

Union Calendar No. 21

118TH CONGRESS
1ST SESSION

H. R. 1163

[Report No. 118–34]

To provide incentives for States to recover fraudulently paid Federal and State unemployment compensation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2023

Mr. SMITH of Missouri (for himself, Mr. BUCHANAN, Mr. FERGUSON, Mr. STEUBE, Mr. WENSTRUP, Mr. FEENSTRA, Mr. MOORE of Utah, Mr. SMUCKER, Mrs. MILLER of West Virginia, Mr. ESTES, Ms. VAN DUYNE, Mrs. STEEL, Ms. TENNEY, Ms. MALLIOTAKIS, Mr. CAREY, Mr. KUSTOFF, Mr. KELLY of Pennsylvania, Mr. FITZPATRICK, Mr. MURPHY, Mr. SMITH of Nebraska, Mrs. FISCHBACH, Mr. LAHOOD, Mr. SCHWEIKERT, Mr. ARRINGTON, Mr. COMER, and Mr. HERN) introduced the following bill; which was referred to the Committee on Ways and Means

APRIL 6, 2023

Additional sponsors: Mr. SESSIONS, Mr. POSEY, Mr. SANTOS, Ms. GREENE of Georgia, Mr. DONALDS, Mr. HILL, Mr. JACKSON of Texas, Mr. YAKYM, Mr. ROGERS of Alabama, and Mr. MAST

APRIL 6, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 24, 2023]

A BILL

To provide incentives for States to recover fraudulently paid Federal and State unemployment compensation, 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 “Protecting Taxpayers*
 5 *and Victims of Unemployment Fraud Act”.*

6 **SEC. 2. RECOVERING FEDERAL FRAUDULENT COVID UNEM-**
 7 **PLOYMENT COMPENSATION PAYMENTS.**

8 *(a) ALLOWING STATES TO RETAIN PERCENTAGE OF*
 9 *OVERPAYMENTS FOR PROGRAM INTEGRITY.—*

10 *(1) PANDEMIC UNEMPLOYMENT ASSISTANCE.—*
 11 *Section 2102(d) of the CARES Act (15 U.S.C.*
 12 *9021(d)) is amended by amending paragraph (4) to*
 13 *read as follows:*

14 *“(4) FRAUD AND OVERPAYMENTS.—Section*
 15 *2107(e) shall apply with respect to pandemic unem-*
 16 *ployment assistance under this section by substituting*
 17 *‘pandemic unemployment assistance’ for ‘pandemic*
 18 *emergency unemployment compensation’ each place it*
 19 *appears in such section 2107(e).”.*

20 *(2) FEDERAL PANDEMIC UNEMPLOYMENT COM-*
 21 *PENSATION.—Section 2104(f)(3) of such Act (15*
 22 *U.S.C. 9023(f)(3)) is amended—*

23 *(A) in subparagraph (A)—*

24 *(i) by striking “3-year” and inserting*
 25 *“10-year”; and*

1 (ii) by inserting “, except that a State
2 may retain a percentage of any amounts re-
3 covered as described in subparagraph (C)”
4 before the period at the end; and

5 (B) by adding at the end the following:

6 “(C) *RETENTION OF PERCENTAGE OF RE-*
7 *COVERED FUNDS.—The State agency may retain*
8 *25 percent of any amount recovered from over-*
9 *payments of Federal Pandemic Unemployment*
10 *Compensation or Mixed Earner Unemployment*
11 *Compensation that were determined to be made*
12 *due to fraud. Amounts so retained by the State*
13 *agency shall be used for any of following:*

14 “(i) *Modernizing unemployment com-*
15 *pensation systems and information tech-*
16 *nology to improve identity verification and*
17 *validation of applicants.*

18 “(ii) *Reimbursement of administrative*
19 *costs incurred by the State to identify and*
20 *pursue recovery of fraudulent overpayments.*

21 “(iii) *Hiring fraud investigators and*
22 *prosecutors.*

23 “(iv) *Other program integrity activi-*
24 *ties as determined by the State.’;*

1 (3) *PANDEMIC EMERGENCY UNEMPLOYMENT*
2 *COMPENSATION.—Section 2107(e)(3) of such Act (15*
3 *U.S.C. 9025(e)(3)) is amended—*

4 *(A) in subparagraph (A)—*

5 *(i) by striking “3-year” and inserting*
6 *“10-year”; and*

7 *(ii) by inserting “, except that a State*
8 *may retain a percentage of any amounts re-*
9 *covered as described in subparagraph (C)”*
10 *before the period at the end; and*

