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SUMMARY OF FOOD STAMP PROVISIONS IN S. 940/H.R. 1990: THE "LEAVE NO CHILD BEHIND" BILL

On May 24, 2001, Senator Christopher Dodd and Representative George Miller introduced the "Leave No Child Behind Act of 2001" as S. 940 and H.R. 1990. This omnibus 723-page legislation addresses a wide array of issues affecting children, including health, the environment, parental leave, child care, education, jobs, wages, TANF, housing, child nutrition, child welfare, firearms, and juvenile justice, to name only a few. An analysis or assessment of the legislation as a whole is far beyond the scope of this paper.

Title VI-B of these bills focus on the Food Stamp Program and the Emergency Food Assistance Program (TEFAP). This paper describes those provisions.

Sec. 6101. Restoration of Food Stamp Benefits for Qualified Aliens.

This provision would restore the eligibility of otherwise eligible legal immigrants that were denied food stamps under the 1996 welfare law. It would continue prior law requiring that sponsors' income be deemed to immigrants they helped bring into this country for the immigrants' first three years here. This provision is also in S. 583 and H.R. 2142, the Nutrition Assistance for Working Families and Seniors Act introduced by Senators Kennedy and Specter and Representatives Walsh and Clayton.

Sec. 6102. Conforming Food Stamp and Medicaid Income Definitions; Simplified Income Calculations.

This provision would exclude educational assistance and state-funded complimentary assistance from food stamp income calculations. The 1996 welfare law requires states to exclude these moneys when determining eligibility for Medicaid. This change will allow states to conform their definitions of income in the two programs, which may allow them to simplify their application forms and computer systems.

This provision also would give states the option to exclude from food stamp income calculations certain moneys that are excluded from TANF cash assistance or Medicaid eligibility determinations for families with children under section 1931. USDA would be required to promulgate regulations identifying important sources of income – such as earnings, child support, and assistance from major public benefit programs – that are essential to a fair determination of food stamp eligibility. States would not be permitted to exclude these moneys from food stamp calculations regardless of their TANF or Medicaid policies.

Sec. 6103. Preventing Hunger Among Families with Children.

This provision would provide that a household's food stamp benefits would not start to be reduced until its income reaches ten percent of the federal poverty income guidelines. This recognizes that the very poorest families are likely to need the full food stamp benefit to obtain a minimally adequate diet and that low-income families have some irreducible expenses they must meet – typically for temporary or permanent shelter – before they can begin to devote some of their funds to food. It would gradually phase in this new principle as a replacement for the current food stamp standard deduction, which subtracts the first $134 per month from a household's income at the beginning of the process of determining the household's net income.

This approach would scale the standard deduction by household size (recognizing that larger families have more expenses than smaller ones), although it would provide no further adjustments as household size increased beyond six persons. It also would ensure that the standard deduction keeps pace with inflation; the current $134 standard deduction has been frozen since 1995. Virtually all of the benefits of this provision would accrue to families with children; about half would go to working poor families. This provision also appears in S. 583 and H.R. 2142.

Standard Deduction under S. 940/H.R. 1990					
Household Size	**FY 2002**	**FY 2003**	**FY 2004**	**FY 2005**	**FY 2006**
1	$134	$134	$134	$134	$134
2	$134	$134	$134	$134	$134
3	$134	$134	$134	$134	$135
4	$134	$134	$139	$151	$162
5	$137	$150	$163	$176	$190
6 and up	$157	$172	$186	$202	$218

Sec. 6104. Encouragement of Collection of Child Support.

This provision applies the current 20 percent earned income deduction to child support payments received by a household. This recognizes that pursuing child support enforcement often has substantial costs for custodial parents. It also gives non-custodial parents a greater incentive to pay since it allows more of their support payments to benefit their children without a reduction in the children's food stamp benefits. Finally, it may encourage states to allow custodial parents to retain more of the support paid for their children rather than applying that support to reimburse the cost of cash assistance a state may have provided to the family. This provision, similar to one appearing in S. 583 and H.R. 2142, is drafted to cover all households receiving child support payments, whether or not they also have earnings.

Sec. 6105. Elimination of Excess Shelter Deduction Cap for Families with High Shelter Costs.

This provision would eliminate the arbitrary cap on the food stamp shelter deduction that applies to most families with children and other households not containing an elderly or disabled member. The shelter deduction is designed to recognize that funds a household must spend on rent or mortgage and utilities cannot simultaneously be used to purchase food. The current artificial cap on the shelter deduction has the effect of treating some money that a family must spend on housing costs as available to meet its food needs – and reducing the family's food stamp benefits accordingly. Families in this position may be required to decide between paying their utility bills and buying food: literally a choice between heating and eating.

