

118TH CONGRESS
1ST SESSION

S. _____

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

Mr. CRAPO (for himself, Mr. RISCH, Mr. MARSHALL, Mr. BRAUN, Mrs. CAPITO, Mr. THUNE, Mr. SCOTT of Florida, Mr. ROMNEY, Mr. BARRASSO, Mr. BUDD, Mrs. BLACKBURN, Mr. KENNEDY, Mr. YOUNG, Mr. CASSIDY, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on _____

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Protecting Taxpayers and Victims of Unemployment
6 Fraud Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Recovering Federal fraudulent COVID unemployment compensation payments.
Sec. 3. Permissible uses of unemployment fund for program administration.
Sec. 4. Preventing unemployment compensation fraud through data matching.
Sec. 5. Extension of emergency State staffing flexibility.
Sec. 6. Fraud enforcement harmonization.
Sec. 7. Budget offset.
Sec. 8. State fund contingency.

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)(4) of the CARES Act (15 U.S.C.
7 9021(d)(4)) is amended to read as follows:

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

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

17 (A) in subparagraph (A)—

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

20 (ii) by inserting “, except that a State
21 may retain a percentage of any amounts

1 recovered as described in subparagraph
2 (C)” before the period at the end; and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(C) RETENTION OF PERCENTAGE OF RE-
6 COVERED FUNDS.—The State agency may re-
7 tain 25 percent of any amount recovered from
8 overpayments of Federal Pandemic Unemploy-
9 ment Compensation or Mixed Earner Unem-
10 ployment Compensation that were determined
11 to be made due to fraud. Amounts so retained
12 by the State agency shall be used for any of fol-
13 lowing:

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 overpay-
21 ments.

22 “(iii) Hiring fraud investigators and
23 prosecutors.

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

1 (3) PANDEMIC EMERGENCY UNEMPLOYMENT
2 COMPENSATION.—Section 2107(e)(3) of the CARES
3 Act (15 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
9 recovered as described in subparagraph
10 (C)” before the period at the end; and

11 (B) by adding at the end the following new
12 subparagraph:

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

21 “(i) Modernizing unemployment com-
22 pensation systems and information tech-
23 nology to improve identity verification and
24 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 activi-
8 ties as determined by the State.”.

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

23 (5) FIRST WEEK OF REGULAR COMPENSA-
24 TION.—A State that was a party to an agreement
25 under section 4105 of the CARES Act (15 U.S.C.

1 9024) may retain 25 percent of any amount recov-
2 ered from overpayments of regular compensation
3 paid to individuals by the State for their first week
4 of regular unemployment for which the State re-
5 ceived full Federal funding under such agreement in
6 any case in which such overpayments were deter-
7 mined to be made due to fraud. Amounts so retained
8 by the State agency shall be used for any of the pur-
9 poses described in section 2107(e)(3)(C) of the
10 CARES Act (15 U.S.C. 9025(e)(3)(C)).

11 (b) TREATMENT UNDER WITHDRAWAL STANDARD
12 AND IMMEDIATE DEPOSIT REQUIREMENTS.—Any amount
13 retained by a State pursuant to paragraph (4) or (5) of
14 subsection (a) or under section 2102(d)(4), section
15 2104(f)(3)(C), or section 2107(e)(3)(C) of the CARES
16 Act, and used for the purposes described therein, shall not
17 be considered to violate the withdrawal standard and im-
18 mediate deposit requirements of paragraph (4) or (5) of
19 section 303(a) of the Social Security Act (42 U.S.C.
20 503(a)) or paragraph (3) or (4) of section 3304(a) of the
21 Internal Revenue Code of 1986.

22 (c) LIMITATION ON RETENTION AUTHORITY.—The
23 authority of a State to retain any amount pursuant to
24 paragraph (4) or (5) of subsection (a) and under section

1 2102(d)(4), section 2104(f)(3)(C), and section
2 2107(e)(3)(C) of the CARES Act shall apply only—

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

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

8 **SEC. 3. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR**
9 **PROGRAM ADMINISTRATION.**

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

13 (1) in subparagraph (F), by striking “and” at
14 the end; and

15 (2) by inserting after subparagraph (G) the fol-
16 lowing new subparagraphs:

17 “(H) provided the certifications made by
18 the State as described in section 4 of the Pro-
19 tecting Taxpayers and Victims of Unemploy-
20 ment Fraud Act are in effect at the time of ap-
21 proval of the State law under this subsection,
22 an amount, not to exceed 5 percent, of any
23 overpayment of compensation recovered by the
24 State (other than an overpayment made as the
25 result of agency error) may, immediately fol-

1 lowing the State’s receipt of such recovered
2 amount, be deposited in a State fund from
3 which money may be withdrawn for—

4 “(i) the payment of costs of deterring,
5 detecting, and preventing improper pay-
6 ments;

7 “(ii) purposes relating to the proper
8 classification of employees and the provi-
9 sions of State law implementing section
10 303(k) of the Social Security Act;

11 “(iii) the payment to the Secretary of
12 the Treasury to the credit of the account
13 of the State in the Unemployment Trust
14 Fund;

15 “(iv) modernizing the State’s unem-
16 ployment insurance technology infrastruc-
17 ture; or

18 “(v) otherwise assisting the State in
19 improving the timely and accurate admin-
20 istration of the State’s unemployment com-
21 pensation law; and

22 “(I) provided the certifications made by
23 the State as described in section 4 of the Pro-
24 tecting Taxpayers and Victims of Unemploy-
25 ment Fraud Act are in effect at the time of ap-

1 proval of the State law under this subsection,
2 an amount, not to exceed 5 percent, of any pay-
3 ments of contributions, or payments in lieu of
4 contributions, that are collected as a result of
5 an investigation and assessment by the State
6 agency may, immediately following receipt of
7 such payments, be deposited in a State fund
8 from which moneys may be withdrawn for the
9 purposes specified in subparagraph (H);”.

