

**AMENDMENT TO H.R. \_\_\_\_\_**

**OFFERED BY MR. HUELSKAMP OF KANSAS**

Strike title IV and insert the following:

1       **TITLE IV—STATE NUTRITION**  
2       **ASSISTANCE FLEXIBILITY**

3       **SEC. 401. SHORT TITLE.**

4           This title may be cited as the “State Nutrition Assist-  
5       ance Flexibility Act of 2013”.

6       **SEC. 402. PURPOSE.**

7           The purpose of this title is to provide Federal finan-  
8       cial assistance to the States, in the form of a single grant,  
9       to allow the States maximum flexibility in providing, and  
10       financing the provision of, supplemental food and nutri-  
11       tion assistance.

12       **SEC. 403. GRANTS TO STATES.**

13           (a) ALLOTMENTS.—Subject to the requirements of  
14       this title, each State that meets the requirements of sub-  
15       section (d) is entitled to receive from the Secretary of the  
16       Treasury a grant for each quarter of each of fiscal years  
17       2014 through 2023 in an amount equal to 25 percent of  
18       the amount that bears the same relation to the funds ap-  
19       propriated by subsection (b) for a fiscal year as the num-  
20       ber of individuals who reside within the State and are

1 members of families with incomes below the poverty line  
2 for the most recent fiscal year for which satisfactory data  
3 are available, bears to the total number of such individuals  
4 who reside in all States for such fiscal year.

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

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

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

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

1           (2) that the State will use a portion of the  
2           grant to establish a work activation program de-  
3           scribed in subsection (e) for able-bodied individuals  
4           receiving supplemental food and nutrition assistance;  
5           (e) WORK ACTIVATION PROGRAM.—

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

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

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

1 (i) shall at the time of application for  
2 supplemental food and nutrition assistance  
3 and every 12 months thereafter, register  
4 for employment in a manner prescribed by  
5 the Governor of the State;

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

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

11 (II) 5 days of off-site activity for  
12 8 hours per day;

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

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

20 (II) 80 percent of the wage that  
21 would have governed had the min-  
22 imum hourly rate under section  
23 6(a)(1) of the Fair Labor Standards  
24 Act of 1938 (29 U.S.C. 206(a)(1))

1                   been applicable to the offer of employ-  
2                   ment;

3                   (iv) shall not refuse without good  
4                   cause to provide a State agency with suffi-  
5                   cient information to allow the State agency  
6                   to determine the employment status or the  
7                   job availability of the individual; and

8                   (v) shall not voluntarily—

9                   (I) quit a job; or

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

18                  (C) An able-bodied individual participating  
19                  in the work activation program who fails to  
20                  comply with 1 or more of the requirements de-  
21                  scribed in subparagraph (B)—

22                  (i) shall be subject to a sanction pe-  
23                  riod of not less than a 2-month period be-  
24                  ginning the day of the individual's first  
25                  failure to comply with such requirements

1           during which the individual shall not re-  
2           ceive any supplemental food and nutrition  
3           assistance; and

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

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

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

23                   (B) a percentage of funds that equals the  
24          percentage by which the State failed to meet  
25          such participation requirements.

1 (f) EXPENDITURE OF FUNDS.—

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

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

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

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

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

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

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

9 (2) AUTHORITY TO USE PORTION OF FEDERAL  
10 ASSISTANCE FOR OTHER WELFARE-RELATED PRO-  
11 GRAMS.—

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

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

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

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



1 (C) REQUIREMENTS ON FUNDS.—Any  
2 amounts that are used under subparagraph

3 (A)—

4 (i) shall not be subject to any of the  
5 requirements of subsection (f) or section  
6 405; and

7 (ii) shall be subject to—

8 (I) the audit requirements under  
9 section 404; and

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

13 (h) NO FUNDING FOR ILLEGAL ALIENS.—Except as  
14 provided under this title, no funds appropriated in this  
15 title may be used to provide supplemental food and nutri-  
16 tion assistance to an alien who is not lawfully admitted  
17 for permanent residence or otherwise permanently residing  
18 in the United States under color of law.

