and 5(k)]

Shelter expense deductions may be claimed for utility costs covered by LIHEAP benefits, but not in the case of other disregarded energy assistance -- unless the household has out-of-pocket expenses. [Sec. 5(e) of the Food Stamp Act and sec. 2605(f) of the Low-Income Home Energy Assistance Act]

#### *House Bill*

Requires that State/local energy assistance be counted as income. [Sec. 1019]

Requires an income disregard for one-time payments/allowances under a Federal or State law for the costs of weatherization or emergency repair/replacement of unsafe/inoperative furnaces or other heating/cooling devices. [Sec. 1019]

Requires that LIHEAP benefits be counted as income. [Sec. 1019]

Requires that HUD utility allowances/reimbursements be counted as income. [Sec. 1019]

Allows claiming shelter expense deductions for utility costs covered directly or indirectly by the LIHEAP or other counted energy assistance. [Sec. 1019]

[*Note:* Sec. 2131 amends sec. 2605(f) of the Low-Income Home Energy Assistance Act to delete that Act's requirement that LIHEAP recipients must be allowed to claim the amount of their LIHEAP benefits as a shelter expense.]

#### *Senate Amendment*

State/local assistance. Same provision (technical differences). [Sec. 1118]

Weatherization assistance. Same provision (technical differences). [Sec. 1118]

LIHEAP. Present law (technical differences). [Sec. 1118]

HUD assistance. Present law (technical differences). [Sec. 1118]

Shelter expense deductions. Present law (technical differences). [Sec. 1118]

#### *Conference Agreement*

The conference agreement adopts the Senate provisions with a technical amendment. [Sec. 808]

## **10. DEDUCTIONS FROM INCOME**

### *Present Law*

Standard Deductions. All households are allowed standard deductions from their otherwise countable income. Standard deductions are indexed annually (each October) for inflation based on the Consumer Price Index for urban wage earners (CPI-U) for items other than food and rounded down to the nearest dollar. For fiscal year 1995, standard deductions were: \$134 a month for the 48 contiguous States and the District of Columbia, \$229 for Alaska, \$189 for Hawaii, \$269 for Guam, and \$118 for the Virgin Islands. For fiscal year 1996, they were "scheduled" to rise to: \$138, \$236, \$195, \$277, and \$122, respectively. This was barred by the fiscal year 1996 appropriations measure, and fiscal year 1996 standard deduction levels are at the fiscal year 1995 amounts. [Sec. 5(e)]

Earned Income Deduction. Households may claim a deduction for 20 percent of any earnings. This deduction is not allowed with respect to any income that a household willfully or fraudulently fails to report in a timely manner, as proven in a fraud hearing proceeding (i.e., it is not allowed when determining the amount of a benefit overissuance). [Sec. 5(e)]

Homeless Shelter Allowance. For homeless households not receiving free shelter throughout the month, States may develop a homeless shelter expense estimate (a standard allowance) to be used in calculating an excess shelter expense deduction. States must use this amount unless the household verifies higher expenses. The Secretary may prohibit the use of the allowance for households with extremely low shelter costs. The maximum allowance amount is inflation indexed annually and currently stands at \$143 a month (fiscal year 1996). [Sec. 11(e)(3)]

Excess Shelter Expense Deduction. Households may claim excess shelter expense deductions from their otherwise countable income -- in the amount of any shelter expenses (including utility costs) above 50 percent of their countable income after all other deductions have been applied. For households with elderly or disabled members, these deductions are unlimited. For other households, they are limited to: \$247 a month in the 48 contiguous States and the District of Columbia, \$429 in Alaska, \$353 in Hawaii, \$300 in Guam, and \$182 in the Virgin Islands. Effective January 1, 1997, these limits on excess shelter expense deductions for households without elderly or disabled members are lifted. [Sec. 5(e)]

States may develop and use "standard utility allowances" (as approved by the Secretary) in calculating households' shelter expenses. However, households may (1) claim actual expenses instead of the allowance and (2) switch between an actual expense claim and the standard allowance at the end of any certification period and 1 additional time during any 12-month period. [Sec. 5(e)]

### *House Bill*

Standard Deductions. Indefinitely freezes standard deduction amounts at their present levels (e.g., \$134 for the 48 contiguous States and the District of Columbia). [Sec. 1020]

Earned Income Deduction. Disallows an earned income deduction for any income not reported in a timely manner and for the public assistance portion of income earned under a work supplementation/support program [Sec. 1020]

Homeless Shelter Allowance. Indefinitely freezes the maximum homeless shelter allowance at its present level (\$143). States may use it in calculating an excess shelter expense deduction (without regard to actual costs) and may prohibit its use for households with extremely low shelter costs. [Sec. 1020]

Excess Shelter Expense Deduction. Indefinitely retains current limits on excess shelter expense deductions for households without elderly or disabled members (e.g., \$247 for the 48 contiguous States and the District

of Columbia). [Sec. 1020]

Permits States to make use of standard utility allowances mandatory for all households if (1) the State has developed separate standards that do and do not include the cost of heating and cooling and (2) the Secretary finds that the standards will not result in increased Federal costs. [Sec. 1020]

#### *Senate Amendment*

Standard Deductions. Extends the present standard deduction levels (e.g., \$134 for the 48 contiguous States) through November 1996. For December 1996 through September 2001, sets standard deduction at \$120, \$206, \$170, \$242, and \$106. For October 2001 through August 2002, sets standard deductions at \$113, \$193, \$159, \$227, and \$100. For September 2002, sets standard deductions at \$120, \$206, \$170, \$242, and \$106. Beginning with fiscal year 2003, standard deductions are indexed for inflation as under present law. [Sec. 1119]

Earned Income Deduction. Same provision. [Sec. 1119]

Homeless Shelter Allowance. Same provision. [Sec. 1119]

Excess Shelter Expense Deduction. Effective January 1, 1997, increases the current limits on excess shelter expense deductions to \$342 in the 48 contiguous States and the District of Columbia, \$594 in Alaska, \$489 in Hawaii, \$415 in Guam, and \$252 in the Virgin Islands. No further increases are provided. [Sec. 1119]

Includes the same provision as in the House bill in regard to mandatory standard utility allowances. [Sec. 1119]

#### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. With regard to the provisions in disagreement:

-- the conference agreement adopts the House provision as to standard deductions: and

-- the conference agreement adopts the Senate provision as to limits on the excess shelter expense deduction with an amendment (1) requiring that they continue at their present-law levels (e.g. \$247 for the 48 contiguous States and the District of Columbia) through December 31, 1996, (2) for January 1, 1997, through fiscal year 1998, increasing the limits to \$250 for the 48 States and the District of Columbia, \$434 for Alaska, \$357 for Hawaii, \$304 for Guam, and \$184 for the Virgin Islands, (3) for fiscal years 1999 and 2000, increasing the limits to \$275, \$478, \$393, \$334, and \$203, and (4) for fiscal years 2001, 2002, and each subsequent fiscal year, increasing the limits to \$300, \$521, \$429, \$364, and \$221.

[Sec. 809]

## **11. VEHICLE ALLOWANCE**

#### *Present Law*

In determining a household's liquid assets for food stamp eligibility purposes, a vehicle's fair market value in excess of \$4,600 is counted. This threshold is scheduled to rise to an estimated \$5,150 on October 1, 1996.

and be adjusted each October thereafter to reflect changes in the new car component of the CPI-U for the 12-month period ending the immediately preceding June (rounded to the nearest \$50). Excluded from this rule are vehicles used to produce income, necessary for transportation of a disabled household member, or depended on to carry fuel or water. [Sec. 5(g)]

*House Bill*

Retains the threshold above which the fair market value of a vehicle is counted as a liquid asset at the current level -- \$4,600. [Sec. 1021]

*Senate Amendment*

Effective October 1, 1996, sets the threshold above which the fair market value of a vehicle is counted as a liquid asset to \$4,650. No further increases are provided. [Sec. 1120]

*Conference Agreement*

The conference agreement adopts the Senate provision. [Sec. 810]

**12. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME**

*Present Law*

AFDC, or general assistance housing aid, provided to a third party on behalf of a food stamp household is considered paid directly to the household (and thus counted as household income) unless, among other exceptions, it is housing assistance paid on behalf of households residing in "transitional housing for the homeless." [Sec. 5(k)]

*House Bill*

Removes the exception for vendor payments for transitional housing for the homeless. [Sec. 1022]

*Senate Amendment*

Same provision. [Sec. 1121]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 811]

**13. SIMPLIFIED CALCULATION OF INCOME FOR THE SELF-EMPLOYED**

*Present Law*

The cost of producing self-employment income is disregarded (subtracted out) in calculating household income. [Sec. 5(d)]

*House Bill*

No provision.

*Senate Amendment*

Provides that the Secretary establish a procedure (designed not to increase Federal costs) by which States may use a reasonable estimate of the cost of producing self-employment income in lieu of calculating actual costs, not later than 1 year after enactment. The procedure must allow States to estimate costs for all types of self-employment income and may differ for different types of self-employment income. [Sec. 1122]

*Conference Agreement*

The conference agreement adopts the Senate provision with an amendment providing that the Secretary establish a procedure by which States may submit a method for determining reasonable estimates of the cost of producing self-employment income designed not to increase Federal costs. [Sec. 812]

**14. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS**

*Present Law*

The disqualification period for the first intentional violation of program requirements is 6 months. The penalty for a second intentional violation (and the first violation involving trading of a controlled substance) is 1 year. [Sec. 6(b)(1)]

*House Bill*

Increases the disqualification penalty for a first intentional violation to 1 year. Increases the penalty for a second intentional violation (and the first involving a controlled substance) to 2 years. [Sec. 1023]

*Senate Amendment*

Same provision. [Sec. 1123]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 813]

**15. DISQUALIFICATION OF CONVICTED INDIVIDUALS**

*Present Law*

Permanent disqualification is required for the third intentional violation of program requirements, the second violation involving trading of a controlled substance, and the first violation involving trading of firearms, ammunition, or explosives. [Sec. 6(b)(1)]

*House Bill*

Adds a requirement for permanent disqualification of persons convicted of trafficking in food stamp benefits where the benefits have a value of \$500 or more. [Sec. 1024]

*Senate Amendment*

Same provision. [Sec. 1124]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 814]

