

113TH CONGRESS  
1ST SESSION

# S. 762

To amend the Food and Nutrition Act of 2008 to improve the supplemental nutrition assistance program.

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IN THE SENATE OF THE UNITED STATES

APRIL 18, 2013

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Food and Nutrition Act of 2008 to improve the supplemental nutrition assistance program.

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. CATEGORICAL ELIGIBILITY LIMITATIONS.**

4       Section 5 of the Food and Nutrition Act of 2008 (7  
5       U.S.C. 2014) is amended—

6               (1) by striking the section designation and  
7       heading and all that follows through “(a) Participa-  
8       tion” and inserting the following:

9       **“SEC. 5. ELIGIBLE HOUSEHOLDS.**

10       **“(a) REQUIREMENTS.—**

1 “(1) IN GENERAL.—Participation”;

2 (2) in subsection (a)—

3 (A) by striking the second sentence and in-  
4 serting the following:

5 “(2) RECIPIENTS OF OTHER FEDERAL BENE-  
6 FITS.—Except as provided in section 3(n)(4) and  
7 subsections (b), (d)(2), and (g) of section 6, a house-  
8 hold shall be eligible to participate in the supple-  
9 mental nutrition assistance program if each member  
10 of the household receives—

11 “(A) cash assistance in the form of ongo-  
12 ing basic needs benefit payments for financially  
13 needy families under the program of block  
14 grants to States for temporary assistance for  
15 needy families established under part A of title  
16 IV of the Social Security Act (42 U.S.C. 601 et  
17 seq.);

18 “(B) cash assistance under the supple-  
19 mental security income program established  
20 under title XVI of that Act (42 U.S.C. 1381 et  
21 seq.); or

22 “(C) aid to the aged, blind, or disabled  
23 under title I, X, XIV, or XVI of that Act (42  
24 U.S.C. 301 et seq.).”;

1 (B) in the third sentence, by striking “Ex-  
 2 cept for sections 6, 16(e)(1), and section  
 3 3(n)(4), households” and inserting the fol-  
 4 lowing:

5 “(3) GENERAL ASSISTANCE.—Except as pro-  
 6 vided in sections 3(n)(4), 6, and 16(d), a house-  
 7 hold”; and

8 (C) in the fourth sentence, by striking  
 9 “Assistance” and inserting the following:

10 “(4) APPLICATIONS.—Assistance”; and

11 (3) in subsection (j)—

12 (A) by inserting “cash assistance in the  
 13 form of” before “supplemental security income  
 14 benefits”; and

15 (B) by striking “or who receives benefits”  
 16 and inserting “or who receives cash assistance”.

17 **SEC. 2. REQUIREMENTS FOR RE-ENROLLMENT.**

18 Paragraph (4) of section 5(a) of the Food and Nutri-  
 19 tion Act of 2008 (7 U.S.C. 2014(a)) (as designated by  
 20 section 1(2)(C)) is amended—

21 (1) by striking “Assistance” and inserting the  
 22 following:

23 “(A) IN GENERAL.—Assistance”; and

24 (2) by adding at the end the following:

1           “(B) REENROLLMENT.—Any eligible  
2 household that previously received benefits  
3 under the supplemental nutrition assistance  
4 program and applies for reenrollment in the  
5 program shall be required—

6                   “(i) to complete in full a new applica-  
7 tion; and

8                   “(ii) to verify that the income and as-  
9 sets of the household are in compliance  
10 with the requirements of the program.”.

11 **SEC. 3. STANDARD UTILITY ALLOWANCES BASED ON THE**  
12 **RECEIPT OF ENERGY ASSISTANCE PAY-**  
13 **MENTS.**

14       (a) STANDARD UTILITY ALLOWANCE.—Section 5 of  
15 the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is  
16 amended—

17           (1) in subsection (e)(6)(C), by striking clause  
18 (iv); and

19           (2) in subsection (k), by striking paragraph (4)  
20 and inserting the following:

21                   “(4) THIRD PARTY ENERGY ASSISTANCE PAY-  
22 MENTS.—For purposes of subsection (d)(1), a pay-  
23 ment made under a State law (other than a law re-  
24 ferred to in paragraph (2)(G)) to provide energy as-

1       sistance to a household shall be considered money  
2       payable directly to the household.”.