11 *(B) by adding at the end the following:*

12 *“(C) RETENTION OF PERCENTAGE OF RE-*
13 *COVERED FUNDS.—The State agency may retain*
14 *25 percent of any amount recovered from over-*
15 *payments of pandemic emergency unemployment*
16 *compensation that were determined to be made*
17 *due to fraud. Amounts so retained by the State*
18 *agency shall be used for any of following:*

19 *“(i) Modernizing unemployment com-*
20 *pensation systems and information tech-*
21 *nology to improve identity verification and*
22 *validation of applicants.*

23 *“(ii) Reimbursement of administrative*
24 *costs incurred by the State to identify and*
25 *pursue recovery of fraudulent overpayments.*

1 “(iii) *Hiring fraud investigators and*
 2 *prosecutors.*

3 “(iv) *Other program integrity activi-*
 4 *ties as determined by the State.”.*

5 (4) *EXTENDED UNEMPLOYMENT COMPENSA-*
 6 *TION.—A State to which section 4105 of the Families*
 7 *First Coronavirus Response Act (26 U.S.C. 3304*
 8 *note) applied may retain 25 percent of any amount*
 9 *recovered from overpayments of sharable extended*
 10 *compensation and sharable regular compensation (as*
 11 *such terms are defined in section 204 of the Federal-*
 12 *State Extended Unemployment Compensation Act of*
 13 *1970) paid for weeks of unemployment described in*
 14 *such section 4105 that were determined to be made*
 15 *due to fraud. Amounts so retained by the State agen-*
 16 *cy shall be used for any of the purposes described in*
 17 *section 2107(e)(3)(C) of the CARES Act (15 U.S.C.*
 18 *9025(e)(3)(C)).*

19 (5) *FIRST WEEK OF REGULAR COMPENSATION.—*
 20 *A State that was a party to an agreement under sec-*
 21 *tion 4105 of the CARES Act (15 U.S.C. 9024) may*
 22 *retain 25 percent of any amount recovered from over-*
 23 *payments of regular compensation paid to individ-*
 24 *uals by the State for their first week of regular unem-*
 25 *ployment for which the State received full Federal*

1 *funding under such agreement in any case in which*
 2 *such overpayments were determined to be made due to*
 3 *fraud. Amounts so retained by the State agency shall*
 4 *be used for any of the purposes described in section*
 5 *2107(e)(3)(C) of the CARES Act (15 U.S.C.*
 6 *9025(e)(3)(C)).*

7 *(b) TREATMENT UNDER WITHDRAWAL STANDARD AND*
 8 *IMMEDIATE DEPOSIT REQUIREMENTS.—Any amount re-*
 9 *tained by a State pursuant to paragraph (4) or (5) of sub-*
 10 *section (a) or under section 2102(d)(4), section*
 11 *2104(f)(3)(C), or 2107(e)(3)(C) of the CARES Act, and used*
 12 *for the purposes described therein, shall not be considered*
 13 *to violate the withdrawal standard and immediate deposit*
 14 *requirements of paragraph (4) or (5) of section 303(a) of*
 15 *the Social Security Act (42 U.S.C. 503(a)) or paragraph*
 16 *(3) or (4) of section 3304(a) of the Internal Revenue Code*
 17 *of 1986.*

18 *(c) LIMITATION ON RETENTION AUTHORITY.—The au-*
 19 *thority of a State to retain any amount pursuant to para-*
 20 *graph (4) or (5) of subsection (a) and under section*
 21 *2102(d)(4), section 2104(f)(3)(C), and 2107(e)(3)(C) of the*
 22 *CARES Act shall apply only—*

23 *(1) with respect to an amount recovered on or*
 24 *after the date of enactment of this Act; and*

1 (2) *during the 10-year period beginning on the*
 2 *date on which such amount was received by an indi-*
 3 *vidual not entitled to such amount.*

4 **SEC. 3. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR**
 5 **PROGRAM ADMINISTRATION.**

6 (a) *WITHDRAWAL STANDARD IN THE INTERNAL REV-*
 7 *ENUE CODE.*—Section 3304(a)(4) of the Internal Revenue
 8 *Code of 1986 is amended—*

9 (1) *in subparagraph (F), by striking “and” after*
 10 *the semicolon; and*

11 (2) *by inserting after subparagraph (G) the fol-*
 12 *lowing new subparagraphs:*

13 “(H) *provided the certifications made by*
 14 *the State as described in section 4 of the Pro-*
 15 *tecting Taxpayers and Victims of Unemployment*
 16 *Fraud Act are in effect at the time of approval*
 17 *of the State law under this subsection, an*
 18 *amount, not to exceed 5 percent, of any overpay-*
 19 *ment of compensation recovered by the State*
 20 *(other than an overpayment made as the result*
 21 *of agency error) may, immediately following the*
 22 *State’s receipt of such recovered amount, be de-*
 23 *posited in a State fund from which money may*
 24 *be withdrawn for—*

