AMENDMENT TO H.R. ________  
OFFERED BY MR. HUELSKAMP OF KANSAS

Strike title IV and insert the following:

TITLE IV—STATE NUTRITION ASSISTANCE FLEXIBILITY

SEC. 401. SHORT TITLE.

This title may be cited as the “State Nutrition Assistance Flexibility Act of 2013”.

SEC. 402. PURPOSE.

The purpose of this title is to provide Federal financial assistance to the States, in the form of a single grant, to allow the States maximum flexibility in providing, and financing the provision of, supplemental food and nutrition assistance.

SEC. 403. GRANTS TO STATES.

(a) ALLOTMENTS.—Subject to the requirements of this title, each State that meets the requirements of subsection (d) is entitled to receive from the Secretary of the Treasury a grant for each quarter of each of fiscal years 2014 through 2023 in an amount equal to 25 percent of the amount that bears the same relation to the funds appropriated by subsection (b) for a fiscal year as the number of individuals who reside within the State and are
members of families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, bears to the total number of such individuals who reside in all States for such fiscal year.

(b) Appropriation.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2014 through 2023, $37,642,040,000.

(c) Requirements Relating to Intergovernmental Financing.—The Secretary of the Treasury shall make the transfer of funds under grants under subsection (a) directly to each State in accordance with the requirements of section 6503 of title 31, United States Code.

(d) State Requirements.—In order to receive a grant under subsection (a), the Governor of a State shall certify to the Secretary of the Treasury—

(1) that the supplemental food and nutrition assistance that will be provided by the State using such grant will include limitations on the eligible uses of benefits that are at least as restrictive as the limitations in place for the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) as of May 31, 2012; and
(2) that the State will use a portion of the grant to establish a work activation program described in subsection (e) for able-bodied individuals receiving supplemental food and nutrition assistance;

(e) WORK ACTIVATION PROGRAM.—

(1) PROGRAM REQUIREMENTS.—The work activation program established by a State under subsection (d)(2) shall meet the following requirements:

(A) The average number of able-bodied individuals receiving supplemental food and nutrition assistance that shall participate in the program in the State for each month of a fiscal year shall be based on the State’s relative proportion of able-bodied individuals receiving supplemental food and nutrition assistance for the most recent month of the most recent fiscal year for which satisfactory data is available, compared to the total number of such individuals in all States for such month, except that, each month, not less than a total of 1,500,000 individuals shall participate in 1 or more such work activation programs.

(B) Each able-bodied individual participating in the work activation program—
(i) shall at the time of application for supplemental food and nutrition assistance and every 12 months thereafter, register for employment in a manner prescribed by the Governor of the State;

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

(I) 2 days of supervised job search for 8 hours per day at the program site; and

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

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

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

(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))
been applicable to the offer of employment;

(iv) shall not refuse without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual; and

(v) shall not voluntarily—

(I) quit a job; or

(II) reduce work effort and, after the reduction, the individual is working less than 30 hours per week, unless another adult in the same family unit increases employment at the same time by an amount equal to the reduction in work effort by the first adult.

(C) An able-bodied individual participating in the work activation program who fails to comply with 1 or more of the requirements described in subparagraph (B)—

(i) shall be subject to a sanction period of not less than a 2-month period beginning the day of the individual’s first failure to comply with such requirements
during which the individual shall not re-
ceive any supplemental food and nutrition
assistance; and

(ii) may receive supplemental food
and nutrition assistance after the indi-
vidual is in compliance with such require-
ments for not less than a 1-month period
beginning after the completion of such
sanction period, except that such assist-
ance may not be provided retroactively.

(2) Penalties for States.—A State that
does not meet the participation requirements under
paragraph (1)(A) for the preceding fiscal year, as
determined by calculating the average monthly par-
ticipation for such year, shall be subject to a reduc-
tion of grant funds for the first full quarter after the
Secretary of the Treasury determines that the State
failed to meet such participation requirements in an
amount equal to the greater of—

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

(B) a percentage of funds that equals the
percentage by which the State failed to meet
such participation requirements.
(f) EXPENDITURE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts received by a State under subsection (a) for any fiscal year shall be expended by the State in such fiscal year or in the succeeding fiscal year.

