

117TH CONGRESS
2D SESSION

S. 4507

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

IN THE SENATE OF THE UNITED STATES

JULY 12, 2022

Mr. CRAPO (for himself, Mr. PORTMAN, Mr. BRAUN, Mr. MARSHALL, Mr. DAINES, Mrs. BLACKBURN, Mr. THUNE, Mr. CASSIDY, Mr. RISCH, Mr. KENNEDY, Mrs. FISCHER, Ms. COLLINS, Mr. LANKFORD, Mr. ROMNEY, and Mr. TOOMEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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 “Chase COVID Unem-
5 ployment Fraud Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Throughout the COVID–19 pandemic crimi-
2 nal organizations, including international cybercrime
3 rings and opportunistic foreign actors, exploited a
4 national crisis to steal billions from American tax-
5 payers. Fraud delayed legitimate payments to unem-
6 ployed workers and turned thousands of Americans
7 into unwitting identity theft victims.

8 (2) The size, scope, and severity of pandemic
9 unemployment fraud is not fully known.

10 (3) The Labor Department’s Office of the In-
11 spector General estimates that at least \$163 billion
12 of the \$872.5 billion in Federal-State unemployment
13 benefits paid during the pandemic could have been
14 improperly paid, with a significant portion attrib-
15 utable to fraud. Just over \$4 billion of these funds
16 have been recovered.

17 (4) The White House has estimated an 18.71
18 percent improper payment rate in the Federal-State
19 unemployment insurance program in fiscal year
20 2021. This estimate does not include improper pay-
21 ments made in the Pandemic Unemployment Assist-
22 ance program, nor does it include the period of
23 greatest fraudulent activity when generous \$600
24 weekly Federal supplements made unemployment a
25 lucrative target for fraudsters.

1 (5) According to the Government Accountability
2 Office, from March 2020 through October 2021, 145
3 individuals pleaded guilty to Federal charges of de-
4 frauding unemployment insurance programs and
5 Federal charges are pending against 250 individuals.

6 (6) As of January 2022, the Labor Depart-
7 ment's Inspector General reported opening more
8 than 31,000 investigative matters involving alleged
9 unemployment fraud and reported that it assisted
10 other Federal and State agencies in identifying and
11 recovering more than \$565 million in fraudulently
12 stolen unemployment benefits.

13 (7) In California, State workforce officials con-
14 firmed they paid out fraudulent unemployment
15 claims totaling \$11 billion and identified another
16 \$20 billion in claims still under investigation.

17 (8) The Pandemic Response Accountability
18 Committee published a report compiling the results
19 of investigations from 16 State auditors, finding \$39
20 billion in pandemic unemployment fraud.

21 (9) There is growing evidence that criminal
22 groups perpetrating unemployment fraud pose a
23 threat to national security.

24 (10) According to the Department of Justice
25 and U.S. Secret Service, a significant amount of

1 fraud was driven by known transnational organized
2 criminal networks, including cartels with origins in
3 countries including China, Ghana, Nigeria, Romania,
4 and Russia.

5 (11) The Department of Justice reports that
6 the International Organized Crime Intelligence Op-
7 erations Center has referred a large number of un-
8 employment fraud cases to the Federal Bureau of
9 Investigation.

10 (12) The American people expect Congress to
11 be an effective steward of taxpayer dollars and vigi-
12 lant in pursuit and recovery of funds when taxpayer
13 dollars are improperly paid.

14 (13) Congress has a responsibility to gain res-
15 titution for American taxpayers by ensuring aggres-
16 sive identification, investigation, and prosecution of
17 criminal fraud in pandemic unemployment pro-
18 grams.

19 **SEC. 3. RECOVERING FEDERAL FRAUDULENT COVID UNEM-**
20 **PLOYMENT COMPENSATION PAYMENTS.**

21 (a) ALLOWING STATES TO RETAIN PERCENTAGE OF
22 OVERPAYMENTS FOR ADMINISTRATION, INFORMATION
23 TECHNOLOGY MODERNIZATION, AND PROGRAM INTEG-
24 RITY.—

25 (1) PANDEMIC UNEMPLOYMENT ASSISTANCE.—

1 (A) IN GENERAL.—Section 2102 of the
2 CARES Act (15 U.S.C. 9021) is amended—

3 (i) by redesignating subsection (h) as
4 subsection (i); and

5 (ii) by inserting after subsection (g)
6 the following:

7 “(h) FRAUD AND OVERPAYMENTS.—

8 “(1) IN GENERAL.—If an individual knowingly
9 has made, or caused to be made by another, a false
10 statement or representation of a material fact, or
11 knowingly has failed, or caused another to fail, to
12 disclose a material fact, and as a result of such false
13 statement or representation or of such nondisclosure
14 such individual has received an amount of pandemic
15 unemployment assistance under this section to which
16 such individual was not entitled, such individual—

17 “(A) shall be ineligible for further pan-
18 demic unemployment assistance under this sec-
19 tion in accordance with the provisions of the ap-
20 plicable State unemployment compensation law
21 relating to fraud in connection with a claim for
22 unemployment compensation; and

23 “(B) shall be subject to prosecution under
24 section 1001 of title 18, United States Code.