3       (b)       CONFORMING       AMENDMENTS.—Section  
4       2605(f)(2) of the Low-Income Home Energy Assistance  
5       Act of 1981 (42 U.S.C. 8624(f)(2)) is amended—

6               (1) by striking “and for purposes of deter-  
7       mining any excess shelter expense deduction under  
8       section 5(e) of the Food and Nutrition Act of 2008  
9       (7 U.S.C. 2014(e))”, and

10              (2) in subparagraph (A), by inserting before the  
11       semicolon the following: “, except that such pay-  
12       ments or allowances shall not be deemed to be ex-  
13       pended for purposes of determining any excess shel-  
14       ter expense deduction under section 5(e)(6) of the  
15       Food and Nutrition Act of 2008 (7 U.S.C.  
16       2014(e)(6))”.

17       **SEC. 4. REPEAL OF FUNDING FOR EMPLOYMENT AND**  
18       **TRAINING PROGRAMS.**

19       (a) IN GENERAL.—Section 6(d)(4) of the Food and  
20       Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amend-  
21       ed—

22              (1) by striking “(A) IN GENERAL.—”; and all  
23       that follows through “the following components” in  
24       the matter preceding clause (i) in subparagraph (B)  
25       and inserting the following:

1           “(A) DEFINITION OF EMPLOYMENT AND  
2 TRAINING PROGRAM.—In this Act, the term  
3 ‘employment and training program’ means a  
4 Federal, State, or private program not adminis-  
5 tered by the Secretary or funded through the  
6 Food and Nutrition Service that contains 1 or  
7 more of the following components”;

8           (2) by striking clause (viii) in subparagraph (A)  
9 (as designated in paragraph (1)) and inserting the  
10 following:

11                   “(viii) As approved by the State, other  
12 employment and training programs, edu-  
13 cational programs, projects, and experi-  
14 ments, such as a supported work program,  
15 aimed at accomplishing the purpose of the  
16 employment and training program.”;

17           (3) in subparagraph (E), by striking “subpara-  
18 graph (D)” and inserting “subparagraph (C)”;

19           (4) by striking subparagraphs (H) through (K);  
20 and

21           (5) by redesignating subparagraphs (C) through  
22 (G) and (L) and (M) as subparagraphs (B) through  
23 (F) and (G) and (H), respectively.

1 (b) REPEAL OF FUNDING.—Section 16 of the Food  
2 and Nutrition Act of 2008 (7 U.S.C. 2025) is amended  
3 by striking subsection (h).

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 5(d) of the Food and Nutrition Act  
6 of 2008 (7 U.S.C. 2014(d)) is amended—

7 (A) by striking paragraph (14); and

8 (B) by redesignating paragraphs (15)  
9 through (19) as paragraphs (14) through (18),  
10 respectively.

11 (2) Section 17(b)(1)(B)(iv)(III) of the Food  
12 and Nutrition Act of 2008 (7 U.S.C.  
13 2026(b)(1)(B)(iv)(III)) is amended—

14 (A) in item (dd), by striking “, (4)(F)(i),  
15 or (4)(K)” and inserting “or (4)(E)”; and

16 (B) in item (hh), by striking “(g), (h)(2),  
17 or (h)(3) of section 16” and inserting “or (f) of  
18 section 16”.

19 **SEC. 5. WORK REQUIREMENT.**

20 Section 6(o)(4)(A) of the Food and Nutrition Act of  
21 2008 (7 U.S.C. 2015(o)(4)(A)) is amended by striking  
22 “reside—” and all that follows through the end of clause  
23 (ii) and inserting “reside has an unemployment rate of  
24 over 10 percent.”.

1 **SEC. 6. CENTRALIZED DATABASE FOR CROSS-COMPLIANCE.**

2 Section 11(o) of the Food and Nutrition Act of 2008  
3 (7 U.S.C. 2020(o)) is amended by adding at the end the  
4 following:

5 “(6) CENTRALIZED DATABASE FOR CROSS-COM-  
6 PLIANCE.—

7 “(A) IN GENERAL.—Not later than 1 year  
8 after the date of enactment of this paragraph,  
9 the Secretary shall develop a centralized data-  
10 base to facilitate cooperation between the Sec-  
11 retary and State agencies so as to ensure that  
12 an individual does not enroll to receive benefits  
13 in more than 1 State.