The Hunger Relief Act of 2000, included in last fall's Agriculture Appropriations Act, increased this cap to $340 per month. Since no policy basis exists for retaining the cap, this provision would eliminate it entirely.

Sec. 6106. Periodic Redetermination of Eligibility.

This provision would conform the Food Stamp Program's procedures for redetermining recipient households' continuing eligibility to those applied in Medicaid, SCHIP, the Supplemental Security Income (SSI) Program, and most other programs serving low-income families. Under those programs' rules, the administering agency determines when it needs to conduct a review of the recipient's circumstances and asks her or him to provide information or to appear at its office. If the recipient does not appear, or does not cooperate in the review, her or his benefits are terminated. But the initiative is up to the administering agency, which retains substantial flexibility in scheduling and in determining which elements of eligibility merit review.

Under current food stamp rules, by contrast, recipient households are requires to apply for recertification after a specific number of months (a "certification period") fixed at the time she or he last applied. For recipients with limited literacy, filling out an application may be a much more daunting barrier than simply complying with requests to update the state agency on specific items of eligibility about which it has concerns. If she or he does not submit an application within the narrow window of time provided, the family is terminated from the program without regard to its eligibility – or even to whether the state thinks a review of the family's eligibility would be worthwhile at that point. States are required to waste time conducting reviews of households whose circumstances they already know well, and they are required to review all areas of eligibility (since the household is treated as a new applicant) rather than just those that seem potentially problematic.

This provision, which reflects a proposal by the American Public Human Services Association (APHSA), would give states greater discretion to manage their caseloads by replacing the food stamp recertification process with the redetermination process used in other benefit programs. Households would continue to be considered eligible until the state makes a determina-

Estimated Number of Individuals Who Would Benefit from S. 940/H.R. 1990 Food Stamp Provisions, by State
(in thousands)

State	Increasing Standard Deduction*	Child Support Disregard	Eliminating Shelter Cap
Alabama	230	50	10
Alaska	30	3	1
Arizona	170	10	10
Arkansas	150	30	3
California	1,410	30	100
Colorado	90	10	10
Connecticut	100	20	30
Delaware	20	3	3
District of Columbia	50	1	2
Florida	430	40	30
Georgia	360	110	20
Hawaii	80	10	3
Idaho	40	10	2
Illinois	450	40	30
Indiana	160	30	10
Iowa	70	10	10
Kansas	70	10	3
Kentucky	210	40	4
Louisiana	310	60	10
Maine	60	10	10
Maryland	160	30	20
Massachusetts	140	20	30
Michigan	420	50	80
Minnesota	50	10	10
Mississippi	170	50	4
Missouri	210	40	10
Montana	40	10	3
Nebraska	50	10	3
Nevada	30	10	10
New Hampshire	20	2	10
New Jersey	220	40	40
New Mexico	120	5	3
New York	830	160	340
North Carolina	280	60	10
North Dakota	20	4	1
Ohio	340	50	20
Oklahoma	140	20	4
Oregon	110	20	20
Pennsylvania	480	110	30
Rhode Island	40	4	10
South Carolina	180	30	3
South Dakota	30	4	2
Tennessee	240	60	10
Texas	810	140	20
Utah	60	10	10
Vermont	20	5	10
Virginia	190	60	10
Washington	180	20	30
West Virginia	130	20	2
Wisconsin	100	30	10
Wyoming	10	3	0
US Total	**10,320**	**1,570**	**1,050**

Source: CBPP Tabulations of Fiscal Year 1999 Food Stamp Quality Control data.

* This table shows the number of individuals affected in the year in which the provision is fully phased in. For the standard deduction, the year shows approximate number of people affected in 2006. The other provisions go into effect immediately.

Note: This table ignores interactions between the provisions.

tion that the household either has become ineligible or has failed to cooperate in a review of its eligibility. This provision would retain outer limits on the intervals between redeterminations of households' eligibility to ensure that states stay in touch with all those receiving benefits, but it would not require the state to schedule each redetermination far in advance as current rules do.

Sec. 6107. Transitional Benefits Option.

This provision, also proposed by APHSA, extends and improves the provision for transitional food stamps that USDA established by regulation last fall. In essence, the USDA regulation gives states the option to freeze a household's benefits for three months after it leaves TANF-funded cash assistance. This assures that a newly-employed worker will not have to take the time to go through a redetermination of her or his family's food stamp eligibility immediately after leaving cash assistance. It also gives the family's circumstances a few months to stabilize before a new food stamp allotment level is set. Most importantly, it makes clear to the family that it can continue to receive important work supports like food stamps after leaving welfare, thus helping to ensure that becoming employed improves the family's standard of living.

This provision extends the transitional benefit period from three months to six. It also allows reviews of the family's eligibility that would ordinarily be scheduled during the transitional benefit period to be postponed until the end of that period. It is identical to one in S. 583 and H.R. 2142.