1 “(2) REPAYMENT.—In the case of individuals
2 who have received amounts of pandemic unemploy-
3 ment assistance under this section to which they
4 were not entitled, the State shall require such indi-
5 viduals to repay the amounts of such pandemic un-
6 employment assistance to the State agency, except
7 that the State agency may waive such repayment if
8 it determines that—

9 “(A) the payment of such pandemic unem-
10 ployment assistance was without fault on the
11 part of any such individual; and

12 “(B) such repayment would be contrary to
13 equity and good conscience.

14 “(3) RECOVERY BY STATE AGENCY.—

15 “(A) IN GENERAL.—The State agency
16 shall recover the amount to be repaid, or any
17 part thereof, by deductions from any unemploy-
18 ment compensation payable to such individual
19 under any State or Federal unemployment com-
20 pensation law administered by the State agency
21 or under any other State or Federal law admin-
22 istered by the State agency which provides for
23 the payment of any assistance or allowance with
24 respect to any week of unemployment, during
25 the 5-year period after the date such individuals

1 received the payment of the pandemic unem-
2 ployment assistance to which they were not en-
3 titled, in accordance with the same procedures
4 as apply to the recovery of overpayments of reg-
5 ular unemployment benefits paid by the State,
6 except that a State may retain a percentage of
7 any amounts recovered as described in subpara-
8 graph (C).

9 “(B) OPPORTUNITY FOR HEARING.—No
10 repayment shall be required, and no deduction
11 shall be made, until a determination has been
12 made, notice thereof and an opportunity for a
13 fair hearing has been given to the individual,
14 and the determination has become final.

15 “(C) RETENTION OF PERCENTAGE OF RE-
16 COVERED FUNDS.—The State agency may re-
17 tain 25 percent of any amount recovered from
18 overpayments of pandemic unemployment as-
19 sistance that were determined to be made due
20 to fraud. Amounts so retained by the State
21 agency shall be used for administration of the
22 State’s unemployment compensation program
23 for any of following:

24 “(i) Modernizing unemployment com-
25 pensation systems and information tech-

nology to improve accuracy of benefit payments, cybersecurity, and identity verification and validation of applicants.

“(ii) Administrative costs incurred by the State to identify and pursue recovery of fraudulent overpayments.

“(iii) Hiring fraud investigators and prosecutors.

“(iv) Other program integrity purposes identified by the State and approved by the Secretary.”.

(B) CONFORMING AMENDMENT.—Section 2102(d) of such Act (15 U.S.C. 9021(d)) is amended by striking paragraph (4).

(2) FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION.—Section 2104(f)(3) of such Act (15 U.S.C. 9023(f)(3)) is amended—

(A) in subparagraph (A)—

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

(ii) by inserting “, except that a State may retain a percentage of any amounts recovered as described in subparagraph (C)” before the period at the end; and

(B) by adding at the end the following:

1 “(C) RETENTION OF PERCENTAGE OF RE-
2 COVERED FUNDS.—The State agency may re-
3 tain 25 percent of any amount recovered from
4 overpayments of Federal Pandemic Unemploy-
5 ment Compensation or Mixed Earner Unem-
6 ployment Compensation that were determined
7 to be made due to fraud. Amounts so retained
8 by the State agency shall be used for adminis-
9 tration of the State’s unemployment compensa-
10 tion program for any of following:

11 “(i) Modernizing unemployment com-
12 pensation systems and information tech-
13 nology to improve accuracy of benefit pay-
14 ments, cybersecurity, and identity
15 verification and validation of applicants.

16 “(ii) Administrative costs incurred by
17 the State to identify and pursue recovery
18 of fraudulent overpayments.

19 “(iii) Hiring fraud investigators and
20 prosecutors.

21 “(iv) Other program integrity pur-
22 poses identified by the State and approved
23 by the Secretary.”.