## 16. DISQUALIFICATION

*Present Law*

Conditions of Participation. Non-exempt individuals between 16 and 60 are ineligible if they: (1) refuse to register for employment, (2) refuse without good cause (including lack of adequate child care) to participate in an employment or training program when required to do so by the State, or (3) refuse, without good cause, a job offer meeting minimum standards. In addition, if the individual is head of household and fails to comply with one of the above-noted conditions or voluntarily quits a job without good cause, the entire household is ineligible. [Sec. 6(d)(1)]

Duration of Ineligibility/Household Ineligibility. Disqualification periods for failure to meet work/training conditions of participation are (1) 2 months or until compliance (whichever is first) for most failures and (2) 90 days in the case of a voluntary quit. [Sec. 6(d)(1)]

*House Bill*

Conditions of Participation. Adds conditions making individuals ineligible if they (1) refuse without good cause to provide sufficient information to allow the State agency to determine their employment status or job availability or (2) voluntarily and without good cause reduce work effort and (after the reduction) are working less than 30 hours a week. Makes ineligibility for failure to comply with workfare requirements explicit and covered by new (see below) duration of ineligibility rules. Adds a condition making all individuals (in addition to heads of household) ineligible if they voluntarily quit a job without good cause. Lack of adequate child care, as an explicit good cause exemption for refusal to participate in an employment or training program, is removed. [Sec. 1025]

Duration of Ineligibility/Household Ineligibility. Establishes new mandatory minimum disqualification periods for individuals failing to comply with any work/training condition of participation. For the first violation, individuals are ineligible until they fulfill work/training conditions, for 1 month, or for a period (determined by the State) not to exceed 3 months -- whichever is later. For the second violation, individuals are ineligible until they fulfill work/training conditions, for 3 months, or for a period (determined by the State) not to exceed 6 months -- whichever is later. For a third or subsequent violation, individuals are ineligible until they fulfill work/training conditions, for 6 months, until a date set by the State agency, or (at State option) permanently. [Sec. 1025]

Establishes a new household ineligibility rule: if any individual who is head of household is disqualified under a work training condition of participation, the entire household is, at State option, ineligible for a period not to exceed the lesser of the duration of the individual's ineligibility or 180 days. [Sec. 1025]

Administration. In establishing cases of good cause, voluntary quit, and reduction of work effort, the Secretary determines the meaning of the terms. States determine the meaning of other terms related to work/training conditions of participation and the procedures for making compliance decisions, but cannot make determinations that are less restrictive than a comparable one under the State's family assistance block grant (TANF) program. [Sec. 1025]

*Senate Amendment*

Conditions of Participation. Same provision. [Sec. 1125]

Duration of Ineligibility/Household Ineligibility. Same provision. [Sec. 1125]

Administration. Same provision. [Sec. 1125]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 815]

## 17. CARETAKER EXEMPTION

*Present Law*

Parents or other household members with responsibility for the care of a dependent child under age 6 are exempt from food stamp work/training conditions of participation. [Sec. 6(d)(2)]

*House Bill*

Permits States to lower the age at which a child "exempts" a parent or caretaker from age 6 to not under the age of 1. [Sec. 1026]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provision with an amendment to permit a State to lower the age at which a child exempts a parent or caretaker from age 6 to not under age 1, if the State requested a waiver to lower the age of a dependent child that exempts the parent or caretaker and had the waiver denied by the Secretary as of August 1, 1996. The State may lower the age of the child for not more than 3 years. [Sec. 816]

## 18. EMPLOYMENT AND TRAINING

*Present Law*

Programs. States must operate employment and training programs for nonexempt food stamp recipients and place a minimum proportion of those covered in a program component. Program components can range

from job search or education activities to work experience training and workfare assignments.

Work experience/training program components must limit assignments to projects serving a useful public purpose, use the prior training/experience of assignees, not provide work that has the effect of replacing others, and provide the same benefits and working conditions provided others.

States and political subdivisions also may operate workfare programs under which nonexempt recipients may be required to perform work in return for the minimum wage equivalent of their household's monthly food stamp allotment. Workfare assignments may not replace or prevent the employment of others and must provide the same benefits and working conditions provided others.

The total hours of work required of a household under an employment/training program (including workfare) cannot exceed the minimum wage equivalent of the household's monthly allotment. Monthly participation in an employment/training program required of any household member cannot exceed 120 hours (when added to other work). And workfare hours (when added to other work) cannot exceed 30 hours a week for a household member.

Under employment and training programs for food stamp recipients, States must provide or pay for transportation and other costs directly related to participation (up to \$25 a month for each participant) and necessary dependent care expenses (in general, up to local market rates). Under workfare program, States must reimburse participants for transportation and other costs directly related to participation (up to \$25 a month for each participant). [Sec. 6(d)(4) and sec. 20]

Funding. To support employment and training programs for food stamp recipients, States receive a formula share of required spending of \$75 million a year. Each State's share is based on its share of nonexempt recipients and its share of those placed in employment/training program components. [Sec. 16(h)]

In addition, States receive a 50 percent match for any additional administrative or participant support costs. [Sec. 16(h)]

#### *House Bill*

Programs. Revises the existing requirements for State-operated employment and training programs for food stamp recipients:

- makes clear that work experience is a purpose of employment and training programs;
- requires that each component of an employment/training program be delivered through a "statewide workforce development system," unless the component is not available locally through the system;
- expands the existing State option to apply work/training requirements to *applicants* to include all work training requirements, not only job search;
- removes specific Federal rules governing job search components (i.e., those tied to rules in the AFDC program);
- removes provisions for employment/training components related to work experience requiring that they be in public service work and use recipients' prior training/experience;
- removes specific Federal rules as to States' authority to exempt categories and individuals from employment/training requirements, giving States full latitude to determine exemptions;
- removes a requirement to serve volunteers;
- removes the requirement for "conciliation procedures" for resolving disputes involving participation in employment/training programs;
- limits employment and training funding provided by the food stamp program for services to family assistance block grant (TANF) recipients to the amount used by the State for AFDC recipients in fiscal year

1995: and

-- removes provisions for Federal performance standards on States. [Sec. 1027]

Funding. Provides for required Federal spending of increasing amounts for employment and training programs: \$79 million in fiscal year 1997, \$81 million in 1998, \$84 million in 1999, \$86 million in 2000, \$88 million in 2001, and \$90 million in 2002. State allocations are based on a "reasonable formula" (determined by the Secretary) that gives consideration to each State's population of persons subject to the new work requirement (see item 25). [Sec. 1027]

Provides that the 50 percent match for additional administrative costs can include costs for case management/casework to facilitate the transition from economic dependency to self-sufficiency through work. [Sec. 1027]

Deletes a requirement for a report from the Secretary on modifying Federal employment and training program payments to States to reflect their effectiveness in carrying out employment and training programs. [Sec. 1027]

*Senate Amendment*

Programs. Same provisions. [Sec. 1126]

Funding. Same provisions, except that required Federal spending is \$85 million a year for fiscal years 1997-2002. [Sec. 1126]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills and adopts House provision with regard to Funding. [Sec. 817]

**19. FOOD STAMP ELIGIBILITY**

*Present Law*

The income and resources of aliens ineligible under Food Stamp Act provisions are counted as available to the remainder of the household, less a pro rata share for the ineligible alien. [Sec. 6(f)]

*House Bill*

Permits States the option to count all of the income and resources of an alien ineligible under Food Stamp Act provisions as available to the remainder of the household. [Sec. 1066]

*Senate Amendment*

Same provision, with technical differences. [Sec. 1127]

*Conference Agreement*

The conference agreement adopts the Senate provision. [Sec. 818]

## 20. COMPARABLE TREATMENT FOR DISQUALIFICATION

### *Present Law*

Households penalized for an intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because the welfare payment has been reduced. [Sec. 8(d)]

Persons are exempt from food stamp work/training conditions of participation if they are currently subject to and complying with AFDC or unemployment insurance work registration requirements. Failure to comply with an AFDC/unemployment insurance work registration requirement that "is comparable to" a food stamp work requirement results in disqualification as if the food stamp requirement had been violated. [Sec. 6(d)(2)]

### *House Bill*

If an individual is disqualified for failure to perform an action required under a Federal, State, or local law relating to means-tested public assistance, the State agency is permitted to impose the same disqualification for food stamps.

If a disqualification is imposed under the family assistance block grant (TANF) rules, States are permitted to use the TANF rules and procedures to impose the same disqualification for food stamps.

Permits individuals disqualified from food stamps because of failure to perform a required action under another public assistance program to apply for food stamps as new applicants after the disqualification period has expired, except that a prior disqualification under food stamp program work/training rules must be considered in determining eligibility.

Requires States to include in their State plans the guidelines they use in carrying out food stamp disqualification for failure to perform another program's required action(s). [Sec. 1028]

Removes the requirement that an AFDC/unemployment insurance work requirement be "comparable" to a food stamp requirement to bring on disqualification from food stamps. [Sec. 1028]

### *Senate Amendment*

Same provisions. [Sec. 1128]

### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 819].

## 21. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS

### *Present Law*

No comparable provision.

### *House Bill*

Adds a provision making individuals ineligible for 10 years if they are found by a State agency (or Federal or State court) to have made a fraudulent statement with respect to identity or residence in order to receive multiple food stamp benefits simultaneously. [Sec. 1029]

*Senate Amendment*

Same provision. [Sec. 1129]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 820]

The conferees note that State agency hearing processes have sufficient recipient protections to warrant a decision to impose a 10-year disqualification in these cases.

**22. DISQUALIFICATION OF FLEEING FELONS**

*Present Law*

No provision.

*House Bill*

Adds a provision making individuals ineligible while they are fleeing to avoid prosecution, custody, or confinement for a felony or attempted felony or violating a condition of probation or parole. [Sec. 1030]

*Senate Amendment*

Same provision. [Sec. 1130]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 821]

**23. COOPERATION WITH CHILD SUPPORT AGENCIES**

*Present Law*

Custodial Parents. No provisions.

Noncustodial Parents. No provisions.

*House Bill*

Custodial Parents. Permits States to disqualify custodial parents of children under the age of 18 who have an

absent parent, unless the parent cooperates with the State child support agency in establishing the child's paternity and obtaining support for the child and the parent. Cooperation is not required if the State finds there is good cause (in accordance with Federal standards taking into account the child's best interest). Fees or other costs for services may not be charged. [Sec. 1031]

Noncustodial Parents. Permits States to disqualify putative or identified noncustodial parents of children under 18 if they refuse to cooperate with the State child support agency in establishing the child's paternity and providing support for the child. The Secretary and the Secretary of Health and Human Services must develop guidelines as to what constitutes a refusal to cooperate, and States must develop procedures (using these guidelines) for determining whether there has been a refusal to cooperate. Fees or other costs for services may not be charged. States must provide privacy safeguards. [Sec. 1031]

*Senate Amendment*

Custodial Parents. Same provisions. [Sec. 1131]

Noncustodial Parents. Same provisions. [Sec. 1131]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 822]

## 24. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS

*Present Law*

No provisions.