1 “(i) the payment of costs of deterring,
2 detecting, and preventing improper pay-
3 ments;

4 “(ii) purposes relating to the proper
5 classification of employees and the provi-
6 sions of State law implementing section
7 303(k) of the Social Security Act;

8 “(iii) the payment to the Secretary of
9 the Treasury to the credit of the account of
10 the State in the Unemployment Trust Fund;

11 “(iv) modernizing the State’s unem-
12 ployment insurance technology infrastruc-
13 ture; or

14 “(v) otherwise assisting the State in
15 improving the timely and accurate admin-
16 istration of the State’s unemployment com-
17 pensation law; and

18 “(I) provided the certifications made by the
19 State as described in section 4 of the Protecting
20 Taxpayers and Victims of Unemployment Fraud
21 Act are in effect at the time of approval of the
22 State law under this subsection, an amount, not
23 to exceed 5 percent, of any payments of contribu-
24 tions, or payments in lieu of contributions, that
25 are collected as a result of an investigation and

1 *assessment by the State agency may, imme-*
 2 *diately following receipt of such payments, be de-*
 3 *posited in a State fund from which moneys may*
 4 *be withdrawn for the purposes specified in sub-*
 5 *paragraph (H);”.*

6 **(b) DEFINITION OF UNEMPLOYMENT FUND.**—Section
 7 3306(f) of the Internal Revenue Code of 1986 is amended
 8 by striking “and for refunds of sums” and all that follows
 9 and inserting “, except as otherwise provided in section
 10 3304(a)(4), section 303(a)(5) of the Social Security Act, or
 11 any other provision of Federal unemployment compensation
 12 law.”.

13 **(c) WITHDRAWAL STANDARD IN SOCIAL SECURITY**
 14 **ACT.**—Section 303(a)(5) of the Social Security Act (42
 15 U.S.C. 503(a)(5)) is amended by striking “and for refunds
 16 of sums” and all that follows and inserting “except as other-
 17 wise provided in this section, section 3304(a)(4) of the In-
 18 ternal Revenue Code of 1986, or any other provisions of
 19 Federal unemployment compensation law; and”.

20 **(d) IMMEDIATE DEPOSIT REQUIREMENTS IN THE IN-**
 21 **TERNAL REVENUE CODE.**—Section 3304(a)(3) of the Inter-
 22 nal Revenue Code of 1986 is amended to read as follows:
 23 “(3) all money received in the unemployment
 24 fund shall immediately upon such receipt be paid
 25 over to the Secretary of the Treasury to the credit of

1 *the Unemployment Trust Fund established by section*
 2 *904 of the Social Security Act (42 U.S.C. 1104), ex-*
 3 *cept for—*

4 *“(A) refunds of sums improperly paid into*
 5 *such fund;*

6 *“(B) refunds paid in accordance with the*
 7 *provisions of section 3305(b); and*

8 *“(C) amounts deposited in a State fund in*
 9 *accordance with subparagraph (H) or (I) of*
 10 *paragraph (4);”.*

11 *(e) IMMEDIATE DEPOSIT REQUIREMENT IN SOCIAL*
 12 *SECURITY ACT REQUIREMENT.—Section 303(a)(4) of the*
 13 *Social Security Act (42 U.S.C. 503(a)(4)) is amended by*
 14 *striking the parenthetical and inserting “(except as other-*
 15 *wise provided in this section, section 3304(a)(3) of the In-*
 16 *ternal Revenue Code of 1986, or any other provisions of*
 17 *Federal unemployment compensation law)”.*

18 *(f) APPLICATION TO FEDERAL PAYMENTS.—When ad-*
 19 *ministering any Federal program providing compensation*
 20 *(as defined in section 3306 of the Internal Revenue Code*
 21 *of 1986), the State shall use the authority provided under*
 22 *subparagraphs (H) and (I) of section 3304(a)(4) of such*
 23 *Code in the same manner as such authority is used with*
 24 *respect to improper payments made under the State unem-*
 25 *ployment compensation law. With respect to improper Fed-*

1 eral payments recovered consistent with the authority under
 2 subparagraphs (H) and (I) of such section, the State shall
 3 immediately deposit the same percentage of the recovered
 4 payments into the same State fund as provided in the State
 5 law implementing that section.

6 (g) *EFFECTIVE DATE.*—The amendments made by this
 7 section shall apply to overpayments or payments or con-
 8 tributions (or payments in lieu of contributions) that are
 9 collected as a result of an investigation and assessment by
 10 the State agency after the end of the 2-year period begin-
 11 ning on the date of the enactment of this Act, except that
 12 nothing in this section shall be interpreted to prevent a
 13 State from amending its law before the end of the 2-year
 14 period beginning on the date of the enactment of this Act.