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

4 (A) in subparagraph (A)—

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

7 (ii) by inserting “, except that a State
8 may retain a percentage of any amounts
9 recovered as described in subparagraph
10 (C)” 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 re-
14 tain 25 percent of any amount recovered from
15 overpayments of pandemic emergency unem-
16 ployment compensation that were determined to
17 be made due to fraud. Amounts so retained by
18 the State agency shall be used for administra-
19 tion of the State’s unemployment compensation
20 program for any of following:

21 “(i) Modernizing unemployment com-
22 pensation systems and information tech-
23 nology to improve accuracy of benefit pay-
24 ments, cybersecurity, and identity
25 verification and validation of applicants.

1 “(ii) Reimbursement of administrative
2 costs incurred by the State to identify and
3 pursue recovery of fraudulent overpay-
4 ments.

5 “(iii) Hiring fraud investigators and
6 prosecutors.

7 “(iv) Other program integrity pur-
8 poses identified by the State and approved
9 by the Secretary.”.

10 (b) TREATMENT UNDER WITHDRAWAL REQUIRE-
11 MENTS.—Any amount retained by a State pursuant to sec-
12 tion 2102(h)(3)(C), section 2104(f)(3)(C), or
13 2107(e)(3)(C) of the CARES Act, and used for the pur-
14 poses described therein, shall not be considered to violate
15 the withdrawal requirements of paragraph (4) or (5) of
16 section 303(a) of the Social Security Act (42 U.S.C.
17 503(a)) or paragraph (4) or (5) of section 3304(a) of the
18 Internal Revenue Code of 1986.

19 (c) LIMITATION ON RETENTION AUTHORITY.—The
20 authority of a State to retain any amount pursuant to sec-
21 tion 2102(h)(3)(C), section 2104(f)(3)(C), and
22 2107(e)(3)(C) of the 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 5-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. 4. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR**
 5 **PROGRAM ADMINISTRATION.**

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

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

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

13 “(H) an amount, not to exceed 5 percent,
 14 of any overpayment of compensation recovered
 15 by the State (other than an overpayment made
 16 as the result of agency error) may, immediately
 17 following the State’s receipt of such recovered
 18 amount, be deposited in a State fund from
 19 which money may be withdrawn for—

20 “(i) the payment of costs of deterring,
 21 detecting, and collecting improper pay-
 22 ments to individuals;

23 “(ii) purposes relating to the proper
 24 classification of employees as independent
 25 contractors, implementation of provisions

1 of State law implementing section 303(k)
 2 of the Social Security Act, or other provi-
 3 sions of State law relating to employer
 4 fraud or evasion of contributions;

5 “(iii) the payment to the Secretary of
 6 the Treasury to the credit of the account
 7 of the State in the Unemployment Trust
 8 Fund;

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

12 “(v) otherwise assisting States in im-
 13 proving the timely and accurate adminis-
 14 tration of a State’s unemployment com-
 15 pensation law; and

16 “(I) an amount, not to exceed 5 percent,
 17 of any payments of contributions, or payments
 18 in lieu of contributions, that are collected as a
 19 result of an investigation and assessment by the
 20 State agency may, immediately following receipt
 21 of such payments, be deposited in a State fund
 22 from which moneys may be withdrawn for the
 23 purposes specified in subparagraph (H);”.

24 (b) DEFINITION OF UNEMPLOYMENT FUND.—Sec-
 25 tion 3306(f) of the Internal Revenue Code of 1986 is

1 amended by striking “and for refunds of sums” and all
 2 that follows and inserting “, except as otherwise provided
 3 in section 3304(a)(4), section 303(a)(5) of the Social Se-
 4 curity Act, or any other provision of Federal unemploy-
 5 ment compensation law.”.

6 (c) WITHDRAWAL STANDARD IN SOCIAL SECURITY
 7 ACT.—Section 303(a)(5) of the Social Security Act (42
 8 U.S.C. 503(a)(5)) is amended by striking “and for refunds
 9 of sums” and all that follows and inserting “except as oth-
 10 erwise provided in this section, section 3304(a)(4) of the
 11 Internal Revenue Code of 1986, or any other provisions
 12 of Federal unemployment compensation law; and”.

13 (d) IMMEDIATE DEPOSIT REQUIREMENTS IN THE IN-
 14 TERNAL REVENUE CODE.—Section 3304(a)(3) of the In-
 15 ternal Revenue Code of 1986 is amended to read as fol-
 16 lows:

17 “(3) all money received in the unemployment
 18 fund shall immediately upon such receipt be paid
 19 over to the Secretary of the Treasury to the credit
 20 of the Unemployment Trust Fund established by
 21 section 904 of the Social Security Act (42 U.S.C.
 22 1104), except for—

23 “(A) refunds of sums improperly paid into
 24 such fund;

1 “(B) refunds paid in accordance with the
2 provisions of section 3305(b); and

3 “(C) amounts deposited in a State fund in
4 accordance with subparagraph (H) or (I) of
5 paragraph (4);”.