(2) USE OF RAINY DAY FUND PERMITTED.—Of the amounts received by a State under subsection (a), the State may set aside, in a separate account, such amounts as the State deems necessary to provide, without fiscal limitation, supplemental food and nutrition assistance and services for indigent individuals during—

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

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

(3) FUNDS REMAINING AFTER FISCAL YEAR 2023.—If, after 2023, a State has funds in the account under paragraph (2), the State may only expend such funds if such funds are used in a manner that is permitted under subsection (g), as such subsection is in effect on September 30, 2023.
(g) USE OF FUNDS.—A State may only use the amounts received under subsection (a) as follows:

(1) GENERAL PURPOSE.—For the purpose under section 402, except that nothing in this title shall be construed as limiting the flexibility of a State to determine which providers of such assistance and services qualify to receive payment from a grant made to the State under subsection (a).

(2) AUTHORITY TO USE PORTION OF FEDERAL ASSISTANCE FOR OTHER WELFARE-RELATED PROGRAMS.—

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

(i) Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

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

(B) LIMITATION.—A State may not use more than 30 percent of the amount received under subsection (a) for a fiscal year to carry out a State program, or programs, under subparagraph (A).
(C) Requirements on funds.—Any amounts that are used under subparagraph (A)—

(i) shall not be subject to any of the requirements of subsection (f) or section 405; and

(ii) shall be subject to—

(I) the audit requirements under section 404; and

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

(h) No funding for illegal aliens.—Except as provided under this title, no funds appropriated in this title may be used to provide supplemental food and nutrition assistance to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(i) Nonentitlement.—Nothing in this title shall be construed as providing an individual with an entitlement to supplemental food and nutrition assistance under this title.

SEC. 404. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.

(a) Audits.—
(1) CONTRACT WITH APPROVED AUDITING ENTITY.—Not later than October 1, 2014, and annually thereafter, a State shall contract with an approved auditing entity (as defined under paragraph (3)(B)) for purposes of conducting an audit under paragraph (2) (with respect to the fiscal year ending September 30 of such year).

(2) AUDIT REQUIREMENT.—Under a contract under paragraph (1), an approved auditing entity shall conduct an audit of the expenditures or transfers made by a State from amounts received under a grant under this section 403(a) with respect to the fiscal year which such audit covers, to determine the extent to which such expenditures and transfers were expended in accordance with this title.

(3) ENTITY CONDUCTING AUDIT.—

(A) IN GENERAL.—With respect to a State, the audit under paragraph (2) shall be conducted by an approved auditing entity in accordance with generally accepted auditing principles.

(B) APPROVED AUDITING ENTITY.—For purposes of this section, the term “approved auditing entity” means, with respect to a State, an entity that is—
(i) approved by the Secretary of the Treasury;

(ii) approved by the chief executive officer of the State; and

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

(4) Submission of Audit.—Not later than December 31, 2014, and annually thereafter, a State shall submit the results of the audit under paragraph (2) (with respect to the fiscal year ending on September 30 of such year) to the State legislature and to the Secretary of the Treasury.

(5) Additional Accounting Requirements.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

(b) Reimbursement and Penalty.—If, through an audit conducted under subsection (a), an approved auditing entity finds that any amounts paid to a State under a grant under section 403(a) were not expended in accordance with this title, the State shall pay to the Treasury of the United States any such amount, plus 10 percent of such amount as a penalty.

(c) Annual Reporting Requirements.—
(1) IN GENERAL.—Not later than January 31, 2015, and annually thereafter, each State shall submit to the Secretary of the Treasury and the State legislature a report on the activities carried out by the State during the most recently completed fiscal year with funds received by the State under a grant under section 403(a) for such fiscal year.

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

(A) contain the results of the audit conducted by an approved auditing entity for a State for such fiscal year, in accordance with the requirements of subsection (a) of this section;

(B) specify the amount of the grant made to the State under section 403(a) that is used to carry out a program under section 403(f)(2);

(C) specify the number of participants in the work activation program described in section 403(e) in the State;

(D) specify the number of participants in such program that found work through the program, including the number of such participants who were hired as part-time employees.
and the number of such participants who were
hired as full-time employees; and

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

(i) an accurate description of the ac-
tivities conducted by the State for the pur-
pose described under section 402 and any
other use of funds permitted under sub-
sections (f) and (g) of section 403; and

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

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

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

(d) FAILURE TO COMPLY WITH REQUIREMENTS.—
The Secretary of the Treasury shall not make any pay-
ment to a State under a grant authorized by section 403(a)—

(1) if an audit for a State is not submitted as required under subsection (a), during the period between the date such audit is due and the date on which such audit is submitted; or

(2) if a State fails to submit a report as required under subsection (c), during the period between the date such report is due and the date on which such report is submitted.