*House Bill*

Allows States to disqualify individuals during any period in which the individual is delinquent in any court-ordered child support payment, unless the court is allowing a delay or the individual is complying with a payment plan approved by the court or a State child support agency. [Sec. 1032]

*Senate Amendment*

Same provision. [Sec. 1132]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 823]

## 25. WORK REQUIREMENT

*Present Law*

No comparable provisions.

*House bill*

Requirement. After the date of enactment, no nonexempt individual may be eligible for food stamps for more than 3 months during which the individual does not (1) work at least 20 hours a week (averaged monthly), (2) participate in and comply with a "work program" for at least 20 hours a week (as determined by the State agency), or (3) participate in a workfare program. A work program is defined as a program under the Job Training Partnership Act, a Trade Adjustment Assistance Act program, or a program of employment and training operated or supervised by a State or political subdivision that meets standards approved by the Governor (including a Food Stamp Act employment and training program), other than job search or job search training. [Sec. 1033]

General Exemptions. The new work requirement does not apply to (1) those under 18 or over 50, (2) those who are medically certified as physically or mentally unfit for employment, (3) parents or other household members with the responsibility for a dependent child, (3) those otherwise exempt from work registration requirements (e.g., those caring for incapacitated persons), and (4) pregnant women. [Sec. 1033]

Other Provisions. On a State agency's request, the Secretary may waive application of the new work requirement to any group of individuals if the Secretary determines that the area where they reside (1) has an unemployment rate over 10 percent or (2) does not have a sufficient number of jobs to provide them employment. The Secretary must report the basis for any waiver to Congress. [Sec. 1033]

#### *Senate Amendment*

Requirement. No nonexempt individual may be eligible for food stamps if, during the preceding 12-month period, the individual received food stamp benefits for 4 months or more while not (1) working at least 20 hours a week (averaged monthly), (2) participating in and complying with a "work program" for at least 20 hours a week (as determined by the State agency), or (3) participating in and complying with a workfare program. A work program is defined as in the House bill, with a technical difference. [Sec. 1133]

General Exemptions. Same provisions. [Sec. 1133]

Other Provisions. Provisions for unemployment-rate and job-availability waivers are the same as in the House bill, except that the Secretary must respond to a State agency request within 15 days. [Sec. 1133]

The disqualification imposed under the new work requirement ceases to apply if, during a 30-day period, an individual works 80 hours or more, participates in and complies with a work program (defined above) for at least 80 hours, or participates in and complies with a workfare program. After regaining eligibility, the individual again is subject to the new work requirement, except that a new 12-month period begins. [Sec. 1133]

State agencies may exempt an individual from the new work requirement: (1) by reason of "hardship" or (2) for up to 2 months (in any 12-month period), if the individual participates in and complies with a job search or job search training program under the Food Stamp Act's employment and training program provisions that requires an average of at least 20 hours a week of participation. The fiscal year average monthly number of individuals participating because of a hardship exemption may not exceed 20 percent of the fiscal year average number of individuals receiving food stamps who are not exempt from the new work requirement because of the general exemptions or waivers (noted above). [Sec. 1133]

Provides for a transition to the new work requirement. Prior to 1 year after enactment, administrators would not "look back" a full 12 months; they would look back only to the date of enactment. [Sec. 1133]

### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills: General Exemptions and provisions for waivers in cases of high unemployment and lack of sufficient jobs. With respect to the provisions in disagreement, the conference agreement adopts the Senate provisions with an amendment:

-- No nonexempt individual may be eligible for food stamps if, during the preceding 36-month period, the individual received food stamp benefits for 3 months or more while not (1) working at least 20 hours a week (averaged monthly), (2) participating in and complying with a work program for at least 20 hours a week (as determined by the State agency), or (3) participating in and complying with a workfare program. A work program is defined as in the House bill. Receipt of benefits while exempt (including participation under the additional 3-month eligibility provision described below) or covered by a waiver would not count toward an individual's basic 3-month eligibility period.

-- Individuals denied eligibility under the new work rule would regain eligibility if, during a 30-day period, the individual (1) works 80 or more hours, (2) participates in and complies with the requirements of a work program for 80 or more hours (as determined by the State agency), or (3) participates in and complies with the requirements of a workfare program. After having met this 30-day work/training requirement, the individual could remain eligible for a consecutive period of 3 months without working at least 20 hours a week or participating in an employment/training or workfare program. For example, if an individual works 20 hours a week for at least 30 days and then loses a job, the individual could retain food stamp eligibility for 3 consecutive months without working or being in a training/workfare program. But individuals could not take advantage of this provision for an additional 3 months of eligibility, while not working or in an employment/training or workfare program, for more than a single 3-month period in a 36-month period. Individuals regaining eligibility also would remain eligible as long as they continued to meet requirements to work at least 20 hours a week or participate in a training/workfare program.

-- Transition provisions are included that provide that the 36-month period established by the new work requirement will not include any period before the earlier of the date the State notifies recipients (through means such as individual notices at certification, recertification, otherwise, mass mailings, media announcements, or otherwise) about the new work requirement or 3 months after enactment.

[Sec. 824]

## **26. ENCOURAGEMENT OF ELECTRONIC BENEFIT TRANSFER SYSTEMS**

### *Present Law*

Rules for EBT Systems. State agencies, with the Secretary's approval, may implement on-line electronic benefit transfer (EBT) systems for delivering food stamp benefits. No State may implement or expand an EBT system without prior approval from the Secretary. States are responsible for 50 percent of EBT system costs. The Secretary's regulations for approval must include (1) standards that require that, in any 1 year, the operational cost of an EBT system does not exceed costs of prior issuance systems and (2) system security standards. [Sec. 7(i)]

Regulation E. The Federal Reserve Board has ruled that, as of March 1997 (and with some minor modifications), its "Regulation E" will apply to EBT systems. Regulation E provides certain protections for consumers using cards to access their accounts. It limits the liability of cardholders for unauthorized withdrawals (to \$50 if timely notification is made) and requires periodic account statements and certain error resolution procedures. [*Federal Register* of March 7, 1994]

Anti-tying Restrictions. No provision.

#### *House Bill*

Rules for EBT Systems. Provides that States must implement EBT systems (on-line or off-line) before October 1, 2002, unless the Secretary waives the requirement because a State agency faces unusual barriers to implementation. States are encouraged to implement an EBT system as soon as practicable. [Sec. 1034]

Subject to Federal standards, permits State agencies to procure and implement an EBT system under the terms, conditions, and design the agency considers appropriate. Adds a new requirement for Federal procurement standards and deletes the requirement for the Secretary's prior approval. [Sec. 1034]

Adds a requirement for EBT standards following generally accepted operating rules based on commercial technology, the need to permit interstate operation and law enforcement, and the need to permit monitoring and investigations by law enforcement officials. [Sec. 1034]

Adds requirements that the Secretary's standards include (1) measures to maximize security and (2) effective not later than 2 years after enactment, measures to permit EBT systems to differentiate among food items. [Sec. 1034]

Deletes the requirement that EBT systems be cost neutral in any one year. [Sec. 1034]

Adds a requirement that regulations regarding the replacement of benefits and liability for replacement under an EBT system be similar to those in effect for a paper food stamp issuance system. [Sec. 1034]

Permits State agencies to collect a charge for replacing EBT cards by reducing allotments. [Sec. 1034]

Permits State agencies to require that EBT cards contain a photograph of one or more household members and requires that, if a State requires a photograph, it must establish procedures to ensure that other appropriate members of the household and authorized representatives may use the card. [Sec. 1034]

Declares it the sense of Congress that States operate EBT systems that are compatible with other States' systems. [Sec. 1034]

Regulation E. Provides that Regulation E will not apply to any EBT system, established under, or administered by, State or local governments, distributing needs-tested benefits. [Sec. 1091]

Anti-tying Restrictions. Provides that a company may not sell or provide EBT services, or fix or vary the

consideration for such services, on the condition or requirement that the customer obtain, or not obtain, some additional point-of-sale service from the company or any affiliate. Requires the Secretary to consult with the Governors of the Federal Reserve before issuing regulations to carry out this provision. [Sec. 1034]

*Senate Amendment*

Rules for EBT Systems. Same provisions. [Sec. 1134]

Regulation E. Same provision. [Sec. 2809]

Also provides that Regulation E will not apply to food stamp benefits delivered through an EBT system. [Sec. 1134]

Anti-tying Restrictions. No provision.

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills, with a technical amendment, and adopts the Senate provision providing that Regulation E will not apply to food stamp benefits. The conferees intend that regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an EBT system will not require greater replacement of benefits or impose greater liability than those regulations in effect for a paper-based food stamp issuance system. [Sec. 825 and sec. 891]

The conference agreement also adopts the House provision applying anti-tying restrictions of the Bank Holding Company Act Amendments of 1970 to EBT services offered by nonbanks. The conferees intend that, in applying the anti-tying restrictions to nonbanks, the Secretary implement the anti-tying provision consistent with the anti-tying restrictions that apply to banks. [Sec. 825]

## 27. VALUE OF MINIMUM ALLOTMENT

*Present Law*

The minimum monthly allotment for 1- and 2-person households is set at \$10. It is indexed for inflation and rounded to the nearest \$5. [Sec. 8(a)]

*House Bill*

Deletes the requirement for inflation indexing of the minimum allotment. [Sec. 1035]

*Senate Amendment*

Same provision. [Sec. 1135]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 826]

**28. BENEFITS ON RECERTIFICATION**

*Present Law*

Recipient households not fulfilling eligibility recertification requirements in the last month of their certification period are allowed a 1-month "grace period" in which to fulfill the requirements before their benefits are pro-rated (reduced) to reflect the delay. [Sec. 8(c)]

*House Bill*

For those who do not complete all eligibility recertification requirements in the last month of their certification period, but are then determined to be eligible after their certification period has expired, requires that they receive reduced benefits in the first month of their new certification period (i.e., their benefits would be pro-rated to the date they met the requirements and were judged eligible). [Sec. 1036]

*Senate Amendment*

Same provision. [Sec. 1136]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 827]

**29. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS**

*Present Law*

For households applying after the 15th of the month, States may provide an allotment that is the aggregate of the initial (pro-rated) allotment and the first regular allotment. However, combined allotments must be provided to households applying after the 15th who are entitled to expedited service. [Sec. 8(c)]

*House Bill*

Makes provision of combined allotments a State option both for regular and expedited service applicants. [Sec. 1037]

*Senate Amendment*

Same provision. [Sec. 1137]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 828]

**30. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS**

*Present Law*

Households penalized for intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because their welfare income has been reduced. [Sec. 8(d)]

*House Bill*

Bars increased food stamp allotments when the benefits of a household are reduced under a Federal, State, or local means-tested public assistance program for failure to perform a required action. Permits States also to reduce a household's food stamp allotment by up to 25 percent. If the allotment is reduced for failure to perform an action under a family assistance block grant (TANF) program, the State may use the rules and procedures of that program to reduce the food stamp allotment. [Sec. 1038]

*Senate Amendment*

Same provision. [Sec. 1138]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 829]

**31. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS**

*Present Law*

Residential substance abuse centers may be designated as recipients' authorized representatives, and benefits generally are provided to the center.