14 “(B) USE OF EXISTING DATABASES.—To  
15 the maximum extent practicable to reduce de-  
16 velopment and implementation costs, in devel-  
17 oping the centralized database the Secretary  
18 shall use Federal databases in existence as of  
19 the date of enactment of this paragraph.”.

20 **SEC. 7. QUALITY CONTROL.**

21 (a) IN GENERAL.—Section 16(c) of the Food and  
22 Nutrition Act of 2008 (7 U.S.C. 2025(c)) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (D)(i)(II), by insert-  
25 ing “except as provided in subparagraph (H),”  
26 before “require”; and



1 (B) by adding at the end the following:

2 “(H) STATES IN LIABILITY STATUS FOR A  
3 THIRD CONSECUTIVE FISCAL YEAR.—

4 “(i) IN GENERAL.—If a liability  
5 amount has been established for a State  
6 agency under subparagraph (C) for 3 or  
7 more consecutive fiscal years, the Sec-  
8 retary shall require the State to pay the  
9 entire liability amount for those fiscal  
10 years.

11 “(ii) ALTERNATIVES TO FULL PAY-  
12 MENT NOT AVAILABLE.—Subparagraph  
13 (D) shall not apply to a State agency de-  
14 scribed in clause (i).”;

15 (2) by redesignating paragraph (9) as para-  
16 graph (10); and

17 (3) by inserting after paragraph (8) the fol-  
18 lowing:

19 “(9) PENALTY FOR NEGATIVE ERROR RATE.—

20 “(A) DEFINITIONS.—In this paragraph:

21 “(i) AFFECTED STATE AGENCY.—The  
22 term ‘affected State agency’ means a State  
23 agency that maintains, for 2 or more con-  
24 secutive fiscal years, a negative error rate  
25 that is more than 50 percent higher than

1 the national average negative error rate, as  
2 determined by the Secretary.

3 “(ii) AVERAGE NEGATIVE ERROR  
4 RATE.—The term ‘average negative error  
5 rate’ means the product obtained by multi-  
6 plying—

7 “(I) the negative error rate of a  
8 State agency; and

9 “(II) the proportion of the total  
10 negative caseload of that State agency  
11 for the fiscal year, as calculated under  
12 the quality control sample at the time  
13 of the notifications issued under sub-  
14 paragraph (C), as determined by the  
15 Secretary.

16 “(iii) NEGATIVE ERROR RATE.—

17 “(I) IN GENERAL.—The term  
18 ‘negative error rate’ means, for a  
19 State agency, the proportion that—

20 “(aa) the total number of  
21 actions erroneously taken by the  
22 State agency to deny applications  
23 or suspend or terminate benefits  
24 of a household participating in  
25 the supplemental nutrition assist-

1           ance program established under  
2           this Act, as determined by the  
3           Secretary, in that fiscal year;  
4           bears to

5           “(bb) the total number of  
6           actions taken by the State agency  
7           to deny applications or suspend  
8           or terminate benefits of house-  
9           holds participating in the supple-  
10          mental nutrition assistance pro-  
11          gram established under this Act  
12          in that fiscal year.

13          “(II) EXCLUSIONS.—The term  
14          ‘negative error rate’ does not in-  
15          clude—

16                 “(aa) an error resulting  
17                 from the application of regula-  
18                 tions promulgated under this Act  
19                 during the period—

20                         “(AA) beginning on the  
21                         date of enactment of this  
22                         clause; and

23                         “(BB) ending on the  
24                         date that is 121 days after

1 the date on which the regu-  
2 lation is implemented; and

3 “(bb) an error resulting  
4 from—

5 “(AA) the use by a  
6 State agency of correctly  
7 processed information con-  
8 cerning households or indi-  
9 viduals received under a  
10 Federal program; or

11 “(BB) an action that is  
12 based on policy information  
13 that is approved or dissemi-  
14 nated, in writing, by the  
15 Secretary or a designee of  
16 the Secretary.

17 “(B) PENALTY AMOUNT.—For fiscal year  
18 2012 and each subsequent fiscal year, the  
19 amount of the penalty for an affected State  
20 agency shall be equal to 5 percent of the  
21 amount otherwise payable under subsection (a).

