

118TH CONGRESS
1ST SESSION

H. R. 1163

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

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”.

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

3 (a) ALLOWING STATES TO RETAIN PERCENTAGE OF
4 OVERPAYMENTS FOR PROGRAM INTEGRITY.—

5 (1) PANDEMIC UNEMPLOYMENT ASSISTANCE.—

6 Section 2102(d) of the CARES Act (15 U.S.C.
7 9021(d)) is amended by amending paragraph (4) to
8 read as follows:

9 “(4) FRAUD AND OVERPAYMENTS.—Section
10 2107(e) shall apply with respect to pandemic unem-
11 ployment assistance under this section by sub-
12 stituting ‘pandemic unemployment assistance’ for
13 ‘pandemic emergency unemployment compensation’
14 each place it appears in such section 2107(e).”.

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

18 (A) in subparagraph (A)—

19 (i) by striking “3-year” and inserting
20 “10-year”; and

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

25 (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 any of fol-
9 lowing:

10 “(i) Modernizing unemployment com-
11 pensation systems and information tech-
12 nology to improve identity verification and
13 validation of applicants.

14 “(ii) Reimbursement of administrative
15 costs incurred by the State to identify and
16 pursue recovery of fraudulent overpay-
17 ments.

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

20 “(iv) Other program integrity activi-
21 ties as determined by the State.”.

22 (3) PANDEMIC EMERGENCY UNEMPLOYMENT
23 COMPENSATION.—Section 2107(e)(3) of such Act
24 (15 U.S.C. 9025(e)(3)) is amended—

25 (A) in subparagraph (A)—

1 (i) by striking “3-year” and inserting
2 “10-year”; and

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

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

8 “(C) RETENTION OF PERCENTAGE OF RE-
9 COVERED FUNDS.—The State agency may re-
10 tain 25 percent of any amount recovered from
11 overpayments of pandemic emergency unem-
12 ployment compensation that were determined to
13 be made due to fraud. Amounts so retained by
14 the State agency shall be used for any of fol-
15 lowing:

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

20 “(ii) Reimbursement of administrative
21 costs incurred by the State to identify and
22 pursue recovery of fraudulent overpay-
23 ments.

24 “(iii) Hiring fraud investigators and
25 prosecutors.

1 “(iv) Other program integrity activi-
2 ties as determined by the State.”.

3 (4) EXTENDED UNEMPLOYMENT COMPENSA-
4 TION.—A State to which section 4105 of the Fami-
5 lies First Coronavirus Response Act (26 U.S.C.
6 3304 note) applied may retain 25 percent of any
7 amount recovered from overpayments of sharable ex-
8 tended compensation and sharable regular com-
9 pensation (as such terms are defined in section 204
10 of the Federal-State Extended Unemployment Com-
11 pensation Act of 1970) paid for weeks of unemploy-
12 ment described in such section 4105 that were deter-
13 mined to be made due to fraud. Amounts so retained
14 by the State agency shall be used for any of the pur-
15 poses described in section 2107(e)(3)(C) of the
16 CARES Act (15 U.S.C. 9025(e)(3)(C)).

17 (5) FIRST WEEK OF REGULAR COMPENSA-
18 TION.—A State that was a party to an agreement
19 under section 4105 of the CARES Act (15 U.S.C.
20 9024) may retain 25 percent of any amount recov-
21 ered from overpayments of regular compensation
22 paid to individuals by the State for their first week
23 of regular unemployment for which the State re-
24 ceived full Federal funding under such agreement in
25 any case in which such overpayments were deter-

1 mined to be made due to fraud. Amounts so retained
2 by the State agency shall be used for any of the pur-
3 poses described in section 2107(e)(3)(C) of the
4 CARES Act (15 U.S.C. 9025(e)(3)(C)).

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

16 (c) LIMITATION ON RETENTION AUTHORITY.—The
17 authority of a State to retain any amount pursuant to
18 paragraph (4) or (5) of subsection (a) and under section
19 2102(d)(4), section 2104(f)(3)(C), and 2107(e)(3)(C) of
20 the CARES Act shall apply only—

- 21 (1) with respect to an amount recovered on or
22 after the date of enactment of this Act; and
23 (2) during the 10-year period beginning on the
24 date on which such amount was received by an indi-
25 vidual not entitled to such amount.