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

23 **SEC. 404. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.**

24 (a) AUDITS.—

1           (1) CONTRACT WITH APPROVED AUDITING EN-  
2           TITY.—Not later than October 1, 2014, and annu-  
3           ally thereafter, a State shall contract with an ap-  
4           proved auditing entity (as defined under paragraph  
5           (3)(B)) for purposes of conducting an audit under  
6           paragraph (2) (with respect to the fiscal year ending  
7           September 30 of such year).

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

16          (3) ENTITY CONDUCTING AUDIT.—

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

22                (B) APPROVED AUDITING ENTITY.—For  
23                purposes of this section, the term “approved  
24                auditing entity” means, with respect to a State,  
25                an entity that is—

1 (i) approved by the Secretary of the  
2 Treasury;

3 (ii) approved by the chief executive of-  
4 ficer of the State; and

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

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

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

17 (b) REIMBURSEMENT AND PENALTY.—If, through an  
18 audit conducted under subsection (a), an approved audit-  
19 ing entity finds that any amounts paid to a State under  
20 a grant under section 403(a) were not expended in accord-  
21 ance with this title, the State shall pay to the Treasury  
22 of the United States any such amount, plus 10 percent  
23 of such amount as a penalty.

24 (c) ANNUAL REPORTING REQUIREMENTS.—

1           (1) IN GENERAL.—Not later than January 31,  
2           2015, and annually thereafter, each State shall sub-  
3           mit to the Secretary of the Treasury and the State  
4           legislature a report on the activities carried out by  
5           the State during the most recently completed fiscal  
6           year with funds received by the State under a grant  
7           under section 403(a) for such fiscal year.

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

10                   (A) contain the results of the audit con-  
11                   ducted by an approved auditing entity for a  
12                   State for such fiscal year, in accordance with  
13                   the requirements of subsection (a) of this sec-  
14                   tion;

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

18                   (C) specify the number of participants in  
19                   the work activation program described in sec-  
20                   tion 403(e) in the State;

21                   (D) specify the number of participants in  
22                   such program that found work through the pro-  
23                   gram, including the number of such partici-  
24                   pants who were hired as part-time employees

1 and the number of such participants who were  
2 hired as full-time employees; and

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

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

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

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

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

24 (d) FAILURE TO COMPLY WITH REQUIREMENTS.—  
25 The Secretary of the Treasury shall not make any pay-

1 ment to a State under a grant authorized by section  
2 403(a)—

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

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

11 (e) ADMINISTRATIVE SUPERVISION AND OVER-  
12 SIGHT.—

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

15 (A) TREASURY.—The authority of the Sec-  
16 retary of the Treasury under this title is limited  
17 to—

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

23 (ii) making quarterly payments to the  
24 States under grants under this title in ac-  
25 cordance with section 403(a);

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

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

6 (v) exercising the authority relating to  
7 nondiscrimination that is specified in sec-  
8 tion 405(b).

9 (B) ATTORNEY GENERAL.—The authority  
10 of the Attorney General to supervise the  
11 amounts received by a State under section  
12 403(a) is limited to the authority under section  
13 405(c).

14 (2) FEDERAL SUPERVISION.—

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

20 (i) supervise—

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

23 (II) the use of such amounts by  
24 the States; or

1 (ii) promulgate regulations or issue  
2 rules in accordance with this title.

3 (B) LIMITATION ON SECRETARIES OF AG-  
4 RICULTURE AND HEALTH AND HUMAN SERV-  
5 ICES.—The Secretaries of Agriculture and  
6 Health and Human Services shall have no au-  
7 thority over any provision of this title.