22 “(C) INFORMATION REPORTING BY  
23 STATES.—

24 “(i) IN GENERAL.—For each fiscal  
25 year, each State agency shall expeditiously

1 submit to the Secretary data concerning  
2 the operations of the State agency suffi-  
3 cient for the Secretary to establish the  
4 negative error rate and penalty amount of  
5 the State agency.

6 “(ii) RELEVANT INFORMATION.—The  
7 Secretary may require a State agency to  
8 report any factors necessary to determine  
9 the negative error rate of the State agency.

10 “(iii) INFORMATION NOT RE-  
11 PORTED.—If a State agency fails to report  
12 information required by the Secretary, the  
13 Secretary may use any information, as the  
14 Secretary considers appropriate, to estab-  
15 lish the negative error rate of the State  
16 agency for the applicable year.

17 “(iv) NATIONAL AVERAGE ERROR  
18 RATE.—If a State agency fails to report in-  
19 formation required by the Secretary, the  
20 Secretary may use the national average  
21 negative error rate to establish the nega-  
22 tive error rate for the State agency.

23 “(D) ANNOUNCEMENT OF ERROR  
24 RATES.—

1           “(i) CASE REVIEW.—Not later than  
2           May 31 of each fiscal year, the case review  
3           and all arbitration of State-Federal dif-  
4           ferences on negative error rates for the  
5           previous fiscal year shall be completed.

6           “(ii) DETERMINATION AND AN-  
7           NOUNCEMENT.—Not later than June 30 of  
8           each fiscal year, the Secretary shall, for  
9           the previous fiscal year—

10                   “(I) determine—

11                           “(aa) final negative error  
12                           rates;

13                           “(bb) the national average  
14                           negative error rate; and

15                           “(cc) penalty amounts;

16                   “(II) notify affected State agen-  
17                   cies of the penalty amounts;

18                   “(III) provide a copy of the noti-  
19                   fication under subclause (II) to the  
20                   chief executive officer and the legisla-  
21                   ture of the affected State; and

22                   “(IV) establish a claim against  
23                   the State agency for the monetary  
24                   penalty amount assessed against the  
25                   State agency.

1 “(E) REVIEW.—

2 “(i) IN GENERAL.—For any fiscal  
3 year, if the Secretary imposes a penalty  
4 amount against a State agency under sub-  
5 paragraph (D)(ii), the following determina-  
6 tions of the Secretary shall be subject to  
7 administrative and judicial review:

8 “(I) The final negative error rate  
9 of the State agency.

10 “(II) A determination of the Sec-  
11 retary that the negative error rate of  
12 the State agency exceeds 50 percent  
13 of the national average negative error  
14 rate.

15 “(III) The monetary penalty  
16 amount assessed against the State  
17 agency.

18 “(ii) DETERMINATION NOT REVIEW-  
19 ABLE.—The national average negative  
20 error rate under this paragraph shall not  
21 be subject to administrative or judicial re-  
22 view.

23 “(F) PAYMENT OF PENALTY AMOUNT.—

24 “(i) IN GENERAL.—On completion of  
25 administrative and judicial review under

1           subparagraph (E), an affected State agen-  
2           cy shall pay to the Secretary the penalty  
3           amount designated under subparagraph  
4           (D)(ii), subject to the findings of the ad-  
5           ministrative or judicial review, not later  
6           than September 30 of the fiscal year for  
7           which the claim has been issued to the  
8           State agency.

9                   “(ii) ALTERNATIVE METHOD OF COL-  
10                   LECTION.—

11                           “(I) IN GENERAL.—If a State  
12                           agency fails to make a payment under  
13                           clause (i) by September 30 of the fis-  
14                           cal year for which the claim has been  
15                           issued to the State agency, the Sec-  
16                           retary may reduce any amount due to  
17                           the State agency under any other pro-  
18                           vision of this Act by the amount of  
19                           the monetary penalty established  
20                           under subparagraph (D)(ii).

21                           “(II) ACCRUAL OF INTEREST.—  
22                           Interest on the amount owed shall not  
23                           accrue until after September 30 of the  
24                           applicable fiscal year.”.



