II

113TH CONGRESS
1ST SESSION

S. 762

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CATEGORICAL ELIGIBILITY LIMITATIONS.

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

(1) by striking the section designation and heading and all that follows through ''(a) Participation'' and inserting the following:

''SEC. 5. ELIGIBLE HOUSEHOLDS.

''(a) REQUIREMENTS.—

"(1) IN GENERAL.—Participation";

(2) in subsection (a)—

(A) by striking the second sentence and inserting the following:

"(2) RECIPIENTS OF OTHER FEDERAL BENEFITS.—Except as provided in section 3(n)(4) and subsections (b), (d)(2), and (g) of section 6, a household shall be eligible to participate in the supplemental nutrition assistance program if each member of the household receives—

"(A) cash assistance in the form of ongoing basic needs benefit payments for financially needy families under the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(B) cash assistance under the supplemental security income program established under title XVI of that Act (42 U.S.C. 1381 et seq.); or

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

(B) in the third sentence, by striking "Except for sections 6, 16(e)(1), and section 3(n)(4), households" and inserting the following:

"(3) GENERAL ASSISTANCE.—Except as provided in sections 3(n)(4), 6, and 16(d), a household"; and

(C) in the fourth sentence, by striking "Assistance" and inserting the following:

"(4) APPLICATIONS.—Assistance"; and

(3) in subsection (j)—

(A) by inserting "cash assistance in the form of" before "supplemental security income benefits"; and

(B) by striking "or who receives benefits" and inserting "or who receives cash assistance".

SEC. 2. REQUIREMENTS FOR RE-ENROLLMENT.

Paragraph (4) of section 5(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(a)) (as designated by section 1(2)(C)) is amended—

(1) by striking "Assistance" and inserting the following:

"(A) IN GENERAL.—Assistance"; and

(2) by adding at the end the following:

"(B) REENROLLMENT.—Any eligible household that previously received benefits under the supplemental nutrition assistance program and applies for reenrollment in the program shall be required—

"(i) to complete in full a new application; and

"(ii) to verify that the income and assets of the household are in compliance with the requirements of the program.".

SEC. 3. STANDARD UTILITY ALLOWANCES BASED ON THE RECEIPT OF ENERGY ASSISTANCE PAYMENTS.

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

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

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

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a State law (other than a law referred to in paragraph (2)(G)) to provide energy assistance to a household shall be considered money payable directly to the household.''.

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

(1) by striking ''and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e))'', and

(2) in subparagraph (A), by inserting before the semicolon the following: '', except that such payments or allowances shall not be deemed to be expended for purposes of determining any excess shelter expense deduction under section 5(e)(6) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(6))''.

SEC. 4. REPEAL OF FUNDING FOR EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amended—

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

"(A) DEFINITION OF EMPLOYMENT AND TRAINING PROGRAM.—In this Act, the term 'employment and training program' means a Federal, State, or private program not administered by the Secretary or funded through the Food and Nutrition Service that contains 1 or more of the following components";

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

"(viii) As approved by the State, other employment and training programs, educational programs, projects, and experiments, such as a supported work program, aimed at accomplishing the purpose of the employment and training program.";

(3) in subparagraph (E), by striking "subparagraph (D)" and inserting "subparagraph (C)";

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

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

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

(c) CONFORMING AMENDMENTS.—

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

(A) by striking paragraph (14); and

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

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

(A) in item (dd), by striking ‘‘, (4)(F)(i), or (4)(K)’’ and inserting ‘‘or (4)(E)’’; and

(B) in item (hh), by striking ‘‘(g), (h)(2), or (h)(3) of section 16’’ and inserting ‘‘or (f) of section 16’’.

SEC. 5. WORK REQUIREMENT.

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

SEC. 6. CENTRALIZED DATABASE FOR CROSS-COMPLIANCE.

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

"(6) CENTRALIZED DATABASE FOR CROSS-COMPLIANCE.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall develop a centralized database to facilitate cooperation between the Secretary and State agencies so as to ensure that an individual does not enroll to receive benefits in more than 1 State.

"(B) USE OF EXISTING DATABASES.—To the maximum extent practicable to reduce development and implementation costs, in developing the centralized database the Secretary shall use Federal databases in existence as of the date of enactment of this paragraph.".

SEC. 7. QUALITY CONTROL.

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

(1) in paragraph (1)—

(A) in subparagraph (D)(i)(II), by inserting "except as provided in subparagraph (H)," before "require"; and

(B) by adding at the end the following:

"(H) STATES IN LIABILITY STATUS FOR A THIRD CONSECUTIVE FISCAL YEAR.—

"(i) IN GENERAL.—If a liability amount has been established for a State agency under subparagraph (C) for 3 or more consecutive fiscal years, the Secretary shall require the State to pay the entire liability amount for those fiscal years.

"(ii) ALTERNATIVES TO FULL PAYMENT NOT AVAILABLE.—Subparagraph (D) shall not apply to a State agency described in clause (i).";

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

"(9) PENALTY FOR NEGATIVE ERROR RATE.—

"(A) DEFINITIONS.—In this paragraph:

"(i) AFFECTED STATE AGENCY.—The term 'affected State agency' means a State agency that maintains, for 2 or more consecutive fiscal years, a negative error rate that is more than 50 percent higher than the national average negative error rate, as determined by the Secretary.

"(ii) AVERAGE NEGATIVE ERROR RATE.—The term 'average negative error rate' means the product obtained by multiplying—

"(I) the negative error rate of a State agency; and

"(II) the proportion of the total negative caseload of that State agency for the fiscal year, as calculated under the quality control sample at the time of the notifications issued under subparagraph (C), as determined by the Secretary.

