

117TH CONGRESS
1ST SESSION

H. R. 3268

To prevent fraud in COVID unemployment programs, recover fraudulently paid benefits, provide relief for taxpayers and victims of unemployment fraud, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2021

Mr. BRADY (for himself, Mr. REED, Mrs. WALORSKI, Mr. KELLY of Pennsylvania, Mr. RICE of South Carolina, Mr. SMUCKER, Mrs. MILLER of West Virginia, Mr. WENSTRUP, Mr. SCHWEIKERT, Mr. LAHOOD, Mr. FERGUSON, Mrs. STEEL, Mr. NUNES, Mr. HERN, Mr. ESTES, Mr. SMITH of Nebraska, and Mr. MCCARTHY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To prevent fraud in COVID unemployment programs, recover fraudulently paid benefits, provide relief for taxpayers and victims of unemployment fraud, 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 “Combating COVID
5 Unemployment Fraud Act of 2021”.

1 **SEC. 2. PREVENTING FRAUD IN PANDEMIC UNEMPLOY-**
2 **MENT ASSISTANCE.**

3 (a) VERIFICATION OF ELIGIBILITY FOR PANDEMIC
4 UNEMPLOYMENT ASSISTANCE PRIOR TO AUTHORIZING
5 BENEFITS.—

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

8 (A) in subsection (a)(3)(A)—

9 (i) in clause (ii)—

10 (I) in the matter preceding sub-
11 clause (I), by striking “provides self-
12 certification” and inserting “provides,
13 not later than 30 days after the date
14 of application, such documentation as
15 the State may require, dem-
16 onstrating”;

17 (II) in subclause (I), in the mat-
18 ter preceding item (aa), by inserting
19 “in the employment or service de-
20 scribed in clause (iv)” after “unavail-
21 able to work”; and

22 (III) in subclause (II), by strik-
23 ing “and” at the end;

24 (ii) by amending clause (iii) to read as
25 follows:

1 “(iii)(I) provides, not later than 30
2 days after the date of application and prior
3 to the authorization of pandemic unem-
4 ployment assistance, such documentation
5 as the State agency may require (in ac-
6 cordance with section 625.6(e) of title 20,
7 Code of Federal Regulations, or any suc-
8 cessor thereto, except with respect to the
9 deadline for submission) to substantiate
10 prior employment or self-employment or
11 the planned commencement of employment
12 and earnings, as applicable, except that the
13 deadline for submission may be extended if
14 the individual has shown good cause under
15 applicable State law that justifies a delay
16 in submitting such documentation; and

17 “(II) provides documentation to the
18 satisfaction of the State agency, or the en-
19 tity verifying identify on behalf of the
20 State agency, verifying the individual’s
21 identity prior to authorizing benefits; and”;
22 and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(iv) provides self-certification that
2 the principal source of income and liveli-
3 hood of the individual are dependent upon
4 the individual’s employment for wages or
5 the individual’s performance of service in
6 self-employment; and”.

7 (B) in subsection (f)(1), by inserting
8 “prior to authorizing benefits” after “valida-
9 tion”; and

10 (C) in subsection (f)(2)(B), by striking the
11 period at the end and inserting at the end the
12 following: “: *Provided*, That such expenses shall
13 be claimed by States on a reimbursable basis
14 and shall not be subject to restrictions imposed
15 by the Department of Labor’s resource jus-
16 tification model.”.

17 (2) EFFECTIVE DATE.—The amendments made
18 by paragraph (1) shall apply to individuals who
19 apply for pandemic unemployment assistance on or
20 after the date that is 30 days after the date of en-
21 actment of this Act

22 (b) LIMITATION ON BACKDATING CLAIMS FOR PAN-
23 DEMIC UNEMPLOYMENT ASSISTANCE.—In the case of a
24 covered individual whose first application for pandemic
25 unemployment assistance under section 2102 of the

1 CARES Act is filed after the date of enactment of this
2 Act, subsection (c)(1)(A)(i) of such section 2102 of the
3 CARES Act shall be applied by substituting “April 1,
4 2021” for “January 27, 2020”.

