

113TH CONGRESS
1ST SESSION

H. R. 1355

To replace certain Federal nutrition programs with a block grant to the States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2013

Mr. HUELSKAMP (for himself, Mr. GOHMERT, Mr. SCHWEIKERT, Mr. DENHAM, and Mrs. BLACKBURN) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Ways and Means and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To replace certain Federal nutrition programs with a block grant to the States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “State Nutrition Assistance Flexibility Act of 2013”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

- Sec. 3. Grants to States.
- Sec. 4. Administrative and fiscal accountability.
- Sec. 5. Nondiscrimination provisions.
- Sec. 6. Definitions.
- Sec. 7. Repeals.
- Sec. 8. Severability.
- Sec. 9. Effective date.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to provide Federal finan-
 3 cial assistance to the States, in the form of a single grant,
 4 to allow the States maximum flexibility in providing, and
 5 financing the provision of, supplemental food and nutri-
 6 tion assistance.

7 **SEC. 3. GRANTS TO STATES.**

8 (a) ALLOTMENTS.—Subject to the requirements of
 9 this Act, each State that meets the requirements of sub-
 10 section (d) is entitled to receive from the Secretary of the
 11 Treasury a grant for each quarter of each of fiscal years
 12 2014 through 2023 in an amount equal to 25 percent of
 13 the amount that bears the same relation to the funds ap-
 14 propriated by subsection (b) for a fiscal year as the num-
 15 ber of individuals who reside within the State and are
 16 members of families with incomes below the poverty line
 17 for the most recent fiscal year for which satisfactory data
 18 are available, bears to the total number of such individuals
 19 who reside in all States for such fiscal year.

20 (b) APPROPRIATION.—Out of any money in the
 21 Treasury of the United States not otherwise appropriated,

1 there are appropriated for each of fiscal years 2014
2 through 2023, \$37,642,040,000.

3 (c) REQUIREMENTS RELATING TO INTERGOVERN-
4 MENTAL FINANCING.—The Secretary of the Treasury
5 shall make the transfer of funds under grants under sub-
6 section (a) directly to each State in accordance with the
7 requirements of section 6503 of title 31, United States
8 Code.

9 (d) STATE REQUIREMENTS.—In order to receive a
10 grant under subsection (a), the Governor of a State shall
11 certify to the Secretary of the Treasury—

12 (1) that the supplemental food and nutrition as-
13 sistance that will be provided by the State using
14 such grant will include limitations on the eligible
15 uses of benefits that are at least as restrictive as the
16 limitations in place for the supplemental nutrition
17 assistance program established under the Food and
18 Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) as of
19 May 31, 2012; and

20 (2) that the State will use a portion of the
21 grant to establish a work activation program de-
22 scribed in subsection (e) for able-bodied individuals
23 receiving supplemental food and nutrition assistance;

24 (e) WORK ACTIVATION PROGRAM.—

1 (1) PROGRAM REQUIREMENTS.—The work acti-
2 vation program established by a State under sub-
3 section (d)(2) shall met the following requirements:

4 (A) The average number of able-bodied in-
5 dividuals receiving supplemental food and nutri-
6 tion assistance that shall participate in the pro-
7 gram in the State for each month of a fiscal
8 year shall be based on the State’s relative pro-
9 portion of able-bodied individuals receiving sup-
10 plemental food and nutrition assistance for the
11 most recent month of the most recent fiscal
12 year for which satisfactory data is available,
13 compared to the total number of such individ-
14 uals in all States for such month, except that,
15 each month, not less than a total of 1,500,000
16 individuals shall participate in 1 or more such
17 work activation programs.

18 (B) Each able-bodied individual partici-
19 pating in the work activation program—

20 (i) shall at the time of application for
21 supplemental food and nutrition assistance
22 and every 12 months thereafter, register
23 for employment in a manner prescribed by
24 the Governor of the State;

1 (ii) shall, each month of participation
2 in the program, participate in—

3 (I) 2 days of supervised job
4 search for 8 hours per day at the pro-
5 gram site; and

6 (II) 5 days of off-site activity for
7 8 hours per day;

8 (iii) shall not refuse without good
9 cause to accept an offer of employment, at
10 a site or plant not subject to a strike or
11 lockout at the time of the refusal, at a
12 wage not less than the higher of—

13 (I) the applicable Federal or
14 State minimum wage; or

15 (II) 80 percent of the wage that
16 would have governed had the min-
17 imum hourly rate under section
18 6(a)(1) of the Fair Labor Standards
19 Act of 1938 (29 U.S.C. 206(a)(1))
20 been applicable to the offer of employ-
21 ment;

22 (iv) shall not refuse without good
23 cause to provide a State agency with suffi-
24 cient information to allow the State agency

1 to determine the employment status or the
2 job availability of the individual; and

3 (v) shall not voluntarily—

4 (I) quit a job; or

5 (II) reduce work effort and, after
6 the reduction, the individual is work-
7 ing less than 30 hours per week, un-
8 less another adult in the same family
9 unit increases employment at the
10 same time by an amount equal to the
11 reduction in work effort by the first
12 adult.