*House Bill*

Permits State agencies to divide a month's food stamp benefits between the center and an individual who leaves the center and permits States to require center residents to designate centers as authorized representatives. [Sec. 1039]

*Senate Amendment*

Same provisions. [Sec. 1139]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 830]

**32. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS**

*Present Law*

No provisions.

*House Bill*

Provides that no food concerns (of a type determined by the Secretary based on factors including size, location, and types of items sold) be approved for participation unless visited by an Agriculture Department employee (or, whenever possible, a State or local government official designated by the Secretary). [Sec. 1040]

*Senate Amendment*

Same provision. [Sec. 1140]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 831]

**33. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS**

*Present Law*

No provisions.

*House Bill*

Requires the Secretary to establish specific time periods during which retail food stores' and wholesale food concerns' authorization to accept and redeem food stamp benefits will be valid. [Sec. 1041]

*Senate Amendment*

Same provision. [Sec. 1141]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 832]

**34. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION**

*Present Law*

No provisions.

*House Bill*

Permits the Secretary to require that retailers and wholesalers seeking approval to accept and redeem food stamp benefits submit relevant income and sales tax filing documents. Permits regulations requiring retailers and wholesalers to provide written authorization for the Secretary to verify all relevant tax filings and to obtain corroborating documentation from other sources in order to verify the accuracy of information provided by the retailer/wholesaler. [Sec. 1042]

*Senate Amendment*

Same provision. [Sec. 1142]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 833]

**35. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA**

*Present Law*

No provisions.

*House Bill*

Provides that retailers and wholesalers that have failed to be approved for participation may not submit a new application to participate for at least 6 months. The Secretary may establish a longer period (including permanent disqualification) that reflects the severity of the basis of the denial. [Sec. 1043]

*Senate Amendment*

Same provision. [Sec. 1143]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 834]

**36. OPERATION OF FOOD STAMP OFFICES**

*Present Law*

State Plans. States must:

- allow households contacting a food stamp office in person during office hours to make an oral/written request for aid and receive and file an application on the same day;
- use a simplified, uniform, federally designed application, unless a waiver is approved;
- include certain, specific information in applications;
- waive in-person interviews under certain circumstances and use telephone interviews or home visits instead;
- provide for telephone contact and mail application by households with transportation or similar difficulties;
- require an adult representative of the household to certify as to household members' citizenship/alien status;
- assist households in obtaining verification and completing applications;
- not require additional verification of currently verified information (unless there is reason to believe that the information is inaccurate, incomplete, or inconsistent);

- not deny an application solely because a nonhousehold member fails to cooperate;
- process applications if the household meets cooperation requirements;
- provide households with a statement of reporting responsibilities at certification and recertification;
- provide a toll-free or local telephone number at which households can reach State agency personnel;
- display and make available nutrition information; and
- use mail issuance in rural areas where low-income households face substantial difficulties in obtaining transportation. [Sec. 11(e)(2), (14). & (25)]

Application and Denial Procedures. A single interview for determining AFDC and food stamp benefits is required. Food stamp applications generally are required to be contained in public assistance applications, and applications and information about how to apply for food stamps must be provided local assistance applicants. Applicants (including those who have recently lost or been denied public assistance) must be certified eligible for food stamps based on their public assistance casefile (to the extent it is reasonably verified). No household may be terminated from or denied food stamps solely on the basis of termination/denial of other public assistance without a separate food stamp determination. [Sec. 11(i)]

#### *House Bill*

State Plans. Replaces noted existing State plan requirements with requirements that the State:

- establish procedures governing the operation of food stamp offices that it determines best serve households in the State, including those with special needs (such as households with elderly or disabled members, those in rural areas, the homeless, households residing on reservations, and households speaking a language other than English);
- provide timely, accurate, and fair service to applicants and participants;
- permit applicants to apply and participate on the same day they first contact a food stamp office during office hours;
- consider an application filed on the date the applicant submits an application with the applicant's name, address, and signature;
- require that an adult representative certify as to the truth of the information on the application and citizenship/alien status; and
- have a method for certifying homeless households. [Sec. 1044]

Permits States to establish operating procedures that vary for local food stamp offices. [Sec. 1044]

Stipulates that the signature of a single adult will be sufficient to comply with any provision of Federal law requiring applicant signatures. [Sec. 1044]

Makes clear that nothing in the Food Stamp Act prohibits electronic storage of application and other information. [Sec. 1044]

Application and Denial Procedures. Deletes noted existing requirements for single interviews, applications, and food stamp determinations based on public assistance information. Permits disqualification for food stamps based on another public assistance program's disqualification for failure to comply with its rules or regulations. [Sec. 1044]

#### *Senate Amendment*

State Plans. Same provisions. [Sec. 1144]

Application and Denial Procedures. Same provisions. [Sec. 1144]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 835]

**37. STATE EMPLOYEE AND TRAINING STANDARDS**

*Present Law*

States must employ agency personnel responsible for food stamp certifications in accordance with current Federal "merit system" standards. States must provide continuing, comprehensive training for all certification personnel. States may undertake intensive training of personnel to ensure they are qualified for certifying farm households. States may provide or contract for the provision of training and assistance to persons working with volunteer or nonprofit organizations that provide outreach and eligibility screening. [Sec. 11(e)(6)]

*House Bill*

Deletes training provisions. [Sec. 1045]

*Senate Amendment*

Same provision. [Sec. 1145]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 836]

**38. EXCHANGE OF LAW ENFORCEMENT INFORMATION**

*Present Law*

No provisions.

*House Bill*

Requires State food stamp agencies to make available to law enforcement officers the address, social security number, and a photograph (when available) of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation. [Sec. 1046]

*Senate Amendment*

Same provision. [Sec. 1146]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 837]

### 39. EXPEDITED COUPON SERVICE

#### *Present Law*

States must provide expedited benefits to applicant households that (1) have gross income under \$150 a month (or are "destitute" migrant or seasonal farmworker households) and have liquid resources of no more than \$100, (2) are homeless, or (3) have combined gross income and liquid resources less than the household's monthly shelter expenses. Expedited service means providing an allotment no later than 5 days after application. [Sec. 11(e)(9)]

#### *House Bill*

Deletes noted requirements to provide expedited service to the homeless and those with shelter expenses in excess of their income/resources. Lengthens the period in which expedited benefits must be provided to 7 days. [Sec. 1047]

#### *Senate Amendment*

No provision.

#### *Conference Agreement*

The conference agreement adopts the House provisions with an amendment to retain the requirement for expedited service to those with income and liquid resources less than their monthly shelter expenses. [Sec. 838]

### 40. WITHDRAWING FAIR HEARING REQUESTS

#### *Present Law*

No provisions.

#### *House Bill*

At State option, permits households to withdraw fair hearing requests orally or in writing. If it is an oral request, the State must provide written notice confirming the request and providing the household with another chance to request a fair hearing. [Sec. 1048]

#### *Senate Amendment*

Same provision. [Sec. 1147]

#### *Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 839]

### 41. INCOME, ELIGIBILITY, AND IMMIGRATION STATUS VERIFICATION SYSTEMS

#### *Present Law*

States must use the "income and eligibility verification systems" established under section 1137 of the Social Security Act to assist in verifying household circumstances: this includes a system for verifying financial circumstances (IEVS) and a system for verifying alien status (SAVE). [Sec. 11(e)(19)]

*House Bill*

Makes use of IEVS and SAVE optional with the States. [Sec. 1049]

*Senate Amendment*

Same provision. [Sec. 1148]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 840]

**42. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS**

*Present Law*

No provisions.

*House Bill*

Retailers/wholesalers who knowingly submit an application to accept and redeem food stamp benefits that contains false information about a substantive matter must be disqualified for a reasonable period of time to be determined by the Secretary (including permanent disqualification). [Sec. 1050]

*Senate Amendment*

Same provision. [Sec. 1149]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 842]

**43. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM**

*Present Law*

No provisions

*House Bill*

Requires the Secretary to issue regulations providing criteria for disqualifying from food stamp program participation retailers/wholesalers disqualified from the WIC program. Disqualification must be for the same length of time, may begin at a later date, and is not subject to separate food stamp administrative/judicial

review provisions. [Sec. 1051]

*Senate Amendment*

Same provisions. [Sec. 1150]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 843]

#### 44. COLLECTION OF OVERISSUANCES

*Present Law*

In the case of overissuances due to an intentional program violation, households must agree to repayment by either a reduction in future benefits or cash repayment; States also are required to collect overissuances to these households through other means such as tax refund or unemployment compensation collections if other repayment is not forthcoming (unless they demonstrate that the other means are not cost effective). In cases of overissuance because of inadvertent household error, States must collect the overissuance through a reduction in future benefits, except that households must be given 10 days notice to elect another means and collections are limited to 10 percent of the monthly allotment or \$10 a month (whichever would result in faster collection). Otherwise uncollected overissued benefits, except those arising from State agency error, may be recovered from Federal pay or pensions. [Sec. 13(b) & (d) and sec. 11(e)(8)]

States may retain 25 percent of "nonfraud" collections not arising from State agency error and 50 percent of "fraud" collections (increased from 10 percent and 25 percent on October 1, 1995). [Sec. 16(a)]

*House Bill*

Replaces existing overissuance collection rules with provisions requiring States to collect any overissuance by reducing future benefits, withholding unemployment compensation, recovering from Federal pay or income tax refunds, or any other means -- unless the State demonstrates that all of the means are not cost effective. Limits benefit reductions (absent intentional program violation) to the greater of 10 percent of the monthly allotment or \$10 a month. Provides that States must collect overissued benefits in accordance with State-established requirements for notice, electing a means of payment, and setting a schedule for payment. [Sec. 1052]

Permits States to retain 25 percent of all collections other than those arising from State agency error. [Sec. 1052]

*Senate Amendment*

Same provision, except permits States to retain 20 percent of nonfraud collections other than those arising from State agency error and 35 percent of fraud collections. [Sec. 1151]

*Conference Agreement*

The conference agreement adopts the Senate provisions. [Sec. 844]

**45. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW**

*Present Law*

No provisions.