15 **SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION**
 16 **FRAUD THROUGH DATA MATCHING.**

17 (a) *IN GENERAL.*—As a condition for the eligibility
 18 of a State to implement the exceptions to the withdrawal
 19 standard described in subparagraphs (H) and (I) of section
 20 3304(a)(4) of the Internal Revenue Code, the State shall cer-
 21 tify each of the following:

22 (1) *INTEGRITY DATA HUB.*—The State uses the
 23 system designated by the Secretary of Labor (or an-
 24 other system at the discretion of the State) for cross-

1 *matching claimants of unemployment compensation*
2 *to prevent and detect fraud and improper payments.*

3 (2) *USE OF FRAUD PREVENTION AND DETECTION*
4 *SYSTEMS.—The State has established procedures to do*
5 *the following:*

6 (A) *NATIONAL DIRECTORY OF NEW*
7 *HIRES.—Use the National Directory of New*
8 *Hires established under section 453(i) of the So-*
9 *cial Security Act—*

10 (i) *to compare information in such Di-*
11 *rectory against information about individ-*
12 *uals claiming unemployment compensation*
13 *to identify any such individuals who may*
14 *have become employed;*

15 (ii) *to take timely action to verify*
16 *whether the individuals identified pursuant*
17 *to clause (i) are employed; and*

18 (iii) *upon verification pursuant to*
19 *clause (ii), to take appropriate action to*
20 *suspend or modify unemployment com-*
21 *ensation payments, and to initiate recov-*
22 *ery of any improper payments that have*
23 *been made.*

24 (B) *STATE INFORMATION DATA EXCHANGE*
25 *SYSTEM.—Use the State Information Data Ex-*

1 *change System (or another system at the discre-*
2 *tion of the State) to facilitate employer responses*
3 *to requests for information from State workforce*
4 *agencies.*

5 (C) *INCARCERATED INDIVIDUALS.—Seek in-*
6 *formation from the Commissioner of Social Secu-*
7 *rity under sections 202(x)(3)(B)(iv) and*
8 *1611(e)(1)(I)(iii) of the Social Security Act, or*
9 *from such other sources as the State agency de-*
10 *termines appropriate, to obtain the information*
11 *necessary to carry out the provisions of a State*
12 *law under which an individual who is confined*
13 *in a jail, prison, or other penal institution or*
14 *correctional facility is ineligible for unemploy-*
15 *ment compensation on account of such individ-*
16 *uals inability to satisfy the requirement under*
17 *section 303(a)(12) of such Act.*

18 (D) *DECEASED INDIVIDUALS.—Compare in-*
19 *formation of individuals claiming unemploy-*
20 *ment compensation against the information re-*
21 *garding deceased individuals furnished to or*
22 *maintained by the Commissioner of Social Secu-*
23 *rity under section 205(r) of the Social Security*
24 *Act.*

1 (b) *UNEMPLOYMENT COMPENSATION.*—*For the pur-*
 2 *poses of this section, any reference to unemployment com-*
 3 *pensation shall be considered to refer to compensation as*
 4 *defined in section 3306 of the Internal Revenue Code of*
 5 *1986.*

6 **SEC. 5. EXTENSION OF EMERGENCY STATE STAFFING**
 7 **FLEXIBILITY.**

8 *If a State modifies its unemployment compensation*
 9 *law and policies with respect to personnel standards on a*
 10 *merit basis on an emergency temporary basis as determined*
 11 *by the Secretary, including for detection, pursuit, and re-*
 12 *covery of fraudulent overpayments under Federal pandemic*
 13 *unemployment compensation programs authorized under*
 14 *the CARES Act (15 U.S.C. 9021 et seq.), subject to the suc-*
 15 *ceeding sentence, such modifications shall be disregarded for*
 16 *the purposes of applying section 303 of the Social Security*
 17 *Act (42 U.S.C. 503) and section 3304 of the Internal Rev-*
 18 *enue Code of 1986 to such State law. Such modifications*
 19 *may continue through December 31, 2030.*

20 **SEC. 6. FRAUD ENFORCEMENT HARMONIZATION.**

21 *Notwithstanding any other provision of law, any*
 22 *criminal charge or civil enforcement action alleging that*
 23 *an individual engaged in fraud with respect to compensa-*
 24 *tion (as defined in section 3306 of the Internal Revenue*

1 *Code of 1986) shall be filed not later than 10 years after*
2 *the offense was committed.*

3 ***SEC. 7. BUDGET OFFSET.***

4 *Section 2118 of the CARES Act (15 U.S.C. 9034) is*
5 *repealed.*

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