13 (C) An able-bodied individual participating
14 in the work activation program who fails to
15 comply with 1 or more of the requirements de-
16 scribed in subparagraph (B)—

17 (i) shall be subject to a sanction pe-
18 riod of not less than a 2-month period be-
19 ginning the day of the individual's first
20 failure to comply with such requirements
21 during which the individual shall not re-
22 ceive any supplemental food and nutrition
23 assistance; and

24 (ii) may receive supplemental food
25 and nutrition assistance after the indi-

1 vidual is in compliance with such require-
2 ments for not less than a 1-month period
3 beginning after the completion of such
4 sanction period, except that such assist-
5 ance may not be provided retroactively.

6 (2) PENALTIES FOR STATES.—A State that
7 does not meet the participation requirements under
8 paragraph (1)(A) for the preceding fiscal year, as
9 determined by calculating the average monthly par-
10 ticipation for such year, shall be subject to a reduc-
11 tion of grant funds for the first full quarter after the
12 Secretary of the Treasury determines that the State
13 failed to meet such participation requirements in an
14 amount equal to the greater of—

15 (A) 10 percent of the grant funds the
16 State would have otherwise received for such
17 quarter; or

18 (B) a percentage of funds that equals the
19 percentage by which the State failed to meet
20 such participation requirements.

21 (f) EXPENDITURE OF FUNDS.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), amounts received by a State under sub-
24 section (a) for any fiscal year shall be expended by

1 the State in such fiscal year or in the succeeding fis-
2 cal year.

3 (2) USE OF RAINY DAY FUND PERMITTED.—Of
4 the amounts received by a State under subsection
5 (a), the State may set aside, in a separate account,
6 such amounts as the State deems necessary to pro-
7 vide, without fiscal limitation, supplemental food and
8 nutrition assistance and services for indigent individ-
9 uals during—

10 (A) periods of unexpectedly high rates of
11 unemployment; or

12 (B) periods related to circumstances that
13 are not described in subparagraph (A) and that
14 cause unexpected increases in the need for such
15 assistance and services for such individuals.

16 (3) FUNDS REMAINING AFTER FISCAL YEAR
17 2023.—If, after 2023, a State has funds in the ac-
18 count under paragraph (2), the State may only ex-
19 pend such funds if such funds are used in a manner
20 that is permitted under subsection (g), as such sub-
21 section is in effect on September 30, 2023.

22 (g) USE OF FUNDS.—A State may only use the
23 amounts received under subsection (a) as follows:

24 (1) GENERAL PURPOSE.—For the purpose
25 under section 2, except that nothing in this Act shall

1 be construed as limiting the flexibility of a State to
2 determine which providers of such assistance and
3 services qualify to receive payment from a grant
4 made to the State under subsection (a).

5 (2) AUTHORITY TO USE PORTION OF FEDERAL
6 ASSISTANCE FOR OTHER WELFARE-RELATED PRO-
7 GRAMS.—

8 (A) IN GENERAL.—Subject to the limit
9 under subparagraph (B), to carry out a State
10 program pursuant to any or all of the following
11 provisions of law:

12 (i) Part A of title IV of the Social Se-
13 curity Act (42 U.S.C. 601 et seq.).

14 (ii) Section 1616 of such Act (42
15 U.S.C. 1382e).

16 (B) LIMITATION.—A State may not use
17 more than 30 percent of the amount received
18 under subsection (a) for a fiscal year to carry
19 out a State program, or programs, under sub-
20 paragraph (A).

21 (C) REQUIREMENTS ON FUNDS.—Any
22 amounts that are used under subparagraph
23 (A)—

1 (i) shall not be subject to any of the
 2 requirements of subsection (f) or section 5;
 3 and

4 (ii) shall be subject to—

5 (I) the audit requirements under
 6 section 4; and

7 (II) any requirements that apply
 8 to Federal funds provided directly for
 9 such State program.