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

13 (f) APPLICATION TO FEDERAL PAYMENTS.—When
14 administering any Federal program providing compensa-
15 tion (as defined in section 3306 of the Internal Revenue
16 Code of 1986), the State shall use the authority provided
17 under subparagraphs (H) and (I) of section 3304(a)(4)
18 of such Code in the same manner as such authority is
19 used with respect to improper payments made under the
20 State unemployment compensation law. With respect to
21 improper Federal payments recovered consistent with the
22 authority under subparagraphs (H) and (I) of such sec-
23 tion, the State shall immediately deposit the same percent-
24 age of the recovered payments into the same State fund
25 as provided in the State law implementing that section.

1 (g) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to overpayments or payments or
 3 contributions (or payments in lieu of contributions) that
 4 are collected as a result of an investigation and assessment
 5 by the State agency after the end of the 2-year period be-
 6 ginning on the date of the enactment of this Act, except
 7 that nothing in this section shall be interpreted to prevent
 8 a State from amending its law before the end of such pe-
 9 riod.

10 **SEC. 5. PREVENTING UNEMPLOYMENT COMPENSATION**
 11 **FRAUD THROUGH DATA MATCHING, IDEN-**
 12 **TITY VERIFICATION, AND INCOME**
 13 **VERIFICATION.**

14 (a) UNEMPLOYMENT COMPENSATION DATA INTEG-
 15 RITY HUB.—

16 (1) IN GENERAL.—Section 303(a) of the Social
 17 Security Act (42 U.S.C. 503(a)) is amended by add-
 18 ing at the end the following:

19 “(13) The State agency charged with adminis-
 20 tration of the State law shall use the system des-
 21 ignated by the Secretary of Labor for cross-match-
 22 ing claimants of unemployment compensation under
 23 State law against any databases in the system to
 24 prevent and detect fraud and improper payments.”.

1 (b) USE OF FRAUD PREVENTION AND DETECTION
 2 SYSTEMS IN ADMINISTRATION OF UNEMPLOYMENT COM-
 3 PENSATION PROGRAMS.—

4 (1) IN GENERAL.—Section 303 of the Social
 5 Security Act (42 U.S.C. 503), as amended by sub-
 6 section (a), is further amended by adding at the end
 7 the following:

8 “(n) STATE USE OF FRAUD PREVENTION AND DE-
 9 TECTION SYSTEMS.—

10 “(1) IN GENERAL.—The State agency charged
 11 with administration of the State law shall establish
 12 procedures to do the following:

13 “(A) NATIONAL DIRECTORY OF NEW
 14 HIRES.—Use the National Directory of New
 15 Hires established under section 453(i)—

16 “(i) to compare information in such
 17 Directory against information about indi-
 18 viduals claiming unemployment compensa-
 19 tion to identify any such individuals who
 20 may have become employed, in accordance
 21 with any regulations that the Secretary of
 22 Health and Human Services may issue and
 23 consistent with the computer matching
 24 provisions of the Privacy Act of 1974;

1 “(ii) to take timely action to verify
2 whether the individuals identified pursuant
3 to clause (i) are employed; and

4 “(iii) upon verification pursuant to
5 clause (ii), to take appropriate action to
6 suspend or modify unemployment com-
7 pensation payments, and to initiate recov-
8 ery of any improper unemployment com-
9 pensation payments that have been made.

10 “(B) STATE INFORMATION DATA EX-
11 CHANGE SYSTEM.—Use the Department of La-
12 bor’s State Information Data Exchange System
13 to facilitate employer responses to requests for
14 information from State workforce agencies.

15 “(C) INCARCERATED INDIVIDUALS.—Seek
16 information from the Commissioner of Social
17 Security under sections 202(x)(3)(B)(iv) and
18 1611(e)(1)(I)(iii), and from such other sources
19 as the State agency determines appropriate, to
20 obtain the information necessary to carry out
21 the provisions of a State law under which an in-
22 dividual who is confined in a jail, prison, or
23 other penal institution or correctional facility is
24 ineligible for unemployment compensation on

1 account of such individuals inability to satisfy
2 the requirement under subsection (a)(12).

3 “(D) DECEASED INDIVIDUALS.—Compare
4 information of individuals claiming unemploy-
5 ment compensation against the information re-
6 garding deceased individuals furnished to or
7 maintained by the Commissioner of Social Se-
8 curity under section 205(r).