5 (c) APPLICATION DEADLINE FOR PANDEMIC UNEM-
6 PLOYMENT ASSISTANCE.—Subsection (c) of section 2102
7 of the CARES Act (15 U.S.C. 9021) is amended by add-
8 ing at the end the following:

9 “(7) APPLICATION DEADLINE.—Notwith-
10 standing any other provision of this subsection, no
11 application for pandemic unemployment assistance
12 may be filed after the date that is 14 days after the
13 date specified in paragraph (1)(A)(ii) unless the in-
14 dividual has shown good cause under the applicable
15 State law for failing to file before such date.”.

16 (d) ISSUANCE OF GUIDANCE.—Section 2102 of the
17 CARES Act (15 U.S.C. 9021) is amended by adding at
18 the end the following:

19 “(i) DEPARTMENT OF LABOR GUIDANCE ON
20 VERIFICATION OF ELIGIBILITY FOR PANDEMIC UNEM-
21 PLOYMENT ASSISTANCE PRIOR TO AUTHORIZING BENE-
22 FITS.—Not later than 60 days after the enactment of this
23 subsection, the Secretary of Labor, in consultation with
24 the Director of the National Institute of Standards and
25 Technology, shall issue guidance to State workforce agen-

1 cies outlining the latest industry practices with regard to
 2 cybersecurity, digital identity proofing services, standards
 3 for privacy, and procedures for verifying and validating
 4 the identity of individuals, pursuant to subsection (f)(1),
 5 and the availability of third-party income verification tech-
 6 nology to prevent fraud in the pandemic unemployment
 7 assistance program.”.

8 **SEC. 3. LIMITATION ON PAYMENTS OF FEDERAL PANDEMIC**
 9 **UNEMPLOYMENT COMPENSATION.**

10 Subsection (b) of 2104 of the CARES Act (15 U.S.C.
 11 9023) is amended by adding at the end the following:

12 “(5) LIMITATION.—Notwithstanding any other
 13 provision of this subsection, no Federal pandemic
 14 unemployment compensation may be paid retro-
 15 actively for a week of unemployment to claimants
 16 who apply for regular compensation for such week
 17 more than 14 days after the dates specified in
 18 clauses (i) and (ii) of subsection (b)(3)(A) with re-
 19 spect to such week.”.

20 **SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION**
 21 **FRAUD AND IMPROPER PAYMENTS THROUGH**
 22 **DATA MATCHING.**

23 (a) UNEMPLOYMENT COMPENSATION DATA INTEG-
 24 RITY HUB.—

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

4 “(13) The State agency charged with adminis-
5 tration of the State law shall use the system des-
6 ignated by the Secretary of Labor for cross-match-
7 ing claimants of unemployment compensation under
8 State law against any databases in the system to
9 prevent and detect fraud and improper payments.”.

10 (b) USE OF UNEMPLOYMENT CLAIMS DATA TO PRE-
11 VENT AND DETECT FRAUD.—Section 303 of the Social
12 Security Act (42 U.S.C. 503) is amended by adding at
13 the end the following:

14 “(n) USE OF UNEMPLOYMENT CLAIMS DATA TO
15 PREVENT AND DETECT FRAUD.—The Inspector General
16 of the Department of Labor shall, for the purpose of con-
17 ducting audits, investigations, and other oversight activi-
18 ties authorized under the Inspector General Act of 1978
19 (5 U.S.C. App.) relating to unemployment compensation
20 programs, have direct access to each of the following sys-
21 tems:

22 “(1) The system designated by the Secretary of
23 Labor for the electronic transmission of requests for
24 information relating to interstate claims for unem-
25 ployment compensation.