10 (h) NO FUNDING FOR ILLEGAL ALIENS.—Except as
 11 provided under this Act, no funds appropriated in this Act
 12 may be used to provide supplemental food and nutrition
 13 assistance to an alien who is not lawfully admitted for per-
 14 manent residence or otherwise permanently residing in the
 15 United States under color of law.

16 (i) NONENTITLEMENT.—Nothing in this Act shall be
 17 construed as providing an individual with an entitlement
 18 to supplemental food and nutrition assistance under this
 19 Act.

20 **SEC. 4. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.**

21 (a) AUDITS.—

22 (1) CONTRACT WITH APPROVED AUDITING EN-
 23 TITY.—Not later than October 1, 2014, and annu-
 24 ally thereafter, a State shall contract with an ap-
 25 proved auditing entity (as defined under paragraph

1 (3)(B)) for purposes of conducting an audit under
2 paragraph (2) (with respect to the fiscal year ending
3 September 30 of such year).

4 (2) AUDIT REQUIREMENT.—Under a contract
5 under paragraph (1), an approved auditing entity
6 shall conduct an audit of the expenditures or trans-
7 fers made by a State from amounts received under
8 a grant under this section 3(a) with respect to the
9 fiscal year which such audit covers, to determine the
10 extent to which such expenditures and transfers
11 were expended in accordance with this Act.

12 (3) ENTITY CONDUCTING AUDIT.—

13 (A) IN GENERAL.—With respect to a
14 State, the audit under paragraph (2) shall be
15 conducted by an approved auditing entity in ac-
16 cordance with generally accepted auditing prin-
17 ciples.

18 (B) APPROVED AUDITING ENTITY.—For
19 purposes of this section, the term “approved
20 auditing entity” means, with respect to a State,
21 an entity that is—

22 (i) approved by the Secretary of the
23 Treasury;

24 (ii) approved by the chief executive of-
25 ficer of the State; and

1 (iii) independent of any Federal,
2 State, or local agency.

3 (4) SUBMISSION OF AUDIT.—Not later than
4 December 31, 2014, and annually thereafter, a State
5 shall submit the results of the audit under para-
6 graph (2) (with respect to the fiscal year ending on
7 September 30 of such year) to the State legislature
8 and to the Secretary of the Treasury.

9 (5) ADDITIONAL ACCOUNTING REQUIRE-
10 MENTS.—The provisions of chapter 75 of title 31,
11 United States Code, shall apply to the audit require-
12 ments of this section.

13 (b) REIMBURSEMENT AND PENALTY.—If, through an
14 audit conducted under subsection (a), an approved audit-
15 ing entity finds that any amounts paid to a State under
16 a grant under section 3(a) were not expended in accord-
17 ance with this Act, the State shall pay to the Treasury
18 of the United States any such amount, plus 10 percent
19 of such amount as a penalty.

20 (c) ANNUAL REPORTING REQUIREMENTS.—

21 (1) IN GENERAL.—Not later than January 31,
22 2015, and annually thereafter, each State shall sub-
23 mit to the Secretary of the Treasury and the State
24 legislature a report on the activities carried out by
25 the State during the most recently completed fiscal

1 year with funds received by the State under a grant
2 under section 3(a) for such fiscal year.

3 (2) CONTENT.—A report under paragraph (1)
4 shall, with respect to a fiscal year—

5 (A) contain the results of the audit con-
6 ducted by an approved auditing entity for a
7 State for such fiscal year, in accordance with
8 the requirements of subsection (a) of this sec-
9 tion;

10 (B) specify the amount of the grant made
11 to the State under section 3(a) that is used to
12 carry out a program under section 3(f)(2);

13 (C) specify the number of participants in
14 the work activation program described in sec-
15 tion 3(e) in the State;

16 (D) specify the number of participants in
17 such program that found work through the pro-
18 gram, including the number of such partici-
19 pants who were hired as part-time employees
20 and the number of such participants who were
21 hired as full-time employees; and

22 (E) be in such form and contain such
23 other information as the State determines is
24 necessary to provide—

1 (i) an accurate description of the ac-
 2 tivities conducted by the State for the pur-
 3 pose described under section 2 and any
 4 other use of funds permitted under sub-
 5 sections (f) and (g) of section 3; and

6 (ii) a complete record of the purposes
 7 for which amounts were expended in ac-
 8 cordance with this Act.

9 (3) CONFORMITY WITH ACCOUNTING PRIN-
 10 CIPLES.—Any financial information in the report
 11 under paragraph (1) shall be prepared and reported
 12 in accordance with generally accepted accounting
 13 principles, including the provisions of chapter 75 of
 14 title 31, United States Code.