*House Bill*

Requires that any permanent disqualification of a retailer/wholesaler be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary is not liable for lost sales. [Sec. 1053]

*Senate Amendment*

Same provision. [Sec. 1152]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 845]

**46. EXPANDED CRIMINAL FORFEITURE FOR CRIMINAL VIOLATIONS**

*Present Law*

"Administrative forfeiture" rules allow the Secretary to subject property involved in a program violation to forfeiture to the United States. [Sec. 15(g)]

*House Bill*

Establishes "criminal forfeiture" rules. Requires courts, in imposing sentence on those convicted of trafficking in food stamps, to order that the person forfeit property to the United States. Property subject to forfeiture would include all property (real and personal) used in a transaction (or attempted transaction) to commit (or facilitate the commission of) a trafficking violation (other than a misdemeanor); proceeds traceable to the violation also would be subject to forfeiture. An owner's property interest would not be subject to forfeiture if the owner establishes that the violation was committed without the owner's knowledge or consent.

Requires that the proceeds from any sale of forfeited property, and any money forfeited, be used to reimburse Federal and State agencies for costs and, by the Secretary, to carry out store monitoring activities. [Sec. 1054]

*Senate Amendment*

Same provisions. [Sec. 1153]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 846]

#### 47. LIMITATION OF FEDERAL MATCH

*Present Law*

If a State opts to conduct informational ("outreach") activities for the food stamp program, the Federal government shares half the cost. [Sec. 11(e)(1) and sec. 16(a)]

*House Bill*

Terminates the Federal share for any "recruitment activities." [Sec. 1055]

*Senate Amendment*

Same provision. [Sec. 1154]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 847]

#### 48. STANDARDS FOR ADMINISTRATION

*Present Law*

The Secretary is required to (1) establish standards for efficient and effective administration of the program, including standards for review of food stamp office hours to ensure that employed individuals are adequately served and (2) instruct States to submit reports on administrative actions taken to meet the standards. [Sec. 16(b)]

*House Bill*

Deletes the noted requirements relating to Federal standards for efficient and effective administration. [Sec. 1056]

*Senate Amendment*

Same provision. [Sec. 1155]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 848]

#### 49. WORK SUPPLEMENTATION OR SUPPORT PROGRAM

*Present Law*

No provisions.

*House Bill*

Establishes a new option for States to operate work supplementation or support programs under which the value of public assistance benefits are provided to employers who hire recipients and, in turn, use the benefits to supplement the wages paid the recipient. Work supplementation/support programs would have to adhere to standards set by the Secretary, be available for new employees only, and not displace employment of those who are not supplemented/supported. The food stamp benefit value of the supplement could not be considered income for other purposes. Opting States would be required to provide a description of how recipients in their program will, within a specific period of time, be moved to unsubsidized employment. [Sec. 1057]

*Senate Amendment*

Same provision. [Sec. 1156]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 849]

## 50. WAIVER AUTHORITY

*Present Law*

The Secretary may waive Food Stamp Act requirements to the degree necessary to conduct pilot/demonstration projects, but, in general, no project may be implemented that would lower or further restrict food stamp income/resource eligibility standards or benefit levels. [Sec. 17(b)(1)]

*House Bill*

Permits the Secretary to conduct pilot and demonstration projects and waive Food Stamp Act requirements as long as the project is consistent with the food stamp program goal of providing food to increase the level of nutrition among low-income individuals. The Secretary is permitted to conduct projects that will improve the administration of the program, increase self-sufficiency of food stamp participants, test innovative welfare reform strategies, or allow greater conformity among public assistance programs than is otherwise allowed under the Food Stamp Act. The Secretary is not permitted to conduct projects that involve issuing benefits in cash (beyond those approved at enactment), substantially transfer program benefits to other public assistance programs, or are not limited to specific time periods. [Sec. 1058]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provision with an amendment. The Secretary is permitted to conduct pilot and demonstration projects and waive Food Stamp Act requirements to the extent necessary, with certain limitations and conditions. Projects must be consistent with the food stamp program goal of providing food assistance to raise levels of nutrition among low-income individuals and must include an evaluation.

Permissible projects are those that will improve the administration of the program, increase self-sufficiency

of food stamp participants, test innovative welfare reform strategies, or allow greater conformity with the rules of other programs than is otherwise allowed under the Food Stamp Act. However, if the Secretary finds that a project would require the reduction of benefits by more than 20 percent, for more than 5 percent of households subject to the project (not including those whose benefits are reduced because of a failure to comply with work or other conduct requirements), the project (1) cannot include more than 15 percent of the State's food stamp population and (2) is limited to 5 years (unless an extension is approved).

The Secretary may not conduct a project that (1) involves the payment of food stamp allotments in cash (unless the project was approved prior to enactment), (2) has the effect of substantially transferring food stamp funds to services or benefits provided through another public assistance program, (3) has the effect of using food stamp funds for any purpose other than the purchase of food, program administration, or an employment or training program, (4) has the effect of granting or increasing shelter expense deductions to households with either no out-of-pocket shelter expenses or shelter expenses that represent a low percentage of their income, (5) has the effect of absolving the State from acting with reasonable promptness on substantial reported changes in income or household size (other than those related to deductions), (6) is not limited to a specific time period, or (7) waives a simplified food stamp program provision in carrying out a simplified program.

The Secretary also may not conduct a project that is inconsistent with certain Food Stamp Act requirements: (1) the bar against providing benefits to those in institutions (with certain exceptions), (2) the requirement to provide assistance to all those eligible, so long as they have not failed to comply with any food stamp or other program's work, behavioral, or other conduct requirements, (3) the gross income eligibility limit (130 percent of the Federal poverty guidelines) for households without elderly or disabled members, (4) the rule that no parent or caretaker of a dependent child under age 6 will be subject to work/training requirements [see item 17], (5) the rule that total hours of work required in an employment/training or workfare program be limited to the household's allotment divided by the minimum wage, (6) the limit on the amount of employment and training funding under the Food Stamp Act that can be used for TANF recipients, (7) the requirement that the value of food stamp benefits not be considered income or resources for any other purpose, (8) application and application processing requirements (including the rule that benefits must be provided within 30 days, but not including expedited service requirements), (9) Federal-State cost-sharing rules (including those for computerization, employment and training programs, and workfare), (10) "quality control" requirements, and (11) the waiver limits set in law.

[Sec. 850]

## 51. RESPONSE TO WAIVERS

### *Present Law*

No provisions.

### *House Bill*

Requires that, not later than 60 days after receiving a demonstration project waiver request, the Secretary must (1) approve the request, (2) deny it and explain any modifications needed for approval, (3) deny it and explain the grounds for denial, or (4) ask for clarification of the request. If a response is not forthcoming in 60 days, the waiver is considered approved. If a waiver is denied, the Secretary must provide a copy of the request and the grounds for denial to Congress. [Sec. 1059]

*Senate Amendment*

Same provision. [Sec. 1157]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 851]

**52. EMPLOYMENT INITIATIVES PROGRAM**

*Present Law*

No provisions.

*House Bill*

Provides a new option for a limited number of States (those with not less than half of their food stamp households receiving AFDC benefits in 1993) to issue food stamps in cash to households participating in both the State's family assistance block grant (TANF) program and food stamps, if a member of the household has been working for at least 3 months and earns at least \$350 a month in unsubsidized employment. Households receiving cash payments may continue to receive them after leaving a TANF program because of increased earnings, and a household eligible to receive its allotment in cash may opt for food stamps instead. States opting for these cash payments must increase food stamp benefits (and pay for the increase) to compensate for State/local sales taxes on food purchases and must provide a written evaluation. [Sec. 1060]

*Senate Amendment*

Same provisions. [Sec. 1158]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 852]

**53. REAUTHORIZATION**

*Present Law*

Food Stamp Act appropriations are authorized through fiscal year 1997. [Sec. 18(a)]

*House Bill*

Extends the Food Stamp Act authorization of appropriations through fiscal year 2002. [Sec. 1061]

*Senate Amendment*

Same provision. [Sec. 1159]

*Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 853]

**54. SIMPLIFIED FOOD STAMP PROGRAM**

*Present Law*

No provision.

*House Bill*

Permits States to determine food stamp benefits for households receiving family assistance block grant (TANF) aid using TANF rules and procedures, food stamp rules/procedures, or a combination of both. States may operate a simplified program statewide or in regions of the State and may standardize deductions. However, States must comply with the following food stamp rules:

- requirements governing issuance procedures:
- the requirement that benefits be calculated by subtracting 30 percent of household income (as determined by State-established, not Federal, rules under the simplified program option) from the maximum food stamp benefit;
- the bar against counting food stamp benefits as income or resources in other programs;
- requirements that State agencies assume responsibility for eligibility certification and issuance of benefits and keep records for inspection and audit;
- the bar against discrimination by reason of race, sex, religious creed, national origin, or politics;
- requirements related to submission and approval of plans of operation and administration of the food stamp program on Indian reservations;
- limits on the use and disclosure of information about food stamp households;
- requirements for notice to and fair hearings for aggrieved households (or comparable requirements established by the State);
- requirements for submission of reports and other information required by the Secretary;
- the requirement to report illegal aliens to the INS;
- provisions for the use of certain Federal and State data sources in verifying eligibility;
- requirements to ensure that households are not receiving duplicate benefits; and
- requirements for the provision of social security numbers as a condition of eligibility and for their use by State agencies.