1 “(2) The system designated by the Secretary of
 2 Labor for cross-matching claimants of unemploy-
 3 ment compensation under State law against data-
 4 bases to prevent and detect fraud and improper pay-
 5 ments (as described in subsection (a)(13)).”.

6 (c) USE OF FRAUD PREVENTION AND DETECTION
 7 SYSTEMS IN ADMINISTRATION OF UNEMPLOYMENT COM-
 8 PENSATION PROGRAMS.—

9 (1) IN GENERAL.—Section 303 of the Social
 10 Security Act (42 U.S.C. 503), as amended by sub-
 11 section (b), is further amended by adding at the end
 12 the following:

13 “(o) STATE USE OF FRAUD PREVENTION AND DE-
 14 TECTION SYSTEMS.—

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

18 “(A) NATIONAL DIRECTORY OF NEW
 19 HIRES.—Use the National Directory of New
 20 Hires established under section 453(i)—

21 “(i) to compare information in such
 22 Directory against information about indi-
 23 viduals claiming unemployment compensa-
 24 tion to identify any such individuals who
 25 may have become employed, in accordance

1 with any regulations that the Secretary of
2 Health and Human Services may issue and
3 consistent with the computer matching
4 provisions of the Privacy Act of 1974;

5 “(ii) to take timely action to verify
6 whether the individuals identified pursuant
7 to clause (i) are employed; and

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

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

19 “(C) INCARCERATED INDIVIDUALS.—Seek
20 information from the Commissioner of Social
21 Security under sections 202(x)(3)(B)(iv) and
22 1611(e)(1)(I)(iii), and from such other sources
23 as the State agency determines appropriate, to
24 obtain the information necessary to carry out
25 the provisions of a State law under which an in-

1 dividual who is confined in a jail, prison, or
2 other penal institution or correctional facility is
3 ineligible for unemployment compensation on
4 account of such individuals inability to satisfy
5 the requirement under subsection (a)(12).

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

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

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

5 “(A) regular or extended compensation (as
6 defined by section 205 of the Federal-State Ex-
7 tended Unemployment Compensation Act of
8 1970);

9 “(B) regular compensation (as defined by
10 section 85(b) of the Internal Revenue Code of
11 1986) provided under any program adminis-
12 tered by a State under an agreement with the
13 Secretary;

14 “(C) pandemic unemployment assistance
15 under section 2102 of the Relief for Workers
16 Affected by Coronavirus Act (15 U.S.C. 9021);

17 “(D) pandemic emergency unemployment
18 compensation under section 2107 of the Relief
19 for Workers Affected by Coronavirus Act (15
20 U.S.C. 2025); and

21 “(E) short-time compensation under a
22 short-time compensation program (as defined in
23 section 3306(v) of the Internal Revenue Code of
24 1986).”.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 subsections (a) and (c) shall take effect with respect to
 3 each State to weeks of unemployment beginning on or
 4 after the earlier of—

5 (1) the date the State changes its statutes, reg-
 6 ulations, or policies in order to comply with such
 7 amendment; or

8 (2) October 1, 2022.

9 **SEC. 5. RECOVERING FRAUDULENT COVID UNEMPLOY-**
 10 **MENT COMPENSATION BENEFIT PAYMENTS.**

11 (a) STATE UNEMPLOYMENT FRAUD RECOUPMENT
 12 PLANS.—

13 (1) IN GENERAL.—Section 2118(b)(3) of the
 14 CARES Act (15 U.S.C. 9034(b)(3)) is amended to
 15 read as follows:

16 “(3) to make grants to States or territories ad-
 17 ministering unemployment compensation programs
 18 described in subsection (a) (including territories ad-
 19 ministering the Pandemic Unemployment Assistance
 20 program under section 2102) for such purposes, in-
 21 cluding for—

22 “(A) building State capacity to prevent
 23 and reduce unemployment fraud through—

24 “(i) the procurement of technology ca-
 25 pabilities and building of infrastructure to