15 (4) PUBLIC AVAILABILITY.—A State shall make
 16 copies of the reports required under this section
 17 available on a public Web site and shall make copies
 18 available in other formats upon request.

19 (d) FAILURE TO COMPLY WITH REQUIREMENTS.—
 20 The Secretary of the Treasury shall not make any pay-
 21 ment to a State under a grant authorized by section
 22 3(a)—

23 (1) if an audit for a State is not submitted as
 24 required under subsection (a), during the period be-

1 tween the date such audit is due and the date on
2 which such audit is submitted; or

3 (2) if a State fails to submit a report as re-
4 quired under subsection (c), during the period be-
5 tween the date such report is due and the date on
6 which such report is submitted.

7 (e) ADMINISTRATIVE SUPERVISION AND OVER-
8 SIGHT.—

9 (1) LIMITED ROLE FOR SECRETARY OF TREAS-
10 URY AND THE ATTORNEY GENERAL.—

11 (A) TREASURY.—The authority of the Sec-
12 retary of the Treasury under this Act is limited
13 to—

14 (i) promulgating regulations, issuing
15 rules, or publishing guidance documents to
16 the extent necessary for purposes of imple-
17 menting subsections (a)(3)(B), (b), and
18 (d);

19 (ii) making quarterly payments to the
20 States under grants under this Act in ac-
21 cordance with section 3(a);

22 (iii) approving entities under sub-
23 section (a)(3)(B) for purposes of the audits
24 required under subsection (a);

1 (iv) withholding payment to a State of
2 a grant under subsection (d); and

3 (v) exercising the authority relating to
4 nondiscrimination that is specified in sec-
5 tion 5(b).

6 (B) ATTORNEY GENERAL.—The authority
7 of the Attorney General to supervise the
8 amounts received by a State under section 3(a)
9 is limited to the authority under section 5(c).

10 (2) FEDERAL SUPERVISION.—

11 (A) IN GENERAL.—Except as provided
12 under paragraph (1), an administrative officer,
13 employee, department, or agency of the United
14 States (including the Secretaries of Agriculture
15 and Health and Human Services) may not—

16 (i) supervise—

17 (I) the amounts received by the
18 States under section 3(a); or

19 (II) the use of such amounts by
20 the States; or

21 (ii) promulgate regulations or issue
22 rules in accordance with this Act.

23 (B) LIMITATION ON SECRETARIES OF AG-
24 RICULTURE AND HEALTH AND HUMAN SERV-
25 ICES.—The Secretaries of Agriculture and

1 Health and Human Services shall have no au-
 2 thority over any provision of this Act.

3 (f) RESERVATION OF STATE POWERS.—Nothing in
 4 this section shall be construed to limit the power of a
 5 State, including the power of a State to pursue civil and
 6 criminal penalties under State law against any individual
 7 or entity that misuses, or engages in fraud or abuse re-
 8 lated to the funds provided to a State under this Act.

9 **SEC. 5. NONDISCRIMINATION PROVISIONS.**

10 (a) NONDISCRIMINATION AGAINST INDIVIDUALS.—
 11 No individual shall be excluded from participation in, de-
 12 nied the benefits of, or subjected to discrimination under,
 13 any program or activity funded in whole or in part with
 14 amounts paid to a State under this section 3(a) on the
 15 basis of such individual's—

16 (1) disability under section 504 of the Rehabili-
 17 tation Act of 1973 (29 U.S.C. 794);

18 (2) sex under title IX of the Education Amend-
 19 ments of 1972 (20 U.S.C. 1681 et seq.); or

20 (3) race, color, or national origin under title VI
 21 of the Civil Rights Act of 1964 (42 U.S.C. 2000d
 22 et seq.).

23 (b) COMPLIANCE.—

24 (1) IN GENERAL.—If the Secretary of the
 25 Treasury determines that a State or an entity that

1 has received funds from amounts paid to a State
2 under a grant under section 3(a) has failed to com-
3 ply with a provision of law referred to in subsection
4 (a), the Secretary of the Treasury shall notify the
5 chief executive officer of the State of such failure to
6 comply and shall request that such chief executive
7 officer secure such compliance.

8 (2) REFUSAL TO SECURE COMPLIANCE.—If, not
9 later than 60 days after receiving notification under
10 paragraph (1), the chief executive officer of a State
11 fails or refuses to secure compliance with the provi-
12 sion of law referred to in such notification, the Sec-
13 retary of the Treasury may—

14 (A) refer the matter to the Attorney Gen-
15 eral with a recommendation that an appropriate
16 civil action be instituted; or

17 (B) exercise the powers and functions pro-
18 vided under section 505 of the Rehabilitation
19 Act of 1973 (29 U.S.C. 794a), title IX of the
20 Education Amendments of 1972 (20 U.S.C.
21 1681 et seq.), or title VI of the Civil Rights Act
22 of 1964 (42 U.S.C. 2000d et seq.) (as applica-
23 ble).