9 “(2) ENFORCEMENT.—Whenever the Secretary
10 of Labor, after reasonable notice and opportunity for
11 hearing to the State agency charged with the admin-
12 istration of the State law, finds that the State agen-
13 cy fails to comply substantially with the require-
14 ments of paragraph (1), the Secretary of Labor shall
15 notify such State agency that further payments will
16 not be made to the State until the Secretary of
17 Labor is satisfied that there is no longer any such
18 failure. Until the Secretary of Labor is so satisfied,
19 such Secretary shall make no future certification to
20 the Secretary of the Treasury with respect to such
21 State.

22 “(3) UNEMPLOYMENT COMPENSATION.—For
23 the purposes of this subsection, any reference to un-
24 employment compensation described in this para-
25 graph shall be considered to refer to—

1 “(A) regular or extended compensation (as
2 defined by section 205 of the Federal-State Ex-
3 tended Unemployment Compensation Act of
4 1970);

5 “(B) unemployment compensation (as de-
6 fined by section 85(b) of the Internal Revenue
7 Code of 1986) provided under any program ad-
8 ministered by a State under an agreement with
9 the Secretary; and

10 “(C) short-time compensation under a
11 short-time compensation program (as defined in
12 section 3306(v) of the Internal Revenue Code of
13 1986).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect with respect to each State
16 to weeks of unemployment beginning on or after the ear-
17 lier of—

18 (1) the date the State changes its statutes, reg-
19 ulations, or policies in order to comply with such
20 amendment; or

21 (2) October 1, 2024.

22 **SEC. 6. REPORTING UNEMPLOYMENT COMPENSATION**
23 **OVERPAYMENTS AND FRAUD.**

24 (a) IN GENERAL.—The Secretary of Labor shall col-
25 lect data from each State on the amount of overpayment

1 recoveries that are waived related to unemployment com-
2 pensation programs authorized by the CARES Act (15
3 U.S.C. 9021 et seq.), with a separate accounting for the
4 pandemic unemployment assistance program, and any un-
5 employment compensation amounts excluded by each
6 State from IRS Form 1099–G, Certain Government Pay-
7 ments, during taxable years 2020 and 2021 due to sus-
8 pected or confirmed fraud.

9 (b) REPORT TO CONGRESS.—Not later than 120 days
10 after the date of enactment of this Act, the Secretary of
11 Labor shall submit a report to the Committees on Ways
12 and Means and Oversight and Reform of the House of
13 Representatives and the Committees on Finance and
14 Homeland Security and Governmental Affairs of the Sen-
15 ate that conveys the overpayment data described in sub-
16 paragraph (a) and includes an estimate of the aggregate
17 amount of pandemic unemployment compensation over-
18 payments nationally, including the subset of overpayments
19 made due to fraud, and total amounts recovered by Fed-
20 eral or State agencies. Such report shall be updated by
21 the Secretary not later than 120 days after submission
22 of the initial report to Congress.

23 (c) EXPEDITED COLLECTION.—The Secretary of
24 Labor may waive the requirements of subchapter I of
25 chapter 35 of title 44, United States Code (commonly re-

ferred to as the “Paperwork Reduction Act”) with respect
to the provisions in the amendments made by this Act.

**SEC. 7. PROHIBITION ON DEPARTMENT OF LABOR ALLOW-
ING BLANKET WAIVERS OF OVERPAYMENTS.**

Upon the date of enactment, the Secretary of Labor
shall be prohibited from issuing guidance that permits
States to use blanket or issue categorical waivers of over-
payment recovery in Federal pandemic unemployment
compensation programs authorized under the CARES Act
(15 U.S.C. 9021 et seq.). The Secretary shall amend or
rescind any guidance as necessary to conform with the
prohibition in the preceding sentence.

**SEC. 8. EXTENSION OF EMERGENCY STATE STAFFING
FLEXIBILITY.**

If a State modifies its unemployment compensation
law and policies with respect to personnel standards on
a merit basis on an emergency temporary basis as deter-
mined by the Secretary, including for detection, pursuit,
and recovery of fraudulent pandemic unemployment bene-
fits, subject to the succeeding sentence, such modifications
shall be disregarded for the purposes of applying section
303 of the Social Security Act (42 U.S.C. 503) and section
3304 of the Internal Revenue Code of 1986 to such State
law. Such modifications shall apply through December 31,
2023, and may include engaging temporary staff, hiring

- 1 retirees or former employees on a non-competitive basis,
- 2 contracting with vendors, and other temporary actions to
- 3 identify, investigate, prosecute, and recover fraudulent
- 4 pandemic unemployment compensation benefits.

