

United States Senate

WASHINGTON, DC 20510

March 28, 2019

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, DC 20250

Dear Secretary Perdue:

We write to raise serious concerns about the Administration's recent proposed rule "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults without Dependents" (84 FR 980). Despite the Department's intent that this rule would "improve employment outcomes and economic independence," the proposed changes would take food assistance away from Americans struggling to find stable employment while doing nothing to help them to actually become permanently employed. This is contrary to Congressional intent, evidenced by the passage of the Agriculture Improvement Act of 2018 (P.L. 115-334), which rejected similar harmful changes to SNAP and passed Congress by a historic vote of 87-13 in the Senate and by 369-47 in the House of Representatives.

SNAP already has strict time limits that restrict access to food assistance to three months out of every three years for most working-aged adults. Acknowledging the strictness of these policies and understanding the unique needs of our states and our constituents, Congress sought to mitigate the impact by providing states discretion to request waivers of the time limit and to utilize monthly exemptions based on local workforce circumstances. Every state in the country but Delaware has utilized waivers when local conditions warranted. While the use of time limit waivers peaked for many states during the great recession, the percentage of the population eligible for waivers of time limits has dropped to pre-recession levels, resulting in many SNAP recipients losing access to food assistance under current rules. There is no evidence, however, that the re-imposition of the time limit in these areas has resulted in these individuals achieving self-sufficiency through new employment opportunities.

Since the waiver process was formally adopted during the George W. Bush Administration, efforts to modify waiver criteria have always originated in—and been rejected by—Congress, instead of through executive action. Most recently, Congress considered and chose to reject attempts to limit flexibility for states to request waivers for time limits in SNAP during both the 2014 and 2018 Farm Bills. Instead, Congress has focused on improving employment and training activities through innovative pilots, workforce partnerships, and state-based employment and training initiatives that strengthen an individual's ability to secure stable, long-term employment. These efforts recognize that many individuals face substantial barriers to employment that an arbitrary time limit or unemployment floor do nothing to address.

Noting that some states and regions experience a normal or near-normal unemployment rate, the proposed rule assumes that an average unemployment rate means every person seeking a job will be able to find one, and that wages from such employment would sustain a family. However, rates of unemployment for individuals without a high school diploma or a GED and individuals in the service sector are often as much as double the average rates of unemployment in a community. For example, in 2018, while the unemployment rate for workers with a bachelor's degree or more was 2.1 percent, the unemployment rate for those with less than a high school education was 5.6 percent, and 10.4 percent for African-American workers with less than a high school education.¹ In addition, in some areas with insufficient jobs, a declining unemployment rate may not only imply that more Americans have gotten jobs, but also that some Americans may be leaving the labor force.

Many rural areas have had slow employment growth since the end of the great recession, and the gap between employment rates in rural and urban areas has widened. In some rural and frontier regions, unemployment remains in the double digits. The economic, transportation, geographic, and other challenges that contribute to high unemployment rates in some large regions of our country are unlikely to change. It is unlikely, for example, that significant employment opportunities will come to regions that have very small populations, are unconnected by roads, and experience high energy costs.

Due to persistent discrimination in hiring practices, certain protected classes are also likely to be disparately impacted by this proposal, a fact that the proposed rule acknowledged, but did not resolve. For example, field studies have consistently shown that white applicants receive more callbacks for job interviews than otherwise identical applications from African-American or Latino applicants.² Assuming generalized employment figures are representative of the ABAWD population targeted by this rule ignores the employment realities that many of these individuals face. Early analysis also indicates that the proposed rule would have a disparate negative impact on American Indian and Alaska Native populations living in rural areas of the nation.

The proposed rule also is based on a faulty assumption that individuals that are receiving SNAP are choosing not to work. In fact, most SNAP participants are working. Many individuals that would lose access to food assistance because of this rule are employed, but have inconsistent hours or work in seasonal industries such as fishing and construction. The proposed rule asserts that 74% of ABAWDs are not working. That statistic is misleading and does not correctly represent the work status of most SNAP recipients. Recent studies show that less than 2% of participants aged 18-49 are consistently working less than 20 hours a week, and less than 2% are always unemployed. Instead, the majority of these individuals fluctuated over a two-year period between working at least 20 hours a week in a given month, to falling short of a consistent 20 hours per work week.³ Even those individuals who successfully meet the work requirement may lose their food assistance if they fail to correctly document their hours or submit required

¹ <https://www.bls.gov/cps/cpsaat07.htm>

² Quillian, L., Pager, D., Hexel, O., & Midtboen, A. H. (2017, September). Meta-analysis of field experiments shows no change in racial discrimination in hiring over time. *Proceedings of the National Academy of Sciences of the United States of America*. <https://www.pnas.org/content/early/2017/09/11/1706255114>.

³ Bauer, L., Schanzenbach, D. W., & Shambaugh, J. (2018, October). Work Requirements and Safety Net Programs. *The Hamilton Project*. http://www.hamiltonproject.org/assets/files/WorkRequirements_EA_web_1010_2.pdf.

paperwork. Asserting individuals facing inconsistent or unstable work circumstances are not seeking self-sufficiency does a disservice to our shared goals of helping American families to find consistent, stable employment that allows them to feed their families.

The proposed rule also wrongly assumes that those who are not qualified for work available in their community, region, state, or elsewhere in the nation can easily obtain job training. In rural and frontier areas, job training is not available. In most cases, job training opportunities located in urban areas cannot absorb additional trainees. In addition, Congress has asked state and local Workforce Investment Boards to more closely align job training with actual job opportunities because it makes no sense to train someone for a job that does not exist.

We are also concerned about the impact these changes would have on state agencies. The proposed rule would require additional oversight of and paperwork from an expanded number of people not currently subject to work requirements. If finalized, states would be compelled to hire and train many additional caseworkers and in states with rural and remote regions, spend even more to provide on-the-ground oversight to ensure claimed work requirements were met.

Establishing an arbitrary unemployment floor would have a dramatic impact on participation. According to the proposed rule's estimates, establishing a 7% unemployment rate floor for waivers would affect 1.1 million SNAP participants, with nearly three-quarters of those participants, over 755,000 people, losing access to food assistance. This estimate is likely low as it is based on economic growth rates that are not feasible. This only clearly demonstrates that this proposed rule is not designed to help individuals gain stable employment. Instead, the outcome is simply more hunger.

In addition to being out of line with Congressional intent related to waivers, this rule also directly contradicts Congressional direction related to waiver submissions and carry-over exemptions included in the 2018 Farm Bill report. This report, written by Chairman Pat Roberts, Ranking Member Debbie Stabenow, Chairman Mike Conaway and Ranking Member Collin Peterson and approved by the 369 members of the House and 87 members of the Senate, explicitly directs the Department not to make the changes made in this rule. This unilateral Administrative action is in direct contradiction to the will of Congress.

The Agriculture Improvement Act of 2018 Conference Report (H. Rept. 115-1072) specifically states that it was the intent of Congress that states will "continue to accrue exemptions and retain carryover exemptions from previous years, consistent with current law." The proposed rule's elimination of unlimited carry-over exemptions blatantly disregards this direction from Congress.

Further, the Conference Report states that "The Managers intend to maintain the practice that bestows authority on the state agency responsible for administering SNAP to determine when and how waiver requests for ABAWDs are submitted.....It is not the Managers' intent that USDA undertake any new rulemaking in order to facilitate support for requests from State agencies, nor should the language result in any additional paperwork of administrative steps under the waiver process." Congress was clear that we do not wish to establish any new requirements regarding state agency waiver submissions.

Congress recognizes that one-size-fits-all rules for SNAP and employment practices actually end up fitting no one. While this Administration has promoted local control in many other sectors of federal policy, this proposed rule removes critical local input and flexibility.

This proposal ignores the intent of Congress, would worsen hunger in this country, and would do nothing to help increase stable, long-term employment or move individuals to self-sufficiency. We urge you to immediately withdraw this proposed rule.

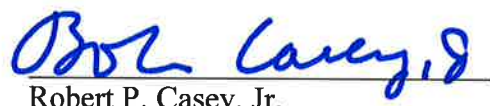
Sincerely,



Debbie Stabenow
U.S. Senator



Lisa Murkowski
U.S. Senator



Robert P. Casey, Jr.
U.S. Senator



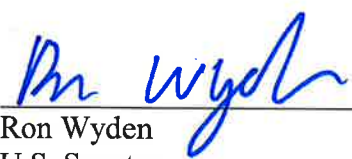
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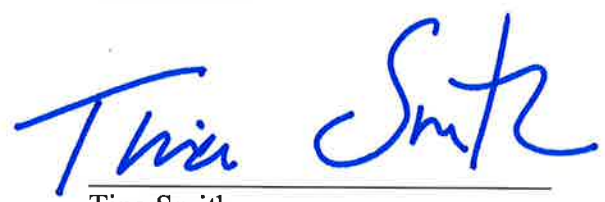
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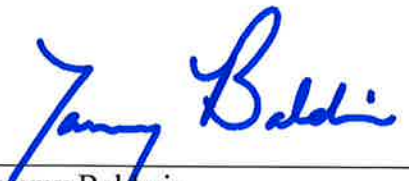
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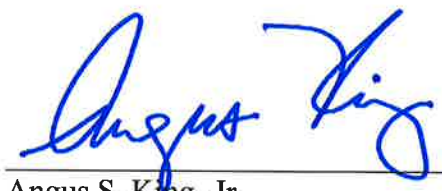
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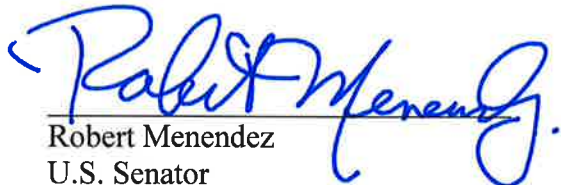

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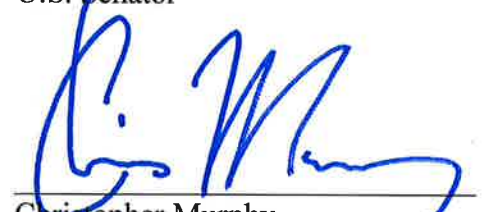

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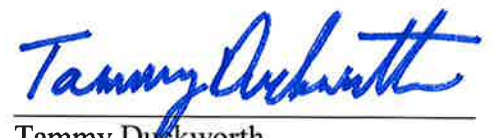

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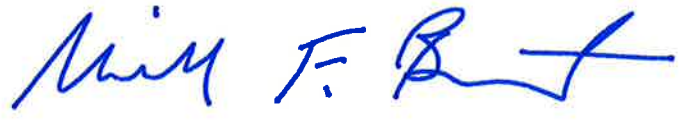

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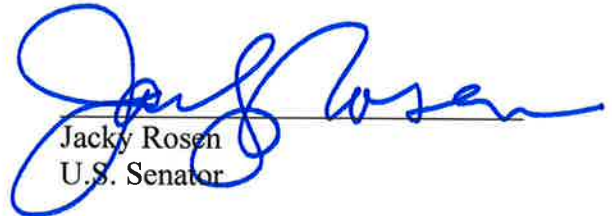

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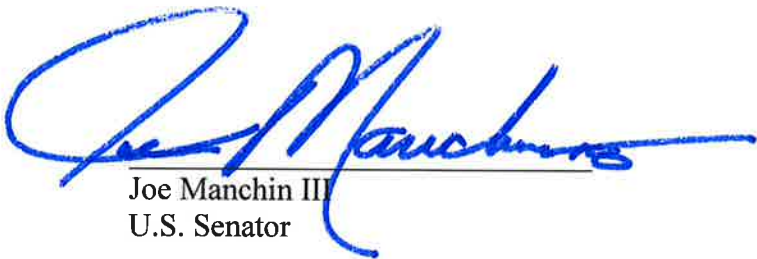

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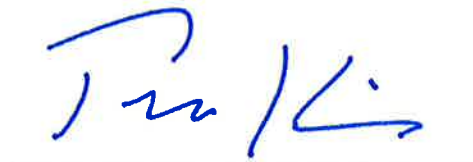

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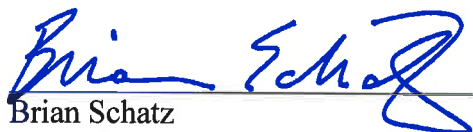

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