

103D CONGRESS  
1ST SESSION

# S. 1135

To amend the Food Stamp Act of 1977 to improve quality control, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 22, 1993

Mr. DASCHLE (for himself, Mr. KERREY, and Mr. HEFLIN) 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 Stamp Act of 1977 to improve quality control, 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.**

4       This Act may be cited as the “Food Stamp Quality  
5       Control System Act of 1993”.

6       **SEC. 2. FOOD STAMP QUALITY CONTROL SYSTEM.**

7       (a) COLLECTION AND DISPOSITION OF CLAIMS.—

8       The fifth sentence of section 13(a)(1) of the Food Stamp  
9       Act of 1977 (7 U.S.C. 2022(a)(1)) is amended by striking  
10      “(after a determination on any request for a waiver for

1 good cause related to the claim has been made by the  
2 Secretary)”).

3 (b) ADMINISTRATIVE AND JUDICIAL REVIEW.—Sec-  
4 tion 14(a) of such Act (7 U.S.C. 2023(a)) is amended—

5 (1) in the sixth sentence, by inserting after  
6 “pursuant to section 16(c)” the following: “(includ-  
7 ing determinations as to whether there is good cause  
8 for not imposing all or part of the penalty)”;

9 (2) by inserting after the sixth sentence the fol-  
10 lowing new sentence: “In deciding whether to uphold  
11 all or part of a penalty (including whether there is  
12 good cause for not imposing all or part of the pen-  
13 alty), the judges shall conduct a thorough review of  
14 the issues and take into account all relevant evi-  
15 dence.”;

16 (3) by inserting after the eighth sentence (after  
17 the amendment made by paragraph (2)) the follow-  
18 ing new sentence: “The deliberative process privilege  
19 shall not be the basis for the withholding of docu-  
20 ments by the Secretary or the State agency.”; and

21 (4) by striking the last sentence.

22 (c) ADMINISTRATIVE COST SHARING AND QUALITY  
23 CONTROL.—Subsection (c) of section 16 of such Act (7  
24 U.S.C. 2025(c)) is amended to read as follows:

25 “(c)(1) As used in this subsection:

1           “(A) The term ‘good cause’ shall include, but  
2 not be limited to—

3           “(i) uncontrollable, significant caseload  
4 fluctuations that substantially disrupt food  
5 stamp program administration;

6           “(ii) natural disasters that substantially  
7 disrupt food stamp program administration;

8           “(iii) Federal or State program changes  
9 that substantially disrupt food stamp program  
10 administration;

11           “(iv) strikes that substantially disrupt food  
12 stamp program administration;

13           “(v) uncontrollable client-caused errors;

14           “(vi) demographic factors, such as literacy,  
15 homelessness, unemployment, poverty, and the  
16 rural composition of the population, that con-  
17 tribute substantially to an excessive error rate  
18 and depart substantially from national averages  
19 for the factors;

20           “(vii) State program improvements reason-  
21 ably designed to reduce error rates in the longer  
22 term, but that uncontrollably cause short-term  
23 increases in the error rate; and

24           “(viii) other circumstances beyond the con-  
25 trol of a State agency.

1           “(B) The term ‘national average overpayment  
2 error rate’ means, in the case a fiscal year, the ratio  
3 of—

4                   “(i) the total value of allotments issued by  
5 all State agencies in the fiscal year that are—

6                           “(I) issued to households that fail to  
7 meet basic program eligibility require-  
8 ments; or

9                           “(II) overissued to eligible households;  
10 to

11                   “(ii) the total value of all allotments issued  
12 by all State agencies in the fiscal year.

13           “(C) The term ‘national average underpayment  
14 rate’ means, in the case of a fiscal year, the ratio  
15 of—

16                   “(i) the total value of all allotments  
17 underissued by all State agencies to recipient  
18 households in the fiscal year; to

19                   “(ii) the total value of all allotments issued  
20 by all State agencies in the fiscal year.

21           “(D)(i) The term ‘overpayment error rate’  
22 means—

23                   “(I) the percentage of the value of all allot-  
24 ments issued in a fiscal year by a State agency  
25 that are—

1           “(aa) issued to households that fail to  
2           meet basic program eligibility require-  
3           ments; or

4           “(bb) overissued to eligible house-  
5           holds,

6           “(II) reduced by the amount by which the  
7           national average underpayment error rate for  
8           the fiscal year exceeds the underpayment error  
9           rate of the State agency for the fiscal year.