(e) Administrative Supervision and Oversight.—

(1) Limited role for Secretary of Treasury and the Attorney General.—

(A) Treasury.—The authority of the Secretary of the Treasury under this title is limited to—

(i) promulgating regulations, issuing rules, or publishing guidance documents to the extent necessary for purposes of implementing subsections (a)(3)(B), (b), and (d);

(ii) making quarterly payments to the States under grants under this title in accordance with section 403(a);
(iii) approving entities under subsection (a)(3)(B) for purposes of the audits required under subsection (a);

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

(v) exercising the authority relating to nondiscrimination that is specified in section 405(b).

(B) ATTORNEY GENERAL.—The authority of the Attorney General to supervise the amounts received by a State under section 403(a) is limited to the authority under section 405(c).

(2) FEDERAL SUPERVISION.—

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

(i) supervise—

(I) the amounts received by the States under section 403(a); or

(II) the use of such amounts by the States; or
(ii) promulgate regulations or issue rules in accordance with this title.

(B) LIMITATION ON SECRETARIES OF AGRICULTURE AND HEALTH AND HUMAN SERVICES.—The Secretaries of Agriculture and Health and Human Services shall have no authority over any provision of this title.

(f) RESERVATION OF STATE POWERS.—Nothing in this section shall be construed to limit the power of a State, including the power of a State to pursue civil and criminal penalties under State law against any individual or entity that misuses, or engages in fraud or abuse related to the funds provided to a State under this title.

SEC. 405. NONDISCRIMINATION PROVISIONS.

(a) NONDISCRIMINATION AGAINST INDIVIDUALS.—No individual shall be excluded from participation in, denied the benefits of, or subjected to discrimination under, any program or activity funded in whole or in part with amounts paid to a State under this section 403(a) on the basis of such individual’s—

(1) disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(2) sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); or
(3) race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(b) COMPLIANCE.—

(1) IN GENERAL.—If the Secretary of the Treasury determines that a State or an entity that has received funds from amounts paid to a State under a grant under section 403(a) has failed to comply with a provision of law referred to in subsection (a), the Secretary of the Treasury shall notify the chief executive officer of the State of such failure to comply and shall request that such chief executive officer secure such compliance.

(2) REFUSAL TO SECURE COMPLIANCE.—If, not later than 60 days after receiving notification under paragraph (1), the chief executive officer of a State fails or refuses to secure compliance with the provision of law referred to in such notification, the Secretary of the Treasury may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(B) exercise the powers and functions provided under section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a), title IX of the

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

SEC. 406. DEFINITIONS.

For purposes of this title:

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

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

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

(C) is not the full-time caretaker of a disabled adult dependent; and

(D) does not have a dependent child.
(2) PHYSICALLY OR MENTALLY INCAPABLE OF WORK.—The term “physically or mentally incapable of work” shall mean an individual—

(A) who currently receives benefits from the Supplemental Security Income program or another program that provides recurring benefits to individuals because the individual is disabled and unable to work; or

(B) who has been medically certified as physically or mentally incapable of work and who has a credible pending application for enrollment in the Supplemental Security Income program or another program that provides recurring benefits to individuals because the individual is disabled and unable to work.

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

(4) SUPERVISED JOB SEARCH.—The term “supervised job search” means a job search program which has the following characteristics:
(A) The job search occurs at an official location where the recipient’s presence and activity can be directly observed, supervised, and monitored.

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

(C) The recipient is expected to remain and undertake job search activities at the job search center except for brief, authorized departures for specified off-site interviews.

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

(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 title to the State.

(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.

(7) **Work Activation.**—The term “work activation” means—
(A) supervised job search;
(B) community service activities;
(C) education and job training for individuals who are family heads or married spouses of family heads; or
(D) drug or alcohol treatment.

SEC. 407. REPEALS.

The following provisions are repealed:

(2) Section 5 of the Agriculture and Consumer Protection Act of 1973, (commonly known as the commodity supplemental food program) (7 U.S.C. 612c note).
(3) Section 4402 of Public Law 107–171 (relating to the seniors farmers’ market nutrition program) (7 U.S.C. 3007).

SEC. 408. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is found to be unconstitutional, the remainder of this title, or the app-
1 application of that provision to other persons or cir-
2 cumstances, shall not be affected.

3 **SEC. 409. EFFECTIVE DATE.**

4 This title and the amendments made by this title
5 shall take effect with respect to items and services fur-
6 nished on or after October 1, 2013.