1 **SEC. 8. REPEAL OF INCENTIVE PAYMENTS TO STATES WITH**  
2 **LOW SNAP BENEFIT ALLOCATION ERROR**  
3 **RATES.**

4 (a) IN GENERAL.—Section 16 of the Food and Nutri-  
5 tion Act of 2008 (7 U.S.C. 2025) is amended by striking  
6 subsection (d).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 7(h)(4) of the Food and Nutrition  
9 Act of 2008 (7 U.S.C. 2016(h)(4)) is amended by  
10 striking “16(g)” and inserting “16(f)”.

11 (2) Section 11(e)(3) of the Food and Nutrition  
12 Act of 2008 (7 U.S.C. 2020(e)(3)) is amended by  
13 striking “section 16(e) of this Act” and inserting  
14 “section 16(d)”.

15 (3) Section 16 of the Food and Nutrition Act  
16 of 2008 (7 U.S.C. 2025) (as amended by subsection  
17 (a) of this section and section 4(b)) is amended—

18 (A) in subsection (a)—

19 (i) by striking “subsection (k)” and  
20 inserting “subsection (i)”; and

21 (ii) by striking “subsection (g)” and  
22 inserting “subsection (f)”;

23 (B) in subsection (c)—

24 (i) in paragraph (1)(B)(i), by striking  
25 “subsection (g)” and inserting “subsection  
26 (f)”; and

1                   (ii) by striking “, or performance  
2                   under the performance measures under  
3                   subsection (d)” each place it appears in  
4                   paragraphs (4) and (5);

5                   (C) in subsection (i)(1), by striking “as de-  
6                   fined in subsection (d)(1))” and inserting “as  
7                   defined in guidance issued by the Secretary”;  
8                   and

9                   (D) by redesignating subsections (e)  
10                  through (g) and (i) through (k) as subsections  
11                  (d) through (f) and (g) through (i), respectively.

12                  (4) Section 22(d)(1)(B)(ii) of the Food and Nu-  
13                  trition Act of 2008 (7 U.S.C. 2031(d)(1)(B)(ii)) is  
14                  amended—

15                         (A) by striking “(g), (h)(2), and (h)(3)”  
16                         and inserting “and (f)”; and

17                         (B) in the proviso, by striking “subsection  
18                         (g) of section 16” and inserting “section 16(f)”.

19                  (5) Section 23(a)(1) of the Food and Nutrition  
20                  Act of 2008 (7 U.S.C. 2032(a)(1)) is amended—

21                         (A) in subparagraph (C), by striking “ei-  
22                         ther section 16(a) or 16(g)” and inserting  
23                         “subsection (a) or (f) of section 16”; and

24                         (B) in subparagraph (E), by striking  
25                         “16(g)” and inserting “16(f)”.

1 **SEC. 9. NUTRITION EDUCATION AND OBESITY PREVENTION**  
2 **GRANT PROGRAM.**

3 Section 28 of the Food and Nutrition Act of 2008  
4 (7 U.S.C. 2036a) is amended by striking subsection (d)  
5 and inserting the following:

6 “(d) FUNDING.—

7 “(1) IN GENERAL.—Of funds made available  
8 each fiscal year under section 18(a)(1), the Sec-  
9 retary shall make available to each State agency to  
10 carry out the nutrition education and obesity preven-  
11 tion grant program under this section—

12 “(A) for fiscal year 2013, an amount equal  
13 to \$5 per household in the State enrolled in the  
14 supplemental nutrition assistance program; and

15 “(B) for fiscal year 2014 and each subse-  
16 quent fiscal year, the applicable amount during  
17 the preceding fiscal year, as adjusted to reflect  
18 any increases for the 12-month period ending  
19 the preceding June 30 in the Consumer Price  
20 Index for All Urban Consumers published by  
21 the Bureau of Labor Statistics of the Depart-  
22 ment of Labor, per household in the State en-  
23 rolled in the supplemental nutrition assistance  
24 program.

25 “(2) TIMING OF DETERMINATION.—At the end  
26 of each fiscal year, the Secretary shall determine the

1 total number of households in each State enrolled in  
2 the supplemental nutrition assistance program so as  
3 to determine appropriate funding levels for the com-  
4 ing fiscal year.”.

○