1 verify and validate identity and earnings of
2 unemployment compensation claimants;

3 “(ii) the establishment of procedures
4 to implement Federal guidance regarding
5 prevention of overpayments and fraud de-
6 tection and prevention; and

7 “(iii) improving the efficiency and in-
8 tegrity of claims administration or proc-
9 essing of claims backlogs due to the pan-
10 demic; and

11 “(B) the development and implementation
12 of State unemployment fraud recoupment plans,
13 which shall include—

14 “(i) an assessment of the amount and
15 extent of fraudulently paid unemployment
16 benefits in 2020 and 2021, as applicable;

17 “(ii) an explanation of the causes of
18 fraudulent payments, including any weak-
19 nesses in the State’s internal control proce-
20 dures;

21 “(iii) a description of State efforts to
22 recover fraudulent unemployment pay-
23 ments;

1 “(iv) a description of State actions
2 taken to reduce and prevent fraudulent
3 payments; and

4 “(v) the identification of additional re-
5 sources or authority needed to facilitate re-
6 covery of fraudulently paid benefits; and

7 “(C) targeted funding to support State ef-
8 forts to claw back fraudulent payments, which
9 may be done by an independent third party con-
10 tracted by the State, through State prosecution
11 of criminal unemployment fraud schemes in co-
12 ordination with Federal law enforcement offi-
13 cials, as applicable.”.

14 (2) RESERVATION OF FUNDS.—Section 2118(a)
15 of the CARES Act (15 U.S.C. 9034(a)) is amended
16 by adding at the end the following: “Of the amount
17 made available under this subsection, not less than
18 \$200,000,000 shall be used for grants to States or
19 territories as described in subsection (b)(3)”.

20 (3) EFFECTIVE DATE.—Not later than 60 days
21 after the date of enactment of this Act, each State
22 with an agreement under section 2102 of the
23 CARES Act shall, as a condition of such agreement,
24 submit to the Secretary of Labor and make publicly
25 available a State unemployment fraud recoupment

1 plan as described in section 2118(b)(3)(B) of such
2 Act.

3 (b) ESTABLISHMENT OF THE COVID UNEMPLOY-
4 MENT FRAUD TASKFORCE.—Section 2118 of the CARES
5 Act (15 U.S.C. 9034) is amended by adding at the end
6 the following:

7 “(d) ESTABLISHMENT OF THE COVID UNEMPLOY-
8 MENT FRAUD TASKFORCE.—

9 “(1) IN GENERAL.—Not later than 30 days
10 after the date of enactment of this paragraph, the
11 Secretary of Labor, the Attorney General, and the
12 Secretary of Homeland Security shall establish a
13 joint taskforce, to be known as the ‘COVID Unem-
14 ployment Fraud Taskforce’, to combat fraud in un-
15 employment compensation programs. The taskforce
16 shall—

17 “(A) coordinate and support State and
18 Federal unemployment insurance fraud detec-
19 tion;

20 “(B) identify fraud prevention tools and
21 make them available to States at no cost or
22 substantially reduced cost;

23 “(C) take the lead with respect to viola-
24 tions of Federal law on prosecution of individ-
25 uals suspected of unemployment fraud;

1 “(D) facilitate information sharing regard-
2 ing unemployment fraud, particularly with re-
3 gard to international and multi-State organized
4 crime rings;

5 “(E) coordinate with State workforce agen-
6 cies to develop State unemployment fraud
7 recoupment plans as described in subsection
8 (b)(3)(B); and

9 “(F) coordinate with the Internal Revenue
10 Service to assist taxpayers who were victims of
11 unemployment fraud.

12 “(2) STATE DASHBOARD.—Not later than 60
13 days after the date of enactment of this paragraph,
14 the COVID Unemployment Fraud Taskforce shall
15 make available on a public website, and shall update
16 on a regular basis, a dashboard that shows the sta-
17 tus of each State’s efforts to prevent fraud and re-
18 cover fraudulently paid funds, including the amount
19 of overpayments, prosecutions of unemployment
20 fraud, and information provided by each State pur-
21 suant to (b)(3)(B).