Households may not receive benefits under a simplified program unless the Secretary determines that any household with income above 130 percent of the Federal poverty guidelines is ineligible for the program.

The Secretary must determine whether a simplified program is increasing Federal costs above costs incurred in operations for the fiscal year prior to implementation, adjusted for changes in participation, the income of participants not attributable to public assistance, and the cost of the thrifty food plan. The determination is made for each fiscal year, not later than 90 days after the end of the year.

If the Secretary determines that there has been a cost increase, the State must be notified within 30 days. If a State does not then submit or carry out a "corrective action" plan approved by the Secretary to prevent increased Federal costs, approval of the State's simplified program is terminated, and the State is ineligible for further operation of a simplified program.

States opting for a simplified program must include in their State plans the rules and procedures to be followed, how they will address the needs of households with high shelter costs, and a description of the method by which they will carry out their quality control obligations. [Sec. 1062]

*Senate Amendment*

Same provisions, except that the Senate amendment (1) stipulates that only households in which "all members" receive TANF benefits may receive benefits under a simplified program and (2) requires that States opting for a simplified program follow food stamp rules regarding providing benefits within 30 days of application. Also provides that (1) the Secretary will determine whether a simplified program is increasing Federal costs, (2) States will not be required to collect information on households not in the simplified program in cost increase determinations, and (3) the Secretary may approve "alternative accounting periods" in making cost determinations. [Sec. 1160]

*Conference Agreement*

The conference agreement adopts the House provision with an amendment providing that: (1) only households in which all members receive TANF benefits may receive benefits under a simplified program. (2) the Secretary will determine whether a simplified program is increasing Federal costs. (3) States will not be required to collect information on households not in the simplified program in cost increase determinations, and (4) the Secretary may approve alternative accounting periods in making cost determinations. In addition, the conference agreement adopts an amendment that provides that a simplified program may include households in which 1 or more members are not TANF recipients, if approved by the Secretary. The conferees encourage the Secretary to work with States to test methods for applying a single set of rules and procedures to households in which some, but not all, members receive cash welfare benefits under State rules. [Sec. 854]

## 55. STATE FOOD ASSISTANCE BLOCK GRANT

*Present Law*

No provision.

*House Bill*

Establishes an optional food assistance block grant. States that meet one of three conditions may elect to receive the block grant in lieu of participating in the regular food stamp program. The conditions are: (1) a statewide EBT system, (2) a payment error rate of 6 percent or less, or (3) if there is a payment error rate of higher than 6 percent, payment to the Federal government of the benefit cost of the difference. States electing a block grant would receive the greater of: (1) the amount received for benefits in fiscal year 1994 (or the 1992-1994 average) plus (2) the amount received for administration in fiscal year 1994 (or the 1992-1994 average). States electing a block grant and then terminating their option may not again elect a block grant.

Block grant funding may only be used for food assistance to needy persons and administrative costs for providing the assistance -- so long as not more than 6 percent of total funds expended (other than State funds not otherwise required to be spent) are used for administrative costs and limits on carryover funds are followed. While States have control over most features of their block grant program, certain rules specified

in law must be followed: provisions for notice and hearing for those aggrieved; bars against receipt of benefits in more than 1 jurisdiction, benefits for fleeing felons, and benefit for aliens otherwise barred under Federal law; privacy and nondiscrimination safeguards; and quality control requirements of the Food Stamp Act. In addition, States opting for a block grant would continue to be covered under the Food Stamp Act's employment and training program provisions (and receive separate funding for this) and would be required to bar benefits to those not meeting food stamp work requirements (including the new requirement). [Sec. 1063]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the Senate provision.

**56. A STUDY OF THE USE OF FOOD STAMPS TO PURCHASE VITAMINS AND MINERALS**

*Present Law*

No provision.

*House Bill*

Requires the Secretary, in consultation with the National Academy of Sciences and the Centers for Disease Control and Prevention, to conduct a study of the use of food stamps to purchase vitamins and minerals and report to the House Committee on Agriculture not later than December 15, 1996. [Sec. 1064]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provision with an amendment requiring a report to both the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture not later than December 15, 1998. [Sec. 855]

**57. INVESTIGATIONS**

*Present Law*

No provision.

*House Bill*

Requires that regulations provide criteria for the finding of violations (and suspension/disqualification) of retailers and wholesalers on the basis of evidence which may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through EBT transaction reports. [Sec. 1065]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provision. [Sec. 841]

**58. REPORT BY THE SECRETARY**

*Present Law*

No provision.

*House Bill*

Permits the Secretary to report to the House Committee on Agriculture (not later than January 1, 2000) on the effect of the food stamp reforms in this act and the ability of State and local governments to deal with people in poverty. [Sec. 1067]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the Senate provision.

**59. DEFICIT REDUCTION**

*Present Law*

No provision.

*House Bill*

Declares it the sense of the House Committee on Agriculture that outlay reductions resulting from the food stamp title not be taken into account under section 552 of the Balanced Budget and Emergency Deficit Control Act. [Sec. 1068]

*Senate Amendment*

No provision.

*Conference Agreement*

The conference agreement adopts the House provision with a technical amendment. [Sec. 856]

**Subtitle B -- Commodity Distribution Programs**

**1. SHORT TITLE**

*Present Law*

The Emergency Food Assistance Act (EFAA), The Hunger Prevention Act of 1988, The Charitable Assistance and Food Bank Act of 1987, the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990.

*House Bill*

Amends the EFAA and Section 110 of the Hunger Prevention Act of 1988 to combine the Emergency Food Assistance Program (TEFAP) and the soup kitchen/food bank program and create a new TEFAP; repeals the expired food bank demonstration project under the Charitable Assistance and Food Bank Act of 1987; and repeals a requirement for a previously completed report on entitlement commodity processing under the FACT Act of 1990. [Sec. 1071, 1072, 1073, & 1074]

*Senate Amendment*

Same provisions. [Sec. 1171, 1172, 1173, & 1174]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871-874]

**2. ELIGIBLE RECIPIENT AGENCIES**

*Present Law*

Defines "eligible recipient agencies" and "emergency feeding organizations". [Sec.201A]

Defines "Additional commodities", "average monthly number of unemployed persons", "poverty line", "Total value of additional commodities", "Value of additional commodities." [Sec.214 of EFAA]

*House Bill*

Incorporates into one section current law and regulatory definitions of terms used in TEFAP and section 110 of the Hunger Prevention Act. Definitions include "eligible recipient agencies", as well as "emergency feeding organization," "additional commodities", "average monthly number of unemployed persons", "food bank", "food pantry", "poverty line", "soup kitchen", "total value of additional commodities", and "value of additional commodities allocated to each State." [Sec. 1071]

*Senate Amendment*

Same provisions. [Sec. 1171]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871]

**3. AVAILABILITY OF CCC COMMODITIES**

*Present Law*

Outlines conditions under which the Secretary is to donate CCC commodities or other agricultural commodities, the varieties of commodities to be made available; requires semi-annual report on types of commodities made available; prohibits declines in dairy product donations, and requires that emergency feeding organizations have the same access to excess CCC commodities as other domestic food programs.

*House Bill*

Maintains current law provisions. [Sec. 1071]

*Senate Amendment*

Same provisions. [Sec. 1171]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871]

**4. AVAILABILITY OF CCC FLOUR, CORNMEAL, AND CHEESE**

*Present Law*

Provides for additional distribution in FY1988 of flour, cheese, and cornmeal when excess amounts are available from CCC holdings.

*House Bill*

Strikes obsolete provision and moves definitions to a new section of the Act (see item 2 above). Replaces Sec. 202A with new provisions governing State plans (See item 5 below). [Sec. 1071]

*Senate Amendment*

Same provisions [Sec. 1171]

*Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871]

## 5. STATE PLAN

### *Present Law*

Requires Secretary to expedite distribution of commodities to agencies designated by the Governor, or directly distribute commodities to eligible recipient agencies engaged in national commodity processing; allows States to give priority for donations to existing food bank networks serving low-income households. Requires States to expeditiously distribute commodities to eligible recipient agencies, and to encourage distribution to rural areas. Also requires Secretary to distribute commodities only to agencies that serve needy persons and set their own need criteria, with the approval of the Secretary. [Sec. 203B (a) and (c) of EFAA]

### *House Bill*

Requires States seeking commodities under the new EFA program to submit a plan of operation and administration every 4 years for approval by the Secretary and allows amendment of the plan at any time.

Requires that at a minimum the State receiving commodities include in its plan: designation of responsible State agency; plan of operation and administration to expeditiously distribute commodities; standards of eligibility for recipient agencies; individual and household eligibility standards that require that they be needy and residing in the geographic area served by the recipient agency. [Sec. 1071]

### *Senate Amendment*

Same provisions. [Sec. 1171]

### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871]

## 6. ADVISORY BOARD

### *Present Law*

No provision.

### *House Bill*

Requires Secretary to encourage States to establish advisory boards consisting of representatives of all interested entities, public and private, in the distribution of commodities. [Sec. 1071]

### *Senate Amendment*

Same provision. [Sec. 1171]

### *Conference Agreement*

The conference agreement adopts the provision that is common to both bills. [Sec. 871]

## 7. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS

### *Present Law*

Authorizes \$50 million annually for fiscal year 1991-2002 for Secretary to make available to States for State and local costs associated with the distribution of commodities. Requires that funds be distributed on an advance basis in the same proportion as commodities are distributed. Allows for reallocation of unused funds among other States. Specifically allows States to use funds to help with distribution of commodities provided to soup kitchens and food banks under section 110 of the Hunger Prevention Act.

### *House Bill*

Revises language regarding availability of funds to States for State and local costs to require that such funds be used "to pay for the direct and indirect administrative costs of the State related to processing, transporting, and distributing [commodities] to eligible recipient agencies." Drops separate reference to soup kitchen and food banks because this program is incorporated into the new TEFAP. [Sec. 1071]

### *Senate Amendment*

Same provisions. [Sec. 1171]

### *Conference Agreement*

The conference agreement adopts the provisions that are common to both bills. [Sec. 871 ]

## 8. REQUIRED PURCHASES OF COMMODITIES

### *Present Law*

Authorizes \$175 million for fiscal year 1991, \$190 million for FY1992, and \$200 million for each of fiscal years 1993 through 2002 for the Secretary to purchase, process and distribute additional commodities to the extent that appropriations are provided. Establishes a formula for distribution of commodities to States whereby 60 percent of commodities are allocated based on a State's share of persons in households with incomes below the poverty level and 40 percent upon a State's share of unemployed persons, and defines related terms.