10          “(ii) At the request of a State agency, the Sec-  
11          retary shall apply the reduction required under  
12          clause (i)(II) in determining the overpayment error  
13          rate of the State agency for either of the 2 following  
14          fiscal years instead of in determining the overpay-  
15          ment error rate of the State agency for the fiscal  
16          year to which the reduction would otherwise apply.

17          “(E) The term ‘payment error rate’ means the  
18          sum of the overpayment error rate and the  
19          underpayment error rate.

20          “(F) The term ‘underpayment error rate’  
21          means the ratio of the value of allotments  
22          underissued to recipient households to the total  
23          value of allotments issued in a fiscal year by a State  
24          agency.

1       “(2) The program authorized under this Act shall in-  
2 clude a system that enhances payment accuracy by estab-  
3 lishing fiscal incentives that require State agencies with  
4 high error rates to share in the cost of payment errors  
5 and provide enhanced administrative funding to State  
6 agencies with the lowest error rates.

7       “(3)(A) Under the system, subject to subparagraph  
8 (B), the Secretary shall adjust the federally funded share  
9 of a State agency of administrative costs pursuant to sub-  
10 section (a), other than the costs already shared in excess  
11 of 50 percent under the proviso in the first sentence of  
12 subsection (a) or under subsection (g), by increasing the  
13 share of all the administrative costs by 1 percentage point  
14 to a maximum of 60 percent of all the administrative costs  
15 for each full  $\frac{1}{10}$  of a percentage point by which the pay-  
16 ment error rate is less than 6 percent.

17       “(B) Only a State agency whose rate of invalid deci-  
18 sions in denying eligibility is less than a nationwide per-  
19 centage that the Secretary determines to be reasonable  
20 shall be entitled to the adjustment prescribed in subpara-  
21 graph (A).

22       “(4) The Secretary shall foster management improve-  
23 ments by State agencies pursuant to subsection (b) by re-  
24 quiring a State agency, other than a State agency that  
25 receives an adjustment under paragraph (3), to develop

1 and implement corrective action plans to reduce payment  
2 errors.

3 “(5) Subject to paragraph (6), if the overpayment  
4 error rate of a State agency for a fiscal year exceeds the  
5 national average overpayment error rate for the fiscal  
6 year, other than for good cause shown, the State agency  
7 shall pay to the Secretary a penalty for the fiscal year  
8 in an amount obtained by multiplying—

9 “(A) the value of all allotments issued by the  
10 State agency in the fiscal year; times

11 “(B) the lesser of—

12 “(I) the ratio of—

13 “(i) the amount by which the overpay-  
14 ment error rate of the State agency for the  
15 fiscal year exceeds the national average  
16 overpayment error rate for the fiscal year;  
17 to

18 “(ii) the national average overpay-  
19 ment error rate for the fiscal year; or

20 “(II) 1; times

21 “(C) the amount by which the overpayment  
22 error rate of the State agency for the fiscal year ex-  
23 ceeds the national average overpayment error rate  
24 for the fiscal year.

1       “(6) The amount determined under paragraph (5)  
2 shall be reduced by the product obtained by multiplying—

3           “(A) the ratio of—

4               “(i) the amount by which the overpayment  
5 error rate of the State agency for the fiscal year  
6 exceeds the national average overpayment error  
7 rate for the fiscal year; to

8               “(ii) the overpayment error rate of the  
9 State agency for the fiscal year; times

10          “(B) the overpayments recovered by the State  
11 agency in the fiscal year.

12       “(7) A State agency may pay a penalty established  
13 pursuant to paragraphs (5) and (6) in quarterly payments  
14 over a period not to exceed 30 months, in amounts suffi-  
15 cient to pay the penalty with interest by the end of the  
16 period. The amount of liability shall not be affected by  
17 corrective action taken under paragraph (4).

18       “(8) The following errors may be measured for man-  
19 agement purposes but shall not be included in the overpay-  
20 ment or underpayment error rate:

21           “(A) Any error resulting from the application of  
22 new regulations promulgated under this Act during  
23 the 120-day period beginning on the date of the im-  
24 plementation of the regulations.

