

13                   **TITLE IV—NUTRITION**

14   **SEC. 501. EBT BENEFIT FRAUD PREVENTION.**

15       (a)   GUIDANCE;   RULEMAKING.—The   Secretary  
16 shall—

17               (1) issue guidance to State agencies, on an on-  
18 going basis, as informed by the process outlined in  
19 paragraph (4), that describes security measures  
20 that—

21                       (A) are effective, as determined by the Sec-  
22 retary, in detecting and preventing theft of ben-  
23 efits, including through card skimming, card  
24 cloning, and other similar fraudulent methods;

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1 (B) are consistent with industry standards  
2 for detecting, identifying, and preventing debit  
3 and credit card skimming, card cloning, and  
4 other similar fraudulent methods; and

5 (C) consider the feasibility of cost, avail-  
6 ability, and implementation for States;

7 (2) promulgate regulations through notice-and-  
8 comment rulemaking to require State agencies to  
9 take the security measures described in the guidance  
10 issued under paragraph (1);

11 (3) not later than December 1, 2023, promul-  
12 gate regulations (including an interim final rule) to  
13 require State agencies to implement procedures for  
14 the replacement of benefits consistent with sub-  
15 section (b);

16 (4) coordinate with the Administrator of the  
17 Administration for Children and Families of the De-  
18 partment of Health and Human Services, the Attor-  
19 ney General of the United States, State agencies, re-  
20 tail food stores, and EBT contractors—

21 (A) to determine—

22 (i) how benefits are being stolen  
23 through card skimming, card cloning, and  
24 other similar fraudulent methods;

1 (ii) how those stolen benefits are used;

2 and

3 (iii) to the maximum extent prac-  
4 ticable, the locations where card skimming,  
5 card cloning, and other similar fraudulent  
6 methods are taking place;

7 (B) to establish measures, including equip-  
8 ment enhancements for retail food stores, to  
9 prevent benefits from being stolen through card  
10 skimming, card cloning, and other similar  
11 fraudulent methods; and

12 (C) to establish standard reporting meth-  
13 ods for States to collect and share data with the  
14 Secretary on the scope of benefits being stolen  
15 through card skimming, card cloning, and other  
16 similar fraudulent methods; and

17 (5) not later than October 1, 2024, submit to  
18 the Committee on Agriculture, Nutrition, and For-  
19 estry of the Senate and the Committee on Agri-  
20 culture of the House of Representatives a report  
21 that includes—

22 (A) to the maximum extent practicable, in-  
23 formation on the frequency of theft of benefits  
24 and the location of those thefts, including bene-

1 fits stolen through card skimming, card cloning,  
2 and other similar fraudulent methods;

3 (B) a description of the determinations  
4 made under paragraph (4)(A), the measures es-  
5 tablished under paragraph (4)(B), and methods  
6 established in paragraph (4)(C);

7 (C) a description of the industry standards  
8 described in paragraph (1)(B); and

9 (D) recommendations on how to consist-  
10 ently detect, track, report, and prevent theft of  
11 benefits, including benefits stolen through card  
12 skimming, card cloning, and other similar  
13 fraudulent methods.

14 (b) REPLACEMENT OF BENEFITS.—The Secretary  
15 shall use funds appropriated under section 18 of the Food  
16 and Nutrition Act of 2008 (7 U.S.C. 2027) to require  
17 States to replace benefits that are determined by the State  
18 agency to have been stolen through card skimming, card  
19 cloning, or similar fraudulent methods, subject to the con-  
20 ditions that—

21 (1) the State agency shall submit to the Sec-  
22 retary not later than 60 days after the date of the  
23 enactment of this Act for prior approval a plan for  
24 the replacement of stolen benefits that—

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1 (A) includes appropriate procedures, as de-  
2 termined by the Secretary, for the timely sub-  
3 mission of claims to, timely validation of claims  
4 by, and replacement issuance by the State  
5 agency that includes—

6 (i) a signed statement by the affected  
7 household on the benefit theft, consistent  
8 with the signature requirements and op-  
9 tions provided by section 11(e)(2)(C) of  
10 the Food and Nutrition Act of 2008, as  
11 amended (7 U.S.C. 2020(e)(2)(C));

12 (ii) criteria to determine if a sub-  
13 mitted claim is valid;

14 (iii) procedures for the documentation  
15 of replacement issuances, including the  
16 submitted claims and findings from the  
17 validation;

18 (iv) the submission of data reports on  
19 benefit theft and replacement activity to  
20 the Secretary;

21 (v) procedures to inform households of  
22 their right to a fair hearing, consistent  
23 with those already established by section  
24 11(e) of the Food and Nutrition Act of  
25 2008 (7 U.S.C. 2020(e)) and cor-

1           responding regulations concerning replace-  
2           ment issuances; and

3                   (vi) the State agency's use and  
4           planned use of benefit theft prevention  
5           measures, including any additional guid-  
6           ance that may be issued under subsection  
7           (a)(1);

8                   (B) includes appropriate procedures, as de-  
9           termined by the Secretary, for reporting the  
10          scope and frequency of card skimming affecting  
11          households within the State to the Secretary;

12                   (C) upon approval shall be incorporated  
13          into the State plan of operation required under  
14          section 11(e) of the Food and Nutrition Act of  
15          2008 (7 U.S.C. 2020(e)); and

16                   (D) the Secretary may approve after the  
17          date on which guidance is issued under sub-  
18          section (a)(1);

19          (2) the replacement of stolen benefits for a  
20          household—

21                   (A) shall not exceed the lesser of—

22                           (i) the amount of benefits stolen from  
23                   the household; or

24                           (ii) the amount equal to 2 months of  
25                   the monthly allotment of the household im-

1           mediately prior to the date on which the  
2           benefits were stolen;

3           (B) shall not occur more than 2 times per  
4           Federal fiscal year per household by a single  
5           State agency; and

6           (C) shall only apply to benefits stolen dur-  
7           ing the period beginning on October 1, 2022,  
8           and ending on September 30, 2024;

9           (3) plans approved under paragraph (1) will re-  
10          main in effect until the effective date of the rule pro-  
11          mulgated pursuant to subsection (a)(3); and

12          (4) replacements of benefits under this section  
13          shall not be regarded as losses for the purpose of  
14          section 7(e) of the Food and Nutrition Act of 2008  
15          (7 U.S.C. 2016(e)) to the extent such replacements  
16          are made in accordance with an approved plan that  
17          complies with this subsection.

18          (c) DEFINITIONS.—In this section, the terms “allot-  
19          ment”, “benefit”, “household”, “retail food store”, and  
20          “State agency” have the meaning given those terms in sec-  
21          tion 3 of the Food and Nutrition Act of 2008 (7 U.S.C.  
22          2012).

23          (d) RESCISSION.—Of the unobligated balances made  
24          available for the Supplemental Nutrition Assistance Pro-  
25          gram as authorized by section 1101(b)(1) of the American

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- 1 Rescue Plan Act of 2021 (Public Law 117-2), \$8,000,000
- 2 is hereby rescinded.