### *House Bill*

Strikes provisions authorizing funds for commodity purchases. Instead, amends the Food Stamp Act to add a new section 28 requiring the Secretary to spend \$300 million annually for each of fiscal years 1997 through 2002 from funds appropriated under the Food Stamp Act to buy commodities for the new TEFAP; requires the Secretary to take into account agricultural market conditions, and State, agency, and recipient preferences when buying commodities with these funds. Specifies that these commodities be distributed under the current-law allocation formula. [Sec. 1071]

### *Senate Amendment*

Similar to House bill, except that \$100 million is required to be used from food stamp funds annually to buy commodities for the new TEFAP. [Sec. ]

*Conference Agreement*

The conference agreement adopts the Senate provision with a technical amendment. [Sec. 871]

**Subtitle C -- Electronic Benefit Transfer System**

See Item 26 of Subtitle A -- Food Stamp Program for a description of the conference agreement on this subtitle.

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Title IX: Miscellaneous

1. Appropriation by State Legislatures

*Present Law*

According to the National Conference of State Legislatures, there are six States in which under court rulings of interpretations of State constitutions, certain Federal funds are controlled by the Executive branch rather than the State legislature. (An example would be action on funds when the legislature is out of session.) These States are Arizona, Colorado, Connecticut, Delaware, New Mexico, and Oklahoma.

*House Bill*

The proposal stipulates that funds from certain Federal block grants to the States are to be expended in accordance with the laws and procedures applicable to the expenditure of the State's own resources (i.e., appropriated through the State legislature in all States). This provision applies to the following block grants: temporary assistance to needy families block grant, the optional State food assistance block grant, and the child care block grant. Thus, in the States in which the Governor previously had exclusive control over Federal block grant funds, the State legislatures now would share control through the appropriations process. However, States would continue to spend Federal funds in accord with Federal law.

*Senate Amendment*

Identical provision.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

2. Sanctioning for Testing Positive for Controlled Substances

*Present Law*

Eligibility and benefit status for most Federal welfare programs are not affected by a recipient's use of illegal drugs.

*House Bill*

States are not prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor for sanctioning welfare recipients who test positive for the use of controlled substances.

*Senate Amendment*

Identical provision.

*Conference Agreement*

The conference agreement follows the House bill and the Senate amendment.

### 3. Elimination of Housing Assistance with Respect to Fugitive Felons and Probation and Parole Violators

#### *Present Law*

No provision.

#### *House Bill*

No provision.

#### *Senate Amendment*

Ends eligibility for public housing and Section 8 housing assistance of a person who is fleeing to avoid prosecution after conviction for a crime, or attempt to commit a crime, that is a felony where committed (or, in the case of New Jersey, is a high misdemeanor), or who is violating a condition of probation or parole. The amendment states that the person's flight shall be cause for immediate termination of their housing aid.

Requires specified public housing agencies to furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, social security number, and photograph (if applicable) of any SSI recipient, if the officer furnishes the public housing agency with the person's name and notifies the agency that the recipient is a fugitive felon (or in the case of New Jersey a person fleeing because of a high misdemeanor) or a probation or parole violator or that the person has information that is necessary for the officer to conduct his official duties, and the location or apprehension of the recipient is within the officer's official duties.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### 4. Sense of the Senate Regarding Enterprise Zones

#### *Present Law*

No specific provision. However, as stated, the provisions outlined in the Sense of the Senate language already can be done under present law.

#### *House Bill*

No provision.

#### *Senate Amendment*

Outlines some findings related to urban centers and empowerment zones and includes sense of the Senate language that urges the 104th Congress to pass an enterprise zone bill that provides Federal tax incentives to increase the formation and expansion of small businesses and to promote commercial revitalization; allows

localities to request waivers to accomplish the objectives of the enterprise zones; encourages resident management of public housing and home ownership of public housing; and authorizes pilot projects in designated enterprise zones to expand the educational opportunities for elementary and secondary school children.

*Conference Agreement*

The conference agreement follows the House bill.

**5. Sense of the Senate Regarding the Inability of the Non-Custodial Parent to Pay Child Support**

*Present Law*

No provision.

*House Bill*

No provision.

*Senate Amendment*

It is the Sense of the Senate that States should pursue child support payments under all circumstances even if the noncustodial parent is unemployed or his or her whereabouts are unknown; and that States are encouraged to pursue pilot programs in which the parents of a minor non-custodial parent who refuses or is unable to pay child support contribute to the child support owed.

*Conference Agreement*

The conference agreement follows the Senate amendment.

**6. Establishing National Goals to Prevent Teenage Pregnancies**

*Present Law*

No provision.

*House Bill*

No provision.

*Senate Amendment*

Requires the Secretary to establish and implement by January 1, 1997, a strategy to: (1) prevent a 2 percent increase in out-of-wedlock teenage pregnancies, and (2) assure that at least 25 percent of U.S. communities have teenage pregnancy programs in place. HHS is required to report to Congress by June 30, 1998, on progress made toward meeting these 2 goals.

*Conference Agreement*

The conference agreement generally follows the Senate amendment, except a specified level of reduction is not established.

## 7. Sense of the Senate Regarding Enforcement of Statutory Rape Laws

### *Present Law*

No provision.

### *House Bill*

No provision.

### *Senate Amendment*

Includes language that states that it is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

Not later than January 1, 1997, the Attorney General shall establish and implement a program that studies the linkage between statutory rape and teenage pregnancy and educates States and local criminal law enforcement officials on the prevention and prosecution of statutory rape. The Attorney General shall ensure the DOJ Violence Against Women initiative addresses the issue of statutory rape.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## 8. Provisions to Encourage Electronic Benefit Transfer Systems

### *Present Law*

In 1978, Congress passed the Electronic Fund Transfer Act to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems and required the Federal Reserve Board to develop implementing regulations, which generally are referred to as Regulation E.

### *House Bill*

See food stamp title, which exempts from Regulation E any food stamp electronic benefit transfers.

### *Senate Amendment*

Exempts from Regulation E requirements any electronic benefit transfer program (distributing needs-tested benefits) established under State or local law or administered by a State or local government.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## 9. Reduction of Block Grants to States for Social Services; Use of Vouchers

### *Present Law*

The Social Services Block Grant (Title XX) provides funds to States in order to provide a wide variety of social services, including child care, family planning, protective services for children and adults, services for children and adults on foster care, and employment services. States have wide discretion over how they use Social Services Block Grant funds. States set their own eligibility requirements and are allowed to transfer up to 10 percent of their allotment to certain Federal health block grants, and for low-income home energy assistance (LIHEAP). Funding for the Social Services Block Grant is capped at \$2.8 billion a year. Funds are allocated among States according to the State's share of its total population. No State matching funds are required to receive Social Services Block Grant money.

### *House Bill*

For fiscal years 1997 through 2002, the Social Services Block Grant is reduced by 10 percent.

### *Senate Amendment*

For fiscal years 1997 through 2002, the Social Services Block Grant is reduced by 20 percent.

Requires that States receiving Title XX funds to dedicate 1 percent to programs and services for minors to avoid out-of-wedlock pregnancies.

### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment regarding the reduction in funding for the Social Services block grant, with the modification that the reduction is 15 percent. The conference agreement follows the House bill so that there is no special dedication of funds for programs and services for minors. The agreement specifically states that Title XX funds may be used to provide assistance to families who have lost assistance because of time limits on benefits.

## 10. Earned Income Credit Provisions

### **A. Deny earned income credit to individuals not authorized to be employed in the United States**

(Note: For additional discussion of this provision, refer to Title IV: Restricting Welfare and Public Benefits for Aliens, above.)

### *Present Law*

In general. Certain eligible low-income workers are entitled to claim a refundable credit on their income tax return. The amount of the credit an eligible individual may claim depends upon whether the individual has

one, more than one, or no qualifying children and is determined by multiplying the credit rate by the individual's earned income up to an earned income amount. The maximum amount of the credit is the product of the credit rate and the earned income amount. For individuals with earned income (or adjusted gross income (AGI), if greater) in excess of the beginning of the phaseout range, the maximum credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For individuals with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

The parameters for the credit depend upon the number of qualifying children the individual claims. For 1996, the parameters are given in the following table:

	Two or more qualifying children--	One qualifying child--	No qualifying children--
Credit rate (percent)	40.00	34.00	7.65
Earned income amount	\$8,890	\$6,330	\$4,220
Maximum credit	\$3,556	\$2,152	\$323
Phaseout begins	\$11,610	\$11,610	\$5,280
Phaseout rate (percent)	21.06	15.98	7.65
Phaseout ends	\$28,495	\$25,078	\$9,500

For years after 1996, the credit rates and the phaseout rates will be the same as in the preceding table. The earned income amount and the beginning of the phaseout range are indexed for inflation; because the end of the phaseout range depends on those amounts as well as the phaseout rate and the credit rate, the end of the phaseout range will also increase if there is inflation.

In order to claim the credit, an individual must either have a qualifying child or meet other requirements. A qualifying child must meet a relationship test, an age test, an identification test, and a residence test. In order to claim the credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

To satisfy the identification test, individuals must include on their tax return the name and age of each qualifying child. For returns filed with respect to tax year 1996, individuals must provide a taxpayer identification number (TIN) for all qualifying children born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all qualifying children, regardless of their age. An individual's TIN is generally that individual's social security number.

An individual with qualifying children may elect to receive a portion of the credit on an advance basis by

In the case of a married individual who files a joint return with his or her spouse, the income for purposes of these tests is the combined income of the couple.

furnishing an advance payment certificate to his or her employer. For such an individual, the employer makes an advance payment of the credit at the time wages are paid. The amount of advance payment allowable in a taxable year is limited to 60 percent of the maximum credit available to an individual with one qualifying child.

Mathematical or clerical errors. The Internal Revenue Service may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessment. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

#### *House Bill*

Individuals are not eligible for the credit if they do not include their taxpayer identification number (and, if married, their spouse's taxpayer identification number) on their tax return. Solely for these purposes and for purposes of the present-law identification test for a qualifying child, a taxpayer identification number is defined as a social security number issued to an individual by the Social Security Administration other than a number issued under section 205(c)(2)(B)(i)(II) (or that portion of sec. 205(c)(2)(B)(i)(III) relating to it) of the Social Security Act (regarding the issuance of a number to an individual applying for or receiving Federally funded benefits).