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

14 **SEC. 405. NONDISCRIMINATION PROVISIONS.**

15 (a) NONDISCRIMINATION AGAINST INDIVIDUALS.—  
16 No individual shall be excluded from participation in, de-  
17 nied the benefits of, or subjected to discrimination under,  
18 any program or activity funded in whole or in part with  
19 amounts paid to a State under this section 403(a) on the  
20 basis of such individual's—

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

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



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

4           (b) COMPLIANCE.—

5           (1) IN GENERAL.—If the Secretary of the  
6 Treasury determines that a State or an entity that  
7 has received funds from amounts paid to a State  
8 under a grant under section 403(a) has failed to  
9 comply with a provision of law referred to in sub-  
10 section (a), the Secretary of the Treasury shall no-  
11 tify the chief executive officer of the State of such  
12 failure to comply and shall request that such chief  
13 executive officer secure such compliance.

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

20                   (A) refer the matter to the Attorney Gen-  
21 eral with a recommendation that an appropriate  
22 civil action be instituted; or

23                   (B) exercise the powers and functions pro-  
24 vided under section 505 of the Rehabilitation  
25 Act of 1973 (29 U.S.C. 794a), title IX of the

1 Education Amendments of 1972 (20 U.S.C.  
2 1681 et seq.), or title VI of the Civil Rights Act  
3 of 1964 (42 U.S.C. 2000d et seq.) (as applica-  
4 ble).

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

13 **SEC. 406. DEFINITIONS.**

14 For purposes of this title:

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

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

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

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

23 (D) does not have a dependent child.

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

4           (A) who currently receives benefits from  
5 the Supplemental Security Income program or  
6 another program that provides recurring bene-  
7 fits to individuals because the individual is dis-  
8 abled and unable to work; or

9           (B) who has been medically certified as  
10 physically or mentally incapable of work and  
11 who has a credible pending application for en-  
12 rollment in the Supplemental Security Income  
13 program or another program that provides re-  
14 curring benefits to individuals because the indi-  
15 vidual is disabled and unable to work.

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

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

1 (A) The job search occurs at an official lo-  
2 cation where the recipient's presence and activ-  
3 ity can be directly observed, supervised, and  
4 monitored.

5 (B) The recipient's entry, time on site, and  
6 exit from the official job search location are re-  
7 corded in a manner which prevents fraud.

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

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

15 (5) SUPPLEMENTAL FOOD AND NUTRITION AS-  
16 SISTANCE.—The term “supplemental food and nutri-  
17 tion assistance” shall be defined by a State with re-  
18 spect to use of such term for purposes of the appli-  
19 cation of this title to the State.

20 (6) STATE.—The term “State” has the mean-  
21 ing given the term in section 3 of the Food and Nu-  
22 trition Act of 2008 (7 U.S.C. 2012) as of May 31,  
23 2012.

24 (7) WORK ACTIVATION.—The term “work acti-  
25 vation” means—

- 1 (A) supervised job search;
- 2 (B) community service activities;
- 3 (C) education and job training for individ-
- 4 uals who are family heads or married spouses
- 5 of family heads; or
- 6 (D) drug or alcohol treatment.

7 **SEC. 407. REPEALS.**

8 The following provisions are repealed:

9 (1) The Emergency Food Assistance Act of

10 1983 (7 U.S.C. 7501 et seq.).

11 (2) Section 5 of the Agriculture and Consumer

12 Protection Act of 1973, (commonly known as the

13 commodity supplemental food program) (7 U.S.C.

14 612e note).

15 (3) Section 4402 of Public Law 107–171 (relat-

16 ing to the seniors farmers’ market nutrition pro-

17 gram) (7 U.S.C. 3007).

18 (4) The Food and Nutrition Act of 2008 (7

19 U.S.C. 2011 et seq.).

20 (5) Section 19 of the Richard B. Russell Na-

21 tional School Lunch Act (42 U.S.C. 1769a).

22 **SEC. 408. SEVERABILITY.**

23 If any provision of this title, or the application of

24 such provision to any person or circumstance, is found to

25 be unconstitutional, the remainder of this title, or the ap-

1 plication 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.