22 “(3) RESERVATION OF FUNDS.—Of the amount
23 made available under subsection (a), not less than
24 \$20,000,000 shall be used for the administration
25 and operations of the COVID Unemployment Fraud

1 Taskforce established under paragraph (1), includ-
2 ing for hiring of personnel to identify and combat
3 fraud schemes targeting State unemployment com-
4 pensation systems.”.

5 (c) ALLOWING STATES TO RETAIN PERCENTAGE OF
6 OVERPAYMENTS FOR ADMINISTRATION AND PROGRAM IN-
7 TEGRITY.—The Department of Labor shall issue guidance
8 to States that allows State workforce agencies to retain
9 5 percent of any amounts recovered in fraudulent or im-
10 properly paid State or Federal unemployment benefits
11 made in 2020 or 2021 for use in administration of the
12 State’s unemployment compensation program, including
13 for hiring fraud investigators and for other program integ-
14 rity purposes. Recovered amounts retained by a State and
15 used for the purposes described in this subsection shall
16 not be considered to violate the withdrawal requirements
17 of section 303(a)(5) of the Social Security Act or section
18 3304(a)(4) of the Internal Revenue Code of 1986.

19 **SEC. 6. PROTECTIONS FOR TAXPAYERS AND VICTIMS OF**
20 **UNEMPLOYMENT FRAUD.**

21 (a) ASSISTANCE FOR VICTIMS OF UNEMPLOYMENT
22 FRAUD.—Section 2118 of the CARES Act (15 U.S.C.
23 9034), as amended by section 5(b), is further amended
24 by adding at the end the following:

1 “(e) ASSISTANCE FOR VICTIMS OF UNEMPLOYMENT
2 FRAUD.—

3 “(1) IN GENERAL.—The Department of Labor
4 shall establish an agreement with the Federal Trade
5 Commission and other identity theft victim resource
6 centers, as applicable, to assist victims of identity
7 theft and unemployment fraud, including assistance
8 with individual case mitigation and victim assist-
9 ance.

10 “(2) RESERVATION OF FUNDS.—Of the amount
11 made available under subsection (a), not less than
12 \$2,000,000 shall be used for the purposes described
13 under paragraph (1).”.

14 (b) RELIEF FOR TAXPAYERS THAT WERE VICTIMS
15 OF IDENTITY THEFT TO COMMIT UNEMPLOYMENT
16 FRAUD.—The Commissioner of the Internal Revenue
17 Service, in collaboration with the Secretary of Labor, shall
18 implement a process to hold harmless taxpayers who are
19 flagged for unreported income related to Form 1099-G,
20 Certain Government Payments, in taxable years 2020 and
21 2021, if such taxpayer claims they are victims of identity
22 theft, or that fraudulent unemployment benefits were
23 claimed in their name, such that no penalties or interest
24 shall accrue against the taxpayer, while the matter is
25 being investigated and resolved.

1 (c) REPORTING UNEMPLOYMENT COMPENSATION
2 OVERPAYMENTS.—

3 (1) IN GENERAL.—The Secretary of Labor,
4 through the Office of Unemployment Insurance in
5 the Employment and Training Administration, shall
6 collect data from each State on the amounts of over-
7 payments waived in unemployment compensation
8 programs, including a breakdown of overpayments
9 waived and excluded by each State from Form
10 1099–G, Certain Government Payment during tax-
11 able years 2020 and 2021, due to suspected or con-
12 firmed fraud.

13 (2) REPORT TO CONGRESS.—Not later than
14 120 days after the date of enactment of this Act, the
15 Secretary of Labor shall submit a report to the
16 Committee on Ways and Means of the House of
17 Representatives and the Committee on Finance of
18 the Senate that describes the aggregate amount of
19 overpayments nationