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(Original Signature of Member)

112TH CONGRESS  
2D SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. HUELSKAMP (for himself, Mr. BROUN of Georgia, Mr. CHABOT, and Mr. JORDAN) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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 2012”.

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. Report on reduction of federal administrative expenditures.
- Sec. 8. Repeals.
- Sec. 9. Severability.
- Sec. 10. 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) IN GENERAL.—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 fiscal years 2013,  
12 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and  
13 2022, in an amount that is equal to 25 percent of the  
14 sum of—

15           (1) the total amount of funds received by a  
16 State; and

17           (2) with funds not received by a State, the dol-  
18 lar value of in-kind benefits (as determined by the  
19 Secretary of Agriculture) provided to residents of  
20 such State;

21 under the provisions listed in section 8 for fiscal year  
22 2008.

1 (b) APPROPRIATION.—Out of any money in the  
2 Treasury of the United States not otherwise appropriated,  
3 there are appropriated for fiscal years 2013, 2014, 2015,  
4 2016, 2017, 2018, 2019, 2020, 2021 and 2022 such sums  
5 as are necessary for grants under this subsection (a).

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

12 (d) STATE REQUIREMENTS.—In order to receive a  
13 grant under subsection (a), the Governor of a State shall  
14 certify to the Secretary of the Treasury that the supple-  
15 mental food and nutrition assistance that will be provided  
16 by the State using such grant will include—

17 (1) as conditions of receiving supplemental food  
18 and nutrition assistance, work requirements that are  
19 at least as strict as the work requirements which a  
20 State is required to impose under a State program  
21 funded under part A of title IV of the Social Secu-  
22 rity Act on recipients of assistance under such a  
23 program; and

24 (2) limitations on the eligible uses of benefits  
25 that are at least as restrictive as the limitations in

1 place for the supplemental nutrition assistance pro-  
2 gram established under the Food and Nutrition Act  
3 of 2008 (7 U.S.C. 2011 et seq.) as of May 31, 2012.

4 (e) EXPENDITURE OF FUNDS.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), amounts received by a State under sub-  
7 section (a) for any fiscal year shall be expended by  
8 the State in such fiscal year or in the succeeding fis-  
9 cal year.

10 (2) USE OF RAINY DAY FUND PERMITTED.—Of  
11 the amounts received by a State under subsection  
12 (a), the State may set aside, in a separate account,  
13 such amounts as the State deems necessary to pro-  
14 vide, without fiscal limitation, supplemental food and  
15 nutrition assistance and services for indigent individ-  
16 uals during—

17 (A) periods of unexpectedly high rates of  
18 unemployment; or

19 (B) periods related to circumstances that  
20 are not described in subparagraph (A) and that  
21 cause unexpected increases in the need for such  
22 assistance and services for such individuals.

23 (3) FUNDS REMAINING AFTER FISCAL YEAR  
24 2022.—If, after 2022, a State has funds in the ac-  
25 count under paragraph (2), the State may only ex-

1       pend such funds if such funds are used in a manner  
2       that is permitted under subsection (f), as such sub-  
3       section is in effect on September 30, 2022.

4       (f) USE OF FUNDS.—A State may only use the  
5       amounts received under subsection (a) as follows:

6           (1) GENERAL PURPOSE.—For the purpose  
7       under section 2, except that nothing in this Act shall  
8       be construed as limiting the flexibility of a State to  
9       determine which providers of such assistance and  
10      services qualify to receive payment from a grant  
11      made to the State under subsection (a).

12          (2) AUTHORITY TO USE PORTION OF FEDERAL  
13      ASSISTANCE FOR OTHER WELFARE-RELATED PRO-  
14      GRAMS.—

15           (A) IN GENERAL.—Subject to the limit  
16      under subparagraph (B), to carry out a State  
17      program pursuant to any or all of the following  
18      provisions of law:

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

21                  (ii) Section 1616 of such Act (42  
22                  U.S.C. 1382e).

23           (B) LIMITATION.—A State may not use  
24      more than 30 percent of the amount received  
25      under subsection (a) for a fiscal year to carry

1 out a State program, or programs, under sub-  
2 paragraph (A).

3 (C) REQUIREMENTS ON FUNDS.—Any  
4 amounts that are used under subparagraph  
5 (A)—

6 (i) shall not be subject to any of the  
7 requirements of subsection (e) or section 5;  
8 and

9 (ii) shall be subject to—

10 (I) the audit requirements under  
11 section 4; and

12 (II) any requirements that apply  
13 to Federal funds provided directly for  
14 such State program.

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

21 (h) NONENTITLEMENT.—Nothing in this Act shall be  
22 construed as providing an individual with an entitlement  
23 to supplemental food and nutrition assistance under this  
24 Act.

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

2 (a) AUDITS.—

3 (1) CONTRACT WITH APPROVED AUDITING EN-  
4 TITY.—Not later than October 1, 2013, and annu-  
5 ally thereafter, a State shall contract with an ap-  
6 proved auditing entity (as defined under paragraph  
7 (3)(B)) for purposes of conducting an audit under  
8 paragraph (2) (with respect to the fiscal year ending  
9 September 30 of such year).