Sec. 6108. Improving State Incentives to Serve Working Families.

This provision would reform the food stamp quality control (QC) system to provide a more realistic and comprehensive assessment of states' administration of the Food Stamp Program. Payment accuracy would continue to be the centerpiece of the assessment, as is necessary in a program whose benefits are funded entirely by the federal government, but the system's penalty provisions would be redesigned to be more consistent with the recommendations the National Academy of Sciences made after is review of the food stamp QC system in the late 1980s.

States with short-term payment accuracy problems (lasting no more than two consecutive years) would be subject to investigation by USDA. If that investigation found serious deficiencies, the state could be sanctioned by having its administrative funding reduced by up to five percent. Other states would be given time to correct their problems. Since it generally will be too late to affect the next year's error rate significantly by the time one year's error rate is known, states whose payment accuracy problems persist a second year would again be subject to investigation and discretionary sanctions. If a state's payment accuracy problem persists a third consecutive year, automatic sanctions based on the severity of the problem would be imposed under essentially the same formula currently in place. (The provision would correct a technical defect in current law that imposes proportionately higher sanctions as the national average declines.) By limiting automatic sanctions to those few states with serious and persistent problems, this system would conform with the Academy's recommendation to only punish the most serious

offenders. This should help keep QC penalties from routinely poisoning USDA's relations with the large majority of states whose administration of the Program is basically sound.

Another major flaw in the current system is its requirement that all states whose error rates exceed the national average be sanctioned. This presents most states with an uncertain, moving target. When a few large states' error rates decline unexpectedly, states whose performance would have been acceptable the prior year can be subject to sanction. In addition, because of sampling error, some states are subject to penalties when in fact their performance – if properly measured – is better than the national average. The Academy criticized the QC system for its failure to take into account this statistical variability, a flaw that persists unchanged. To avoid these problems, this provision would treat a state as having a payment accuracy problem only if there is 95 percent statistical confidence that the state's payment error rate exceeds the national average by at least one percentage point. The one percentage point margin of error, which was part of the food stamp QC system from 1988 until 1993, avoids holding about half the states liable in any given year regardless of their performance, which is the inevitable consequence of measuring states against the national average. It also helps prevent throwing states with steady performance into potential penalty because of unexpected drops in the national average.

This provision would continue current administrative policy of adjusting states' error rates to reflect the impact of high or increasing shares of working poor households or immigrants within a state's caseloads. The food stamp QC system should not punish states that do an especially good job of serving these vulnerable but error-prone groups – or of moving families from welfare to work. Increases in the proportion of working families in a state's caseload would be measured relative to 1992, which is about the time large numbers of states began aggressive welfare-to-work programs. Increases in the numbers of immigrant families would be measured from 1998, the year before legislation took effect partially restoring some of the eligibility restrictions enacted in the 1996 welfare law.

Finally, this provision would establish three additional measures of state performance that reflect the Food Stamp Program's goals of preventing hunger among low-income people. First, states would be measured for the rate at which their decisions to deny or terminate benefits are correct. These "negative" actions are not included in the payment error rate, which results in an unfortunate bias in favor of errors that deny benefits to needy families over those that grant benefits to ineligibles in borderline cases. Second, states would be measured on their success in meeting the statutory seven-day deadline for issuing expedited food stamps to families in particularly extreme need and the 30-day deadline for issuing food stamps to all other applicants. Finally, states would be measured on the participation rate they achieve among eligible working poor families. This provision would set aside $30 million per year to provide bonus payments of one million dollars to each of the five states that score highest on each of these three measures as well as to each of the five states whose performance has improved the most over the preceding year on each of the three measures. A state could earn bonuses in each of these three areas. Thus, even states that historically have had difficulties in one of these areas could still compete to be one of the five most improved states in that area.

These additional measures should not entail substantial new state data collection requirements. States already must measure their negative case error rates as part of the food stamp QC system. The participation rate among working poor families is already used to award the TANF high performance bonus. It is calculated from already-available administrative and Census data. To the extent states needed to change their systems to capture this data on a timely basis, most have already done so to enable them to compete for the TANF high performance bonus. And although there currently are no uniform national data collection requirements for states' timeliness in processing applications, states are required to monitor their compliance with these deadlines and to take corrective action when significant problems appear.

Sec. 6109. Authorization of Appropriations for Additional Commodities under Emergency Food Assistance Program.

This provision would authorize an additional $20 million to be appropriated for the Emergency Food Assistance Program (TEFAP). At least half would go to meet the expenses of food banks and other emergency feeding organizations. The remainder could be used to purchase addition commodities for distribution through TEFAP. This provision also appears in S. 583 and H.R. 2142.