1           “(B) Any error resulting from the use by a  
2           State agency of correctly processed information con-  
3           cerning a household or individual received from a  
4           Federal agency or from an action based on policy in-  
5           formation approved or disseminated, in writing, by  
6           the Secretary.

7           “(C) Any case found by a quality control review  
8           to have involved, but later found in a fair hearing  
9           not to have involved, an overpayment,  
10          underpayment, or payment to an ineligible recipient.

11          “(9)(A) Except as provided in subparagraph (B), in  
12          determining whether a payment is an erroneous payment,  
13          the Secretary and the State agency shall apply all relevant  
14          provisions of the State plan approved under section 11.

15          “(B)(i) Except as provided in clause (i), if a provision  
16          of a State plan approved under section 11 is inconsistent  
17          with a provision of Federal law or regulations, and the  
18          Secretary has notified the State agency of the inconsis-  
19          tency in writing, the provision of Federal law or regulations  
20          shall control.

21          “(ii) Clause (i) shall not apply with respect to a pay-  
22          ment of the State agency if—

23                  “(I) it is necessary for the State to enact a law  
24                  in order to remove an inconsistency described in  
25                  clause (i), the Secretary has advised the State agen-

1 cy that the State will be allowed a reasonable period  
2 during which to enact the law, and the payment was  
3 made during the period; or

4 “(II) the State agency made the payment in  
5 compliance with a court order.

6 “(10) If the Secretary, directly or indirectly, receives  
7 from a State agency all or part of the amount of a penalty  
8 imposed under paragraph (5) and all or part of the pen-  
9 alty is finally determined not to have been due, the Sec-  
10 retary shall promptly refund to the State agency the  
11 amount determined not to have been due, with interest  
12 which shall accrue from the date of receipt at the rate  
13 described in section 13(a)(1).

14 “(11)(A) For purposes of this subsection—

15 “(i) each State error rate shall be determined  
16 on the basis of a review of a single statistical sample  
17 of food stamp cases of each State agency for the fis-  
18 cal year (without sub-sampling, re-reviews, or statis-  
19 tical regression analyses); and

20 “(ii) national average error rates shall be de-  
21 rived from State error rates determined in accord-  
22 ance with clause (i).

23 “(B) The review shall be conducted—



1 program established under the Food Stamp Act of  
2 1977 (7 U.S.C. 2011 et seq.) shall jointly undertake  
3 a study of measurement error, and of geographical  
4 and temporal uniformity of measurements, in the  
5 food stamp program quality control error-rate esti-  
6 mation system.

7 (2) EXPERIMENTS.—As part of the study, the  
8 Secretary and the State agencies shall jointly con-  
9 duct controlled experiments under which various re-  
10 viewers review identical cases, with the objective of  
11 determining the degree of uniformity in quality con-  
12 trol error-rate measurements and the extent to  
13 which different levels of investment of resources in  
14 the review process affect measurement error.

15 (b) REPORT.—

16 (1) IN GENERAL.—Not later than 1 year after  
17 the date of enactment of this Act, the Secretary and  
18 State agencies shall report the results and rec-  
19 ommendations of the study to the Committee on Ag-  
20 riculture of the House of Representatives and the  
21 Committee on Agriculture, Nutrition, and Forestry  
22 of the Senate.

23 (2) RECOMMENDATIONS.—The report shall in-  
24 clude recommendations as to what measures would  
25 best reduce measurement error and increase uni-

1 formity of quality control error-rate measurements  
2 at a reasonable cost.

3 **SEC. 4. BUDGET NEUTRALITY REQUIREMENT.**

4 (a) IN GENERAL.—No provision of this Act or an  
5 amendment made by this Act shall become effective unless  
6 the cost of the provision or amendment is fully offset in  
7 each fiscal year through fiscal year 1995.

8 (b) PRICE SUPPORT PROGRAMS.—No agricultural  
9 price support, production adjustment, or income support  
10 program administered by the Secretary of Agriculture or  
11 the Commodity Credit Corporation may be reduced to  
12 achieve the offset.

13 **SEC. 5. EFFECTIVE DATES.**

14 (a) IN GENERAL.—Except as provided in subsection  
15 (b), this Act shall become effective on the date of enact-  
16 ment of this Act.

17 (b) FOOD STAMP QUALITY CONTROL SYSTEM.—The  
18 amendments made by section 2 shall be effective as of Oc-  
19 tober 1, 1991.

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