"(iii) NEGATIVE ERROR RATE.—

"(I) IN GENERAL.—The term 'negative error rate' means, for a State agency, the proportion that—

"(aa) the total number of actions erroneously taken by the State agency to deny applications or suspend or terminate benefits of a household participating in the supplemental nutrition assistance program established under this Act, as determined by the Secretary, in that fiscal year; bears to

"(bb) the total number of actions taken by the State agency to deny applications or suspend or terminate benefits of households participating in the supplemental nutrition assistance program established under this Act in that fiscal year.

"(II) EXCLUSIONS.—The term 'negative error rate' does not include—

"(aa) an error resulting from the application of regulations promulgated under this Act during the period—

"(AA) beginning on the date of enactment of this clause; and

"(BB) ending on the date that is 121 days after the date on which the regulation is implemented; and

"(bb) an error resulting from—

"(AA) the use by a State agency of correctly processed information concerning households or individuals received under a Federal program; or

"(BB) an action that is based on policy information that is approved or disseminated, in writing, by the Secretary or a designee of the Secretary.

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

"(C) INFORMATION REPORTING BY STATES.—

"(i) IN GENERAL.—For each fiscal year, each State agency shall expeditiously submit to the Secretary data concerning the operations of the State agency sufficient for the Secretary to establish the negative error rate and penalty amount of the State agency.

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

"(iii) INFORMATION NOT REPORTED.—If a State agency fails to report information required by the Secretary, the Secretary may use any information, as the Secretary considers appropriate, to establish the negative error rate of the State agency for the applicable year.

"(iv) NATIONAL AVERAGE ERROR RATE.—If a State agency fails to report information required by the Secretary, the Secretary may use the national average negative error rate to establish the negative error rate for the State agency.

"(D) ANNOUNCEMENT OF ERROR RATES.—

"(i) CASE REVIEW.—Not later than May 31 of each fiscal year, the case review and all arbitration of State-Federal differences on negative error rates for the previous fiscal year shall be completed.

"(ii) DETERMINATION AND ANNOUNCEMENT.—Not later than June 30 of each fiscal year, the Secretary shall, for the previous fiscal year—

"(I) determine—

"(aa) final negative error rates;

"(bb) the national average negative error rate; and

"(cc) penalty amounts;

"(II) notify affected State agencies of the penalty amounts;

"(III) provide a copy of the notification under subclause (II) to the chief executive officer and the legislature of the affected State; and

"(IV) establish a claim against the State agency for the monetary penalty amount assessed against the State agency.

"(E) REVIEW.—

"(i) IN GENERAL.—For any fiscal year, if the Secretary imposes a penalty amount against a State agency under subparagraph (D)(ii), the following determinations of the Secretary shall be subject to administrative and judicial review:

"(I) The final negative error rate of the State agency.

"(II) A determination of the Secretary that the negative error rate of the State agency exceeds 50 percent of the national average negative error rate.

"(III) The monetary penalty amount assessed against the State agency.

"(ii) DETERMINATION NOT REVIEWABLE.—The national average negative error rate under this paragraph shall not be subject to administrative or judicial review.

"(F) PAYMENT OF PENALTY AMOUNT.—

"(i) IN GENERAL.—On completion of administrative and judicial review under subparagraph (E), an affected State agency shall pay to the Secretary the penalty amount designated under subparagraph (D)(ii), subject to the findings of the administrative or judicial review, not later than September 30 of the fiscal year for which the claim has been issued to the State agency.

“(ii) ALTERNATIVE METHOD OF COLLECTION.—

“(I) IN GENERAL.—If a State agency fails to make a payment under clause (i) by September 30 of the fiscal year for which the claim has been issued to the State agency, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount of the monetary penalty established under subparagraph (D)(ii).

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

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

(a) IN GENERAL.—Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended by striking subsection (d).

(b) CONFORMING AMENDMENTS.—

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

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

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

(A) in subsection (a)—

(i) by striking ''subsection (k)'' and inserting ''subsection (i)''; and

(ii) by striking ''subsection (g)'' and inserting ''subsection (f)'';

(B) in subsection (c)—

(i) in paragraph (1)(B)(i), by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(ii) by striking ‘‘, or performance under the performance measures under subsection (d)’’ each place it appears in paragraphs (4) and (5);

(C) in subsection (i)(1), by striking ‘‘as defined in subsection (d)(1))’’ and inserting ‘‘as defined in guidance issued by the Secretary’’; and

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

(4) Section 22(d)(1)(B)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2031(d)(1)(B)(ii)) is amended—

(A) by striking ‘‘(g), (h)(2), and (h)(3)’’ and inserting ‘‘and (f)’’; and

(B) in the proviso, by striking ‘‘subsection (g) of section 16’’ and inserting ‘‘section 16(f)’’.

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

(A) in subparagraph (C), by striking ‘‘either section 16(a) or 16(g)’’ and inserting ‘‘subsection (a) or (f) of section 16’’; and

(B) in subparagraph (E), by striking ‘‘16(g)’’ and inserting ‘‘16(f)’’.

SEC. 9. NUTRITION EDUCATION AND OBESITY PREVENTION GRANT PROGRAM.

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

"(d) FUNDING.—

"(1) IN GENERAL.—Of funds made available each fiscal year under section 18(a)(1), the Secretary shall make available to each State agency to carry out the nutrition education and obesity prevention grant program under this section—

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

"(B) for fiscal year 2014 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, per household in the State enrolled in the supplemental nutrition assistance program.

"(2) TIMING OF DETERMINATION.—At the end of each fiscal year, the Secretary shall determine the total number of households in each State enrolled in the supplemental nutrition assistance program so as to determine appropriate funding levels for the coming fiscal year.''.

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