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

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

24 (d) IMMEDIATE DEPOSIT REQUIREMENTS IN THE IN-
25 TERNAL REVENUE CODE.—Section 3304(a)(3) of the In-

1 ternal Revenue Code of 1986 is amended to read as fol-
2 lows:

3 “(3) all money received in the unemployment
4 fund shall immediately upon such receipt be paid
5 over to the Secretary of the Treasury to the credit
6 of the Unemployment Trust Fund established by
7 section 904 of the Social Security Act (42 U.S.C.
8 1104), except for—

9 “(A) refunds of sums improperly paid into
10 such fund;

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

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

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

23 (f) APPLICATION TO FEDERAL PAYMENTS.—When
24 administering any Federal program providing compensa-
25 tion (as defined in section 3306 of the Internal Revenue

1 Code of 1986), the State shall use the authority provided
2 under subparagraphs (H) and (I) of section 3304(a)(4)
3 of such Code in the same manner as such authority is
4 used with respect to improper payments made under the
5 State unemployment compensation law. With respect to
6 improper Federal payments recovered consistent with the
7 authority under subparagraphs (H) and (I) of such sec-
8 tion, the State shall immediately deposit the same percent-
9 age of the recovered payments into the same State fund
10 as provided in the State law implementing that section.

11 (g) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to overpayments or payments or
13 contributions (or payments in lieu of contributions) that
14 are collected as a result of an investigation and assessment
15 by the State agency after the end of the 2-year period be-
16 ginning on the date of the enactment of this Act, except
17 that nothing in this section shall be interpreted to prevent
18 a State from amending its law before the end of the 2-
19 year period beginning on the date of the enactment of this
20 Act.

21 **SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION**
22 **FRAUD THROUGH DATA MATCHING.**

23 (a) IN GENERAL.—As a condition for the eligibility
24 of a State to implement the exceptions to the withdrawal
25 standard described in subparagraphs (H) and (I) of sec-

1 tion 3304(a)(4) of the Internal Revenue Code, the State
2 shall certify each of the following:

3 (1) INTEGRITY DATA HUB.—The State uses the
4 system designated by the Secretary of Labor (or an-
5 other system at the discretion of the State) for
6 cross-matching claimants of unemployment com-
7 pensation to prevent and detect fraud and improper
8 payments.

9 (2) USE OF FRAUD PREVENTION AND DETEC-
10 TION SYSTEMS.—The State has established proce-
11 dures to do the following:

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

16 (i) to compare information in such Di-
17 rectory against information about individ-
18 uals claiming unemployment compensation
19 to identify any such individuals who may
20 have become employed;

21 (ii) to take timely action to verify
22 whether the individuals identified pursuant
23 to clause (i) are employed; and

24 (iii) upon verification pursuant to
25 clause (ii), to take appropriate action to

1 suspend or modify unemployment com-
2 pensation payments, and to initiate recov-
3 ery of any improper payments that have
4 been made.

5 (B) STATE INFORMATION DATA EXCHANGE
6 SYSTEM.—Use the State Information Data Ex-
7 change System (or another system at the dis-
8 cretion of the State) to facilitate employer re-
9 sponses to requests for information from State
10 workforce agencies.

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

24 (D) DECEASED INDIVIDUALS.—Compare
25 information of individuals claiming unemploy-

1 ment compensation against the information re-
2 garding deceased individuals furnished to or
3 maintained by the Commissioner of Social Se-
4 curity under section 205(r) of the Social Secu-
5 rity Act.

6 (b) UNEMPLOYMENT COMPENSATION.—For the pur-
7 poses of this section, any reference to unemployment com-
8 pensation shall be considered to refer to compensation as
9 defined in section 3306 of the Internal Revenue Code of
10 1986.

11 **SEC. 5. EXTENSION OF EMERGENCY STATE STAFFING**
12 **FLEXIBILITY.**

13 If a State modifies its unemployment compensation
14 law and policies with respect to personnel standards on
15 a merit basis on an emergency temporary basis as deter-
16 mined by the Secretary, including for detection, pursuit,
17 and recovery of fraudulent overpayments under Federal
18 pandemic unemployment compensation programs author-
19 ized under the CARES Act (15 U.S.C. 9021 et seq.), sub-
20 ject to the succeeding sentence, such modifications shall
21 be disregarded for the purposes of applying section 303
22 of the Social Security Act (42 U.S.C. 503) and section
23 3304 of the Internal Revenue Code of 1986 to such State
24 law. Such modifications may continue through December
25 31, 2030.

1 **SEC. 6. FRAUD ENFORCEMENT HARMONIZATION.**

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

8 **SEC. 7. BUDGET OFFSET.**

9 Section 2118 of the CARES Act (15 U.S.C. 9034)
10 is repealed.

11 **SEC. 8. STATE FUND CONTINGENCY.**

12 Subject to appropriations, the unobligated balance as
13 of the day before the date of enactment of this Act of
14 amounts made available under section 2118 of the CARES
15 Act (15 U.S.C. 9034) shall be transferred to the Secretary
16 of the Treasury and periodically credited, on an as-needed
17 basis, to the appropriate State account in the Unemploy-
18 ment Trust Fund established by section 904 of the Social
19 Security Act (42 U.S.C. 1104) in an amount that replaces
20 the amount deposited by a State in a State fund in accord-
21 ance with subparagraph (H) or (I) of section 3304(a)(4)
22 of the Internal Revenue Code of 1986 (as amended by sec-
23 tion 3(a) of this Act) if the amount in such State account
24 is less than the amount that would be in such State ac-
25 count if such subparagraphs had not been enacted.