1 **SEC. 3. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR**
2 **PROGRAM ADMINISTRATION.**

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

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

8 (2) by inserting after subparagraph (G) the fol-
9 lowing new subparagraphs:

10 “(H) provided the certifications made by
11 the State as described in section 4 of the Pro-
12 tecting Taxpayers and Victims of Unemploy-
13 ment Fraud Act are in effect at the time of ap-
14 proval of the State law under this subsection,
15 an amount, not to exceed 5 percent, of any
16 overpayment of compensation recovered by the
17 State (other than an overpayment made as the
18 result of agency error) may, immediately fol-
19 lowing the State’s receipt of such recovered
20 amount, be deposited in a State fund from
21 which money may be withdrawn for—

22 “(i) the payment of costs of deterring,
23 detecting, and preventing improper pay-
24 ments;

25 “(ii) purposes relating to the classi-
26 fication of employees and the provisions of

1 State law implementing section 303(k) of
2 the Social Security Act;

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

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

10 “(v) otherwise assisting the State in
11 improving the timely and accurate admin-
12 istration of the State’s unemployment com-
13 pensation law; and

14 “(I) provided the certifications made by
15 the State as described in section 4 of the Pro-
16 tecting Taxpayers and Victims of Unemploy-
17 ment Fraud Act are in effect at the time of ap-
18 proval of the State law under this subsection,
19 an amount, not to exceed 5 percent, of any pay-
20 ments of contributions, or payments in lieu of
21 contributions, that are collected as a result of
22 an investigation and assessment by the State
23 agency may, immediately following receipt of
24 such payments, be deposited in a State fund

1 from which moneys may be withdrawn for the
2 purposes specified in subparagraph (H);”.

3 (b) DEFINITION OF UNEMPLOYMENT FUND.—Sec-
4 tion 3306(f) of the Internal Revenue Code of 1986 is
5 amended by striking “and for refunds of sums” and all
6 that follows and inserting “, except as otherwise provided
7 in section 3304(a)(4), section 303(a)(5) of the Social Se-
8 curity Act, or any other provision of Federal unemploy-
9 ment compensation law.”.

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

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

21 “(3) all money received in the unemployment
22 fund shall immediately upon such receipt be paid
23 over to the Secretary of the Treasury to the credit
24 of the Unemployment Trust Fund established by

1 section 904 of the Social Security Act (42 U.S.C.
2 1104), except for—

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

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

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

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

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

1 authority under subparagraphs (H) and (I) of such sec-
2 tion, the State shall immediately deposit the same percent-
3 age of the recovered payments into the same State fund
4 as provided in the State law implementing that section.

5 (g) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to overpayments or payments or
7 contributions (or payments in lieu of contributions) that
8 are collected as a result of an investigation and assessment
9 by the State agency after the end of the 2-year period be-
10 ginning on the date of the enactment of this Act, except
11 that nothing in this section shall be interpreted to prevent
12 a State from amending its law before the end of the 2-
13 year period beginning on the date of the enactment of this
14 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 sec-
20 tion 3304(a)(4) of the Internal Revenue Code, the State
21 shall certify 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
25 cross-matching claimants of unemployment com-

1 pensation to prevent and detect fraud and improper
2 payments.

3 (2) USE OF FRAUD PREVENTION AND DETEC-
4 TION SYSTEMS.—The State has established proce-
5 dures to do 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
9 Social 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 pensation 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 dis-
2 cretion of the State) to facilitate employer re-
3 sponses to requests for information from State
4 workforce agencies.

5 (C) INCARCERATED INDIVIDUALS.—Seek
6 information from the Commissioner of Social
7 Security 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
19 information 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 Se-
23 curity under section 205(r) of the Social Secu-
24 rity 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
10 a merit basis on an emergency temporary basis as deter-
11 mined by the Secretary, including for detection, pursuit,
12 and recovery of fraudulent overpayments, subject to the
13 succeeding sentence, such modifications shall be dis-
14 regarded for the purposes of applying section 303 of the
15 Social Security Act (42 U.S.C. 503) and section 3304 of
16 the Internal Revenue Code of 1986 to such State law.
17 Such modifications may continue through December 31,
18 2030.

19 **SEC. 6. FRAUD ENFORCEMENT HARMONIZATION.**

20 Notwithstanding any other provision of law, any
21 criminal charge or civil enforcement action alleging that
22 an individual engaged in fraud with respect to compensa-
23 tion (as defined in section 3306 of the Internal Revenue
24 Code of 1986) shall be filed not later than 10 years after
25 the offense was committed.

1 **SEC. 7. BUDGET OFFSET.**

2 Section 2118 of the CARES Act (15 U.S.C. 9034)

3 is repealed.

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