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

18 (3) ENTITY CONDUCTING AUDIT.—

19 (A) IN GENERAL.—With respect to a  
20 State, the audit under paragraph (2) shall be  
21 conducted by an approved auditing entity in ac-  
22 cordance with generally accepted auditing prin-  
23 ciples.

24 (B) APPROVED AUDITING ENTITY.—For  
25 purposes of this section, the term “approved

1 auditing entity” means, with respect to a State,  
2 an entity that is—

3 (i) approved by the Secretary of the  
4 Treasury;

5 (ii) approved by the chief executive of-  
6 ficer of the State; and

7 (iii) independent of any Federal,  
8 State, or local agency.

9 (4) SUBMISSION OF AUDIT.—Not later than  
10 December 31, 2013, and annually thereafter, a State  
11 shall submit the results of the audit under para-  
12 graph (2) (with respect to the fiscal year ending on  
13 September 30 of such year) to the State legislature  
14 and to the Secretary of the Treasury.

15 (5) ADDITIONAL ACCOUNTING REQUIRE-  
16 MENTS.—The provisions of chapter 75 of title 31,  
17 United States Code, shall apply to the audit require-  
18 ments of this section.

19 (b) REIMBURSEMENT AND PENALTY.—If, through an  
20 audit conducted under subsection (a), an approved audit-  
21 ing entity finds that any amounts paid to a State under  
22 a grant under section 3(a) were not expended in accord-  
23 ance with this Act—

1           (1) the State shall pay to the Treasury of the  
2           United States any such amount, plus 10 percent of  
3           such amount as a penalty; or

4           (2) the Secretary of the Treasury shall offset  
5           such amount plus the 10 percent penalty against  
6           any other amount in any other fiscal year that the  
7           State may be entitled to receive under a grant under  
8           section 3(a).

9           (c) ANNUAL REPORTING REQUIREMENTS.—

10           (1) IN GENERAL.—Not later than January 31,  
11           2014, and annually thereafter, each State shall sub-  
12           mit to the Secretary of the Treasury and the State  
13           legislature a report on the activities carried out by  
14           the State during the most recently completed fiscal  
15           year with funds received by the State under a grant  
16           under section 3(a) for such fiscal year.

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

19                   (A) contain the results of the audit con-  
20                   ducted by an approved auditing entity for a  
21                   State for such fiscal year, in accordance with  
22                   the requirements of subsection (a) of this sec-  
23                   tion;

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

4 (C) be in such form and contain such other  
5 information as the State determines is nec-  
6 essary to provide—

7 (i) an accurate description of the ac-  
8 tivities conducted by the State for the pur-  
9 pose described under section 2 and any  
10 other use of funds permitted under sub-  
11 sections (d) and (e) of section 3; and

12 (ii) a complete record of the purposes  
13 for which amounts were expended in ac-  
14 cordance with this Act.

15 (3) CONFORMITY WITH ACCOUNTING PRIN-  
16 CIPLES.—Any financial information in the report  
17 under paragraph (1) shall be prepared and reported  
18 in accordance with generally accepted accounting  
19 principles, including the provisions of chapter 75 of  
20 title 31, United States Code.

21 (4) PUBLIC AVAILABILITY.—A State shall make  
22 copies of the reports required under this section  
23 available on a public Web site and shall make copies  
24 available in other formats upon request.

1 (d) FAILURE TO COMPLY WITH REQUIREMENTS.—

2 The Secretary of the Treasury shall not make any pay-  
3 ment to a State under a grant authorized by section  
4 3(a)—

5 (1) if an audit for a State is not submitted as  
6 required under subsection (a), during the period be-  
7 tween the date such audit is due and the date on  
8 which such audit is submitted; or

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

13 (e) ADMINISTRATIVE SUPERVISION AND OVER-  
14 SIGHT.—

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

17 (A) TREASURY.—The authority of the Sec-  
18 retary of the Treasury under this Act is limited  
19 to—

20 (i) promulgating regulations, issuing  
21 rules, or publishing guidance documents to  
22 the extent necessary for purposes of imple-  
23 menting subsections (a)(3)(B), (b), and  
24 (d);

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

4 (iii) approving entities under sub-  
5 section (a)(3)(B) for purposes of the audits  
6 required under subsection (a);

7 (iv) withholding payment to a State of  
8 a grant under subsection (d) or offsetting  
9 a payment of such a grant to a State  
10 under subsection (b); and

11 (v) exercising the authority relating to  
12 nondiscrimination that is specified in sec-  
13 tion 5(b).

14 (B) ATTORNEY GENERAL.—The authority  
15 of the Attorney General to supervise the  
16 amounts received by a State under section 3(a)  
17 is limited to the authority under section 5(c).