If an individual fails to provide a correct taxpayer identification number, such omission will be treated as a mathematical or clerical error. If an individual who claims the credit with respect to net earnings from self-employment fails to pay the proper amount of self-employment tax on such net earnings, the failure will be treated as a mathematical or clerical error for purposes of the amount of credit allowed.

Effective date. The provision is effective for taxable years beginning after December 31, 1995.

#### *Senate Amendment*

The provision in the Senate amendment is identical to that in the House bill.

#### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment with a modification to the effective date. The conference agreement is effective with respect to returns the due date for which (without regard to extensions) is more than 30 days after the date of enactment of this Act.

### **B. Change disqualified income test for earned income credit**

#### *Present Law*

For taxable years beginning after December 31, 1995, an individual is not eligible for the earned income

credit if the aggregate amount of "disqualified income" of the taxpayer for the taxable year exceeds \$2,350. This threshold is not indexed. Disqualified income is the sum of:

- (1) interest (taxable and tax-exempt),
- (2) dividends, and
- (3) net rent and royalty income (if greater than zero).

*House Bill*

No provision.

*Senate Amendment*

For purposes of the disqualified income test for the earned income credit, the following items are added to the definition of disqualified income: capital gain net income and net passive income (if greater than zero) that is not self-employment income.

The threshold above which an individual is not eligible for the credit is reduced from \$2,350 to \$2,200, and the threshold is indexed for inflation after 1996.

Effective date. The provision generally is effective for taxable years beginning after December 31, 1995. For individuals who, as of June 26, 1996, had made an election to receive the current-year credit on an advance basis, the provision is effective for taxable years beginning after December 31, 1996.

*Conference Agreement*

The conference agreement follows the Senate amendment.

**C. Modify definition of adjusted gross income used for phasing out the earned income credit**

*Present Law*

For taxpayers with earned income (or AGI, if greater) in excess of the beginning of the phaseout range, the maximum earned income credit amount is reduced by the phaseout rate multiplied by the amount of earned income (or AGI, if greater) in excess of the beginning of the phaseout range. For taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

*House Bill*

No provision.

*Senate Amendment*

The provision modifies the definition of AGI used for phasing out the earned income credit by including certain nontaxable income and by disregarding certain losses. The nontaxable items included are:

- (1) tax-exempt interest, and

- (2) nontaxable distributions from pensions, annuities, and individual retirement arrangements (but only if not rolled over into similar vehicles during the applicable rollover period).

The losses disregarded are:

- (1) net capital losses (if greater than zero).
- (2) net losses from trusts and estates.
- (3) net losses from nonbusiness rents and royalties, and
- (4) net losses from businesses, computed separately with respect to sole proprietorships (other than in farming), sole proprietorships in farming, and other businesses.

For purposes of item (4), above, amounts attributable to a business that consists of the performance of services by the taxpayer as an employee are not taken into account.

Effective date. The provision generally is effective for taxable years beginning after December 31, 1995. For individuals who, as of June 26, 1996, had made an election to receive the current-year credit on an advance basis, the provision is effective for taxable years beginning after December 31, 1996.

#### *Conference Agreement*

The conference agreement modifies the definition of AGI used for phasing out the earned income credit by disregarding certain losses. The losses disregarded are:

- (1) net capital losses (if greater than zero).
- (2) net losses from trusts and estates.
- (3) net losses from nonbusiness rents and royalties, and
- (4) 50 percent of the net losses from businesses, computed separately with respect to sole proprietorships (other than in farming), sole proprietorships in farming, and other businesses.

For purposes of item (4), above, amounts attributable to a business that consists of the performance of services by the taxpayer as an employee are not taken into account.

Effective date. Same as the Senate amendment provision.

#### **D. Suspend inflation adjustments for earned income credit for individuals with no qualifying children**

##### *Present Law*

To claim the earned income credit, an individual must either have a qualifying child or meet other requirements. In order to claim a credit without a qualifying child, an individual must not be a dependent and must be over age 24 and under age 65.

The earned income amount and the beginning of the phaseout range are indexed for inflation; because the end of the phaseout range depends on these amounts as well as the phaseout rate and the credit rate, the end of the phaseout range will also increase if there is inflation.

*House Bill*

No provision.

*Senate Amendment*

In the case of individuals with no qualifying children there will be no adjustment for inflation after 1996 to the earned income amount or the beginning of the phaseout range.

Effective date. The provision is effective for taxable years beginning after December 31, 1996.

*Conference Agreement*

The conference agreement follows the House bill (no provision).

**11. Reductions in Federal Government Positions**

**A. Reductions**

*Present Law*

No provision

*House Bill*

A covered activity is defined as one that the Department must carry out under a provision of this Act or a provision of Federal law that is amended or repealed by the Act. It also requires the Secretaries of Agriculture, Education, Labor, HHS, and Housing and Urban Development to report to Congress by December 31, 1996 on the number of full-time equivalent (FTE) positions required to carry out "covered" activities before and after enactment of the amendment and to reduce the number of employees by the difference in numbers. The Comptroller General of the United States shall prepare and submit to Congress by July 1, 1997, a report analyzing the determinations made by each Secretary.

*Senate Amendment*

Similar to House bill, except:

- requires the Secretaries to report the number of FTEs not later than December 31, 1996 (rather than January 1, 1997);
- requires the Secretaries to prepare and submit a report of changes not later than December 31, 1997 (rather than December 31, 1996); and
- adjusts discretionary spending limits downward for fiscal years 1997 and 1998 to account for savings achieved by this provision. (This provision was deleted due to the Byrd Rule.)

*Conference Agreement*

This provision was deleted due to the Byrd rule. For additional discussion of related provisions, see Title I: Block Grants for Temporary Assistance for Needy Families, above.

## **B. Reductions in Federal Bureaucracy**

### *Present Law*

No provision

### *House Bill*

The Department of Health and Human Services (HHS) reports that 118 employees in the Office of Family Assistance (OFA) work on AFDC and 209 (full-time equivalent positions) in regional offices of the Administration on Children and Families. The OFA employees include 30 who spend some time interpreting AFDC/JOBS policy and participating with States in State plan development.

### *Senate Amendment*

Similar to House bill. (This provision was deleted due to the Byrd Rule.)

### *Conference Agreement*

This provision was deleted due to the Byrd rule. For additional discussion of related provisions, see Title I: Block Grants for Temporary Assistance for Needy Families, above.

## **C. Reducing Personnel in Washington, D.C. Area**

### *Present Law*

No provision.

### *House Bill*

The Secretary is encouraged to reduce personnel in the Washington, D.C. office (agency headquarters) before reducing field personnel.

### *Senate Amendment*

Similar to House bill. (This provision was deleted due to the Byrd Rule.)

### *Conference Agreement*

This provision was deleted due to the Byrd rule. For additional discussion of related provisions, see Title I: Block Grants for Temporary Assistance for Needy Families, above.

## **12. Reform of Public Housing**

### **A. Fraud under Means-Tested Welfare and Public Assistance Programs**

*Present Law*

No provision.

*House Bill*

If a person's means-tested benefits from a Federal, State, or local welfare program are reduced because of an act of fraud, their benefits from public or assisted housing may not be increased in response to the income loss caused by the penalty.

*Senate Amendment*

Similar to House bill.

*Conference Agreement*

The conference agreement follows the House bill.

**B. Failure to Comply with other Welfare and Public Assistance Programs**

*Present Law*

If a family's adjusted cash income declines--no matter what the reason--its housing benefit is increased (that is, its rental payment is decreased, by 30 cents per dollar). This applies to cash income from any source, including means-tested benefit programs. However, the housing programs take no account of noncash income. Thus, if food stamp benefits decline, housing benefits are unaffected.

*House Bill*

No provision.

*Senate Amendment*

Provides that there be no reduction in public or assisted housing rents in response to a tenant's reduced income resulting from non-compliance with welfare or public assistance program requirements; permits reduction where State or local law limits the period during which benefits may be provided.

*Conference Agreement*

The conference agreement follows the House bill (no provision).

**13. Abstinence Education**

*Present Law*

The Maternal and Child Health (MCH) block grants (title V of the SSA, 42 USC 701) provides grants to States and insular areas to fund a broad range of preventive health and primary care activities to improve the health

status of mothers and children, with a special emphasis on those with low income or with limited availability of health services. Sec. 502 includes a set-aside program for projects of national or regional significance. (The FY1995 appropriation for MCH was \$684 million.) See also: Title XX of the Public Health Service Act establishes the Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services go to projects that provide "prevention services." The purpose of the prevention component is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active to maximize the guidance and support of parents and other family members in promoting abstinence from adolescent premarital sexual relations. (The FY1995 appropriation for AFL was \$6.7 million.)

#### *House Bill*

Increases the authorization level to \$761 million for FY 96 and each subsequent fiscal year. Adds abstinence education to the services to be provided. Defines abstinence education as an educational or motivational program which:

- (A) teaches the gains to be realized by abstaining from sexual activity;
- (B) teaches abstinence from sexual activity outside of marriage as the expected standard for all school age children;
- (C) teaches that abstinence is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other health problems;
- (D) teaches that a monogamous relationship in context of marriage is expected standard of human sexual activity;
- (E) teaches that sexual activity outside of marriage is likely to have harmful effects;
- (F) teaches that bearing children out-of-wedlock is likely to have harmful consequences;
- (G) teaches young people how to avoid sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
- (H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

#### *Senate Amendment*

Amends the Maternal and Child Health (MCH) block grants (title V of the SSA) to set aside \$75 million to provide abstinence education--defined as an educational or motivational program that has abstaining from sexual activity as its exclusive purpose--and to provide at the option of the State mentoring, counseling and adult supervision to promote abstinence with a focus on those groups most likely to bear children out-of-wedlock. Also increases the authorization level of MCH to \$761 million. (This provision was deleted due to the Byrd Rule.)

#### *Conference Agreement*

The conference agreement follows the House bill with modification that \$50 million for each of fiscal years 1998-2002 is directly appropriated for this purpose.

### **14. Church of Christ, Scientist**

#### *Present Law*

Sections 1902(a) and 1903(e)(1) of the Social Security Act (relating to Medicaid) reference the Church of Christ, Scientist.

*House Bill*

No provision.

*Senate Amendment*

No provision.

*Conference Agreement*

Changes Medicaid references in Social Security Act from Church of Christ, Scientist, to the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.