24 (c) CIVIL ACTIONS.—If a matter is referred to the
25 Attorney General under subsection (b)(2)(A), or the At-

1 torney General has reason to believe that a State or entity
2 has failed to comply with a provision of law referred to
3 in subsection (a), the Attorney General may bring a civil
4 action in an appropriate district court of the United States
5 for such relief as may be appropriate, including injunctive
6 relief.

7 **SEC. 6. DEFINITIONS.**

8 For purposes of this Act:

9 (1) **ABLE-BODIED INDIVIDUAL.**—The term
10 “able-bodied individual” means an individual who—

11 (A) is more than 18, and less than 63,
12 years of age;

13 (B) is not physically or mentally incapable
14 of work;

15 (C) is not the full-time caretaker of a dis-
16 abled adult dependent; and

17 (D) does not have a dependent child.

18 (2) **PHYSICALLY OR MENTALLY INCAPABLE OF**
19 **WORK.**—The term “physically or mentally incapable
20 of work” shall mean an individual—

21 (A) who currently receives benefits from
22 the Supplemental Security Income program or
23 another program that provides recurring bene-
24 fits to individuals because the individual is dis-
25 abled and unable to work; or

1 (B) who has been medically certified as
2 physically or mentally incapable of work and
3 who has a credible pending application for en-
4 rollment in the Supplemental Security Income
5 program or another program that provides re-
6 curring benefits to individuals because the indi-
7 vidual is disabled and unable to work.

8 (3) POVERTY LINE.—The term “poverty line”
9 means the poverty line (as defined by the Office of
10 Management and Budget and revised annually in ac-
11 cordance with section 673(2) of the Community
12 Services Block Grant Act) applicable to a family of
13 the size involved.

14 (4) SUPERVISED JOB SEARCH.—The term “su-
15 pervised job search” means a job search program
16 which has the following characteristics:

17 (A) The job search occurs at an official lo-
18 cation where the recipient’s presence and activ-
19 ity can be directly observed, supervised, and
20 monitored.

21 (B) The recipient’s entry, time on site, and
22 exit from the official job search location are re-
23 corded in a manner which prevents fraud.

24 (C) The recipient is expected to remain
25 and undertake job search activities at the job

1 search center except for brief, authorized departures for specified off-site interviews.

3 (D) The amount of time the recipient is observed and monitored engaging in job search at the official location is recorded.

6 (5) SUPPLEMENTAL FOOD AND NUTRITION ASSISTANCE.—The term “supplemental food and nutrition assistance” shall be defined by a State with respect to use of such term for purposes of the application of this Act to the State.

11 (6) STATE.—The term “State” has the meaning given the term in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012) as of May 31, 2012.

15 (7) WORK ACTIVATION.—The term “work activation” means—

17 (A) supervised job search;

18 (B) community service activities;

19 (C) education and job training for individuals who are family heads or married spouses of family heads; or

22 (D) drug or alcohol treatment.

23 **SEC. 7. REPEALS.**

24 The following provisions are repealed:

1 (1) The Emergency Food Assistance Act of
2 1983 (7 U.S.C. 7501 et seq.).

3 (2) Section 5 of the Agriculture and Consumer
4 Protection Act of 1973, (commonly known as the
5 commodity supplemental food program) (7 U.S.C.
6 612c note).

7 (3) Section 4402 of Public Law 107–171 (relat-
8 ing to the seniors farmers’ market nutrition pro-
9 gram) (7 U.S.C. 3007).

10 (4) The Food and Nutrition Act of 2008 (7
11 U.S.C. 2011 et seq.).

12 (5) Section 19 of the Richard B. Russell Na-
13 tional School Lunch Act (42 U.S.C. 1769a).

14 **SEC. 8. SEVERABILITY.**

15 If any provision of this Act, or the application of such
16 provision to any person or circumstance, is found to be
17 unconstitutional, the remainder of this Act, or the applica-
18 tion of that provision to other persons or circumstances,
19 shall not be affected.

20 **SEC. 9. EFFECTIVE DATE.**

21 This Act and the amendments made by this Act shall
22 take effect with respect to items and services furnished
23 on or after October 1, 2013.

○