18 (2) FEDERAL SUPERVISION.—

19 (A) IN GENERAL.—Except as provided  
20 under paragraph (1), an administrative officer,  
21 employee, department, or agency of the United  
22 States (including the Secretaries of Agriculture  
23 and Health and Human Services) may not—

24 (i) supervise—

1 (I) the amounts received by the  
2 States under section 3(a); or

3 (II) the use of such amounts by  
4 the States; or

5 (ii) promulgate regulations or issue  
6 rules in accordance with this Act.

7 (B) LIMITATION ON SECRETARIES OF AG-  
8 RICULTURE AND HEALTH AND HUMAN SERV-  
9 ICES.—The Secretaries of Agriculture and  
10 Health and Human Services shall have no au-  
11 thority over any provision of this Act.

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

18 **SEC. 5. NONDISCRIMINATION PROVISIONS.**

19 (a) NONDISCRIMINATION AGAINST INDIVIDUALS.—  
20 No individual shall be excluded from participation in, de-  
21 nied the benefits of, or subjected to discrimination under,  
22 any program or activity funded in whole or in part with  
23 amounts paid to a State under this section 3(a) on the  
24 basis of such individual's—

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

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

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

8           (b) COMPLIANCE.—

9           (1) IN GENERAL.—If the Secretary of the  
10          Treasury determines that a State or an entity that  
11          has received funds from amounts paid to a State  
12          under a grant under section 3(a) has failed to com-  
13          ply with a provision of law referred to in subsection  
14          (a), the Secretary of the Treasury shall notify the  
15          chief executive officer of the State of such failure to  
16          comply and shall request that such chief executive  
17          officer secure such compliance.

18          (2) REFUSAL TO SECURE COMPLIANCE.—If, not  
19          later than 60 days after receiving notification under  
20          paragraph (1), the chief executive officer of a State  
21          fails or refuses to secure compliance with the provi-  
22          sion of law referred to in such notification, the Sec-  
23          retary of the Treasury may—

1 (A) refer the matter to the Attorney Gen-  
2 eral with a recommendation that an appropriate  
3 civil action be instituted; or

4 (B) exercise the powers and functions pro-  
5 vided under section 505 of the Rehabilitation  
6 Act of 1973 (29 U.S.C. 794a), title IX of the  
7 Education Amendments of 1972 (20 U.S.C.  
8 1681 et seq.), or title VI of the Civil Rights Act  
9 of 1964 (42 U.S.C. 2000d et seq.) (as applica-  
10 ble).

11 (c) CIVIL ACTIONS.—If a matter is referred to the  
12 Attorney General under subsection (b)(2)(A), or the At-  
13 torney General has reason to believe that a State or entity  
14 has failed to comply with a provision of law referred to  
15 in subsection (a), the Attorney General may bring a civil  
16 action in an appropriate district court of the United States  
17 for such relief as may be appropriate, including injunctive  
18 relief.

19 **SEC. 6. DEFINITIONS.**

20 For purposes of this Act:

21 (1) SUPPLEMENTAL FOOD AND NUTRITION AS-  
22 SISTANCE.—The term “supplemental food and nutri-  
23 tion assistance” shall be defined by a State with re-  
24 spect to use of such term for purposes of the appli-  
25 cation of this Act to the State.

1           (2) STATE.—The term “State” has the mean-  
2           ing given the term in section 3 of the Food and Nu-  
3           trition Act of 2008 (7 U.S.C. 2012).

4   **SEC. 7. REPORT ON REDUCTION OF FEDERAL ADMINISTRA-**  
5                           **TIVE EXPENDITURES.**

6           Beginning not later than October 31, 2013, and an-  
7           nually thereafter until October 31, 2022, the Secretaries  
8           of Agriculture and Health and Human Services, in con-  
9           sultation with the Secretary of the Treasury, shall submit  
10          a report to the Committee on Energy and Commerce in  
11          the House of Representatives and the Finance Committee  
12          in the Senate containing a description of the total reduc-  
13          tion in Federal expenditures required to administer and  
14          provide oversight for the programs to provide supple-  
15          mental food and nutrition assistance to indigent individ-  
16          uals under this Act, compared to the expenditures re-  
17          quired to administer and provide oversight for the pro-  
18          grams listed in section 8, as such programs were in effect  
19          on September 30, 2012.

20   **SEC. 8. REPEALS.**

21          The following provisions are repealed:

22               (1) The Emergency Food Assistance Act of  
23               1983 (7 U.S.C. 7501 et seq.).

24               (2) Section 5 of the Agriculture and Consumer  
25               Protection Act of 1973, (commonly known as the

1 commodity supplemental food program) (7 U.S.C.  
2 612e note).

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

6 (4) Section 25 of the Food and Nutrition Act  
7 of 2008 (7 U.S.C. 2034).

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

10 **SEC. 9. SEVERABILITY.**

11 If any provision of this Act, or the application of such  
12 provision to any person or circumstance, is found to be  
13 unconstitutional, the remainder of this Act, or the applica-  
14 tion of that provision to other persons or circumstances,  
15 shall not be affected.

16 **SEC. 10. EFFECTIVE DATE.**

17 This Act and the amendments made by this Act shall  
18 take effect with respect to items and services furnished  
19 on or after October 1, 2012.