

118TH CONGRESS
2D SESSION

S. _____

To amend the Food and Nutrition Act of 2008 to require the promulgation of cybersecurity and digital service regulations relating to the use of EBT cards under the supplemental nutrition assistance program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN (for himself, Mr. FETTERMAN, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Food and Nutrition Act of 2008 to require the promulgation of cybersecurity and digital service regulations relating to the use of EBT cards under the supplemental nutrition assistance program, 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 “Enhanced Cybersecu-
5 rity for SNAP Act of 2024”.

1 **SEC. 2. ENHANCED CYBERSECURITY FOR EBT CARDS.**

2 Section 7(h) of the Food and Nutrition Act of 2008
3 (7 U.S.C. 2016(h)) is amended by adding at the end the
4 following:

5 “(15) CYBERSECURITY OF EBT CARDS.—

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

7 “(i) CHIP-ENABLED.—

8 “(I) IN GENERAL.—The term
9 ‘chip-enabled’, with respect to a pay-
10 ment card, means a payment card
11 that uses industry standard secure
12 payment technology, as identified by
13 the Administrator of the Food and
14 Nutrition Service in consultation with
15 the Secretary of the Treasury and the
16 Director of the National Institute of
17 Standards and Technology, that—

18 “(aa) provides for secure
19 card-based payment; and

20 “(bb) is resistant to cloning.

21 “(II) EMV CHIP.—The Adminis-
22 trator of the Food and Nutrition
23 Service, in consultation with the Sec-
24 retary of the Treasury and the Direc-
25 tor of the National Institute of Stand-
26 ards and Technology, shall consider

1 whether the secure payment tech-
2 nology described in subclause (I)
3 should meet the standards published
4 by EMVCo for contact and contactless
5 payments.

6 “(ii) MOBILE FRIENDLY.—The term
7 ‘mobile friendly’ has the meaning given the
8 term in section 3559(b) of title 44, United
9 States Code.

10 “(iii) NIST PIN AND PASSWORD
11 STANDARDS.—The term ‘NIST PIN and
12 password standards’ means the PIN and
13 password standards described in Special
14 Publication 800-63B entitled ‘Digital Iden-
15 tity Guidelines’ (or a successor document)
16 of the National Institute of Standards and
17 Technology.

18 “(iv) PIN.—The term ‘PIN’ has the
19 meaning given the term ‘personal identi-
20 fication number (PIN)’ in section 271.2 of
21 title 7, Code of Federal Regulations (or
22 successor regulations).

23 “(B) REGULATIONS.—

24 “(i) IN GENERAL.—Not later than 2
25 years after the date of enactment of this

1 paragraph, the Secretary shall promulgate,
2 and every 5 years thereafter, the Secretary
3 shall review and update as necessary, cy-
4 bersecurity and digital service regulations
5 relating to EBT cards and mobile pay-
6 ments under the supplemental nutrition as-
7 sistance program, including, at a min-
8 imum, to ensure that cybersecurity meas-
9 ures for EBT cards and mobile payments
10 keep pace with security safeguards used by
11 the private sector and required by Federal
12 agencies for credit, debit, and other pay-
13 ment cards and mobile payments.

14 “(ii) REQUIREMENTS.—The Secretary
15 shall ensure that the cybersecurity and dig-
16 ital service regulations described in clause
17 (i) require the following:

18 “(I)(aa) Each State shall operate
19 the user interfaces listed on the list of
20 required user interfaces maintained by
21 the Secretary under item (dd)(AA), in
22 accordance with this subclause, 1 or
23 more user interfaces of which house-
24 holds in the State may, at the election
25 of the applicable household, use to

1 manage the EBT account of the ap-
2 plicable household.

3 “(bb)(AA) A State may operate
4 other user interfaces under item (aa)
5 in addition to the required user inter-
6 faces on the list maintained by the
7 Secretary under item (dd)(AA).

8 “(BB) Any web-based online por-
9 tal operated by a State as a user
10 interface shall be mobile friendly.

11 “(cc) Each user interface offered
12 by a State under items (aa) and (bb),
13 as applicable, shall—

14 “(AA) provide information
15 in each language in which the
16 State agency is required to make
17 material available pursuant to
18 section 272.4(b) of title 7, Code
19 of Federal Regulations (or suc-
20 cessor regulations);

21 “(BB) be available to house-
22 holds at least 99 percent of the
23 time; and

24 “(CC) include any other fea-
25 tures required by the Secretary.

1 “(dd)(AA) The Secretary shall
2 maintain a list of required user inter-
3 faces for purposes of item (aa), which
4 may include a web-based online portal
5 and a mobile application.

6 “(BB) The list under subitem
7 (AA) shall include an application pro-
8 gramming interface through which at
9 least 1 user interface offered by a
10 State under item (aa) allows house-
11 holds to delegate access to some or all
12 account features identified by the Sec-
13 retary to third-party provided soft-
14 ware. No fee shall be charged to any
15 party for the use of that application
16 programming interface.

17 “(CC) During the 10-year period
18 following the date on which the regu-
19 lations promulgated pursuant to
20 clause (i) become final, unless the
21 Secretary extends that period, the
22 Secretary shall maintain on the list
23 under subitem (AA) the following user
24 interfaces: text message, voice tele-
25 phone service, and a nondigital user

1 interface that does not require the use
2 of a phone or computer by the house-
3 hold.

4 “(II)(aa) Each State shall pro-
5 vide households on an opt-in basis—

6 “(AA) through each
7 digital user interface offered
8 under subclause (I), timely
9 electronic notice of trans-
10 actions using the EBT ac-
11 count of the household; and

12 “(BB) through each
13 user interface offered under
14 subclause (I), access to, in-
15 cluding the ability to search,
16 historical transactions for
17 not less than the preceding
18 12 months.

19 “(bb) Transaction information
20 under subitems (AA) and (BB) of
21 item (aa) shall include the amount of
22 the transaction, the merchant for the
23 transaction, the city and State of the
24 merchant for an in-person trans-
25 action, and the delivery address or

1 collection address for an online trans-
2 action.

3 “(cc) Each State shall offer
4 households the ability, through each
5 user interface offered under subclause
6 (I), to report a fraudulent transaction
7 to the State.

8 “(dd) A State shall not require a
9 household to respond to or acknowl-
10 edge a notice of transaction delivered
11 pursuant to item (aa)(AA).

12 “(ee) A State shall notify a
13 household that has received reim-
14 bursement for EBT card fraud pursu-
15 ant to section 501(b)(2) of division
16 HH of the Consolidated Appropria-
17 tions Act, 2023 (7 U.S.C.
18 2016a(b)(2)), of the ability of the
19 household to opt in to restricting the
20 use of the EBT card as described in
21 subclause (III) and of the remaining
22 funds that may be reimbursed if the
23 household experiences fraud again.

24 “(III) Each State shall provide
25 households issued an EBT card the

1 ability, through each user interface of-
2 fered under subclause (I)—

3 “(aa) to make the use of
4 that EBT card for online trans-
5 actions workable only through
6 virtual card numbers or other
7 tokenization technology, such as
8 through a mobile payment serv-
9 ice, which shall require a dif-
10 ferent virtual card number for
11 each individual online merchant;

12 “(bb) to freeze and unfreeze
13 the EBT account of the house-
14 hold for transactions in which the
15 card number printed on the EBT
16 card is manually entered, either
17 for an in-person transaction or
18 an online transaction; and

19 “(cc) to check the enroll-
20 ment status of the household, in-
21 cluding the date on which the
22 household is required to apply for
23 recertification.

24 “(IV) The requirements de-
25 scribed in items (aa) and (bb) of sub-

1 clause (III) shall terminate 5 years
2 after the date on which the regulation
3 promulgated pursuant to that sub-
4 clause becomes final, unless the Sec-
5 retary extends that period.

6 “(V) A State may opt to make
7 ineffective the use of the card number
8 printed on the EBT card to complete
9 an online transaction, and require on-
10 line transactions to occur only in ac-
11 cordance with subclause (III)(aa).

12 “(VI) Not later than 2 years
13 after the date on which the regula-
14 tions promulgated pursuant to clause
15 (i) become final, States shall begin
16 issuing chip-enabled EBT cards.

17 “(VII) Not later than 4 years
18 after the date on which the regula-
19 tions promulgated pursuant to clause
20 (i) become final, States may not issue
21 new EBT cards with magnetic stripes.

22 “(VIII) Not later than 5 years
23 after the date on which the regula-
24 tions promulgated pursuant to clause
25 (i) become final, States shall be re-

1 required to reissue any existing valid
2 EBT cards with magnetic stripes as
3 chip-enabled EBT cards without mag-
4 netic stripes.

5 “(IX) In the case of a chip-en-
6 abled EBT card reissued pursuant to
7 any of subclauses (VI) through (VIII),
8 absent suspicion of fraud, as applica-
9 ble, a State shall—

10 “(aa) reissue a new chip-en-
11 abled EBT card; and

12 “(bb) deactivate the current
13 chip-enabled EBT card on the
14 date that is the earlier of—

15 “(AA) the date on
16 which the new chip-enabled
17 EBT card is activated; and

18 “(BB) 30 days after
19 the date on which the new
20 chip-enabled EBT card is
21 sent to the household.

22 “(iii) SUNSET FOR REQUIREMENT TO
23 USE CHIP TECHNOLOGY.—Under the cy-
24 bersecurity regulations described in clause
25 (i), all EBT cards issued during the 5-year

1 period following the deadline for carrying
2 out clause (ii)(VIII) shall be chip-enabled,
3 unless the Secretary extends that period.

4 “(C) REIMBURSEMENTS.—Each State up-
5 grading EBT cards to comply with the regula-
6 tions promulgated under subparagraph (B)(i)
7 shall receive reimbursement from the Secretary
8 in an amount determined by the Secretary to
9 cover all reasonable costs incurred by the State,
10 including—

11 “(i) the 1-time up-front costs paid by
12 the State to card vendors;

13 “(ii) the additional annual fees associ-
14 ated with chip-enabled cards paid by
15 States to card vendors; and

16 “(iii) postage or other delivery-related
17 costs.

18 “(D) PROHIBITION ON PASSWORD AND
19 PIN REQUIREMENTS INCONSISTENT WITH FED-
20 ERAL CYBERSECURITY STANDARDS.—Beginning
21 60 days after the date of enactment of this
22 paragraph, a State agency may not require,
23 with respect to a PIN for use of an EBT card
24 or a password for access to an online account

1 or mobile application managing the EBT
2 card—

3 “(i) that the PIN or password be peri-
4 odically changed in circumstances that are
5 prohibited by the NIST PIN and password
6 standards; or

7 “(ii) that the password meet com-
8 plexity requirements that are prohibited by
9 the NIST PIN and password standards.

10 “(E) GRANT PROGRAM FOR CHIP-ENABLED
11 EBT CARDS.—

12 “(i) DEFINITIONS.—In this subpara-
13 graph:

14 “(I) ADMINISTERING ENTITY.—
15 The term ‘administering entity’ means
16 an entity awarded a grant under
17 clause (ii) to provide subgrants to eli-
18 gible entities.

19 “(II) ELIGIBLE ENTITY.—The
20 term ‘eligible entity’ means—

21 “(aa) an entity described in
22 paragraph (1) or (3) of section
23 3(o) that—

24 “(AA) is authorized to
25 participate in the supple-

1 mental nutrition assistance
2 program under section 9;

3 “(BB) does not have
4 payment terminals that ac-
5 cept chip-enabled EBT
6 cards; and

7 “(CC) is located in an
8 area with limited grocery ac-
9 cess, as determined by the
10 Secretary; and

11 “(bb) an entity described in
12 paragraph (2), (4), or (5) of sec-
13 tion 3(o) that meets the require-
14 ments described in subitems
15 (AA) and (BB) of item (aa).

16 “(ii) GRANTS.—The Secretary shall
17 establish a grant program to award a
18 grant to an administering entity to provide
19 subgrants to eligible entities to upgrade to
20 chip-compatible payment terminals that
21 support contact and contactless payment
22 card technology.

23 “(F) DATA COLLECTION.—The Secretary
24 shall—

1 “(i) collect, and publish on the website
2 of the Department of Agriculture, data
3 on—

4 “(I) the length of time each user
5 interface offered by each State pursu-
6 ant to subparagraph (B)(ii)(I) was
7 unavailable for use, including due to
8 technical problems or maintenance
9 needs; and

10 “(II) cybersecurity measures
11 adopted for EBT cards in each State;
12 and

13 “(ii) maintain and annually update
14 the data collected under clause (i) to sup-
15 port States in implementing any regula-
16 tions promulgated pursuant to subpara-
17 graph (B)(i).

18 “(G) PUBLIC REPORT.—

19 “(i) IN GENERAL.—Not later than 1
20 year after the date of enactment of this
21 paragraph, and every 2 years thereafter,
22 the Secretary shall submit to the Commit-
23 tees on Appropriations and Agriculture,
24 Nutrition, and Forestry of the Senate and
25 the Committees on Appropriations and Ag-

1 riculture of the House of Representatives,
2 and make publicly available on the website
3 of the Department of Agriculture, a report
4 that—

5 “(I) identifies trends relating to
6 the theft of benefits, including the fre-
7 quency of theft of benefits and the lo-
8 cation of those thefts;

9 “(II) evaluates the effectiveness
10 of existing cybersecurity regulations
11 for the supplemental nutrition assist-
12 ance program, including identifying
13 ineffective measures and the compli-
14 ance burden borne by individual ben-
15 efit recipients;

16 “(III) describes the efforts of
17 States—

18 “(aa) to update cybersecu-
19 rity measures for EBT cards;
20 and

21 “(bb) to reimburse stolen
22 benefits; and

23 “(IV) examines usability issues of
24 EBT cards, including issues that
25 present barriers to households using

1 benefits or affect fraud prevention
2 goals.

3 “(ii) RESTRICTED ANNEX.—The re-
4 port under clause (i) may include a non-
5 publicly available annex containing classi-
6 fied or law enforcement-sensitive informa-
7 tion.”.

8 **SEC. 3. ENSURING NO LOSS OF ACCESS TO BENEFITS DUE**
9 **TO EBT CARD DAMAGE, LOSS, OR FRAUD.**

10 Section 7(h)(7) of the Food and Nutrition Act of
11 2008 (7 U.S.C. 2016(h)(7)) is amended—

12 (1) by striking “Regulations” and inserting the
13 following:

14 “(A) IN GENERAL.—Regulations”; and

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

16 “(B) ENSURING NO LOSS OF ACCESS TO
17 BENEFITS DUE TO EBT CARD DAMAGE, LOSS,
18 OR FRAUD.—Not later than 180 days after the
19 date of enactment of the Enhanced Cybersecu-
20 rity for SNAP Act of 2024, the Secretary shall
21 promulgate regulations requiring the following:

22 “(i) If an EBT card is damaged, no
23 longer functions properly, is stolen, or is
24 frozen due to fraud, the applicable State
25 shall take the necessary steps to ensure

1 that the household receives a replacement
2 card, either by mail or in person, as se-
3 lected by the household, not later than 3
4 business days after the household submits
5 to the State a request for a replacement
6 EBT card.

7 “(ii) A State shall not require, but
8 shall offer as an option, in-person collec-
9 tion of a new or replacement EBT card.”.

10 **SEC. 4. NO REPLACEMENT FEES FOR CERTAIN EBT CARDS.**

11 Section 7(h)(8)(A) of the Food and Nutrition Act of
12 2008 (7 U.S.C. 2016(h)(8)(A)) is amended—

13 (1) by striking “A State agency” and inserting
14 the following:

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), a State agency”; and

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

18 “(ii) EXCEPTIONS.—Beginning 60
19 days after the date of enactment of the
20 Enhanced Cybersecurity for SNAP Act of
21 2024, a State agency may not collect a
22 charge under clause (i) if the replacement
23 of the EBT card is due to—

24 “(I) the EBT card malfunc-
25 tioning;

1 “(II) suspected or reported fraud
2 relating to that EBT card by an indi-
3 vidual outside of the household to
4 which the EBT card belongs;

5 “(III) the expiration of the EBT
6 card; or

7 “(IV) required replacement of the
8 EBT card in compliance with regula-
9 tions promulgated pursuant to para-
10 graph (15)(B).”.

11 **SEC. 5. REQUIREMENT FOR RETAILER USE OF CHIP-EN-**
12 **ABLED PAYMENT TERMINALS AS A CONDI-**
13 **TION OF SNAP PARTICIPATION.**

14 Section 9(a) of the Food and Nutrition Act of 2008
15 (7 U.S.C. 2018(a)) is amended—

16 (1) in paragraph (2)—

17 (A) by striking “(2) The Secretary” and
18 inserting the following:

19 “(2) REGULATIONS.—The Secretary”; and

20 (B) by indenting the margins of subpara-
21 graphs (A) and (B) appropriately;

22 (2) by indenting the margin of paragraph (3)
23 appropriately; and

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

1 “(5) CHIP-ENABLED PAYMENT TERMINALS.—
2 Beginning not later than 180 days after the date on
3 which the regulations promulgated pursuant to sec-
4 tion 7(h)(15)(B)(i) become final, the Secretary shall
5 require retail food stores and wholesale food con-
6 cerns seeking authorization or reauthorization to ac-
7 cept and redeem benefits under the supplemental
8 nutrition assistance program to have a chip-enabled
9 (as defined in section 7(h)(15)(A)) payment terminal
10 at each retail location of the retail food store or
11 wholesale food concern.”.

12 **SEC. 6. REPORT.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary of Agriculture
15 shall submit to the Committees on Appropriations and Ag-
16 riculture, Nutrition, and Forestry of the Senate and the
17 Committees on Appropriations and Agriculture of the
18 House of Representatives, and make publicly available on
19 the website of the Department of Agriculture, a report on
20 the security of EBT cards (as defined in section 3 of the
21 Food and Nutrition Act of 2008 (7 U.S.C. 2012)) issued
22 in the Commonwealth of Puerto Rico, including—

23 (1) the resistance of those EBT cards to
24 cloning; and

1 (2) if appropriate, recommendations for improv-
2 ing the security of the electronic benefit transfer sys-
3 tem against EBT card cloning-based fraud.

4 (b) RESTRICTED ANNEX.—The report under sub-
5 section (a) may include a nonpublicly available annex con-
6 taining classified or law enforcement-sensitive informa-
7 tion.

8 **SEC. 7. CONFORMING AMENDMENTS.**

9 Section 501 of division HH of the Consolidated Ap-
10 propriations Act, 2023 (7 U.S.C. 2016a), is amended—

11 (1) in subsection (a)—

12 (A) by striking paragraphs (1) and (2);

13 (B) by redesignating paragraphs (3)
14 through (5) as paragraphs (1) through (3), re-
15 spectively; and

16 (C) in paragraph (3) (as so redesign-
17 ated)—

18 (i) in subparagraph (B), by adding
19 “and” at the end;

20 (ii) by striking subparagraph (C); and

21 (iii) by redesignating subparagraph

22 (D) as subparagraph (C); and

23 (2) in subsection (b)—

24 (A) in paragraph (1)—

- 1 (i) in subparagraph (A)(vi), by strik-
2 ing “measures” and all that follows
3 through “(a)(1)” and inserting “meas-
4 ures”;
- 5 (ii) in subparagraph (B), by adding
6 “and” at the end;
- 7 (iii) in subparagraph (C), by striking
8 “and” at the end; and
- 9 (iv) by striking subparagraph (D);
10 and
- 11 (B) in paragraph (3), by striking “sub-
12 section (a)(3)” and inserting “subsection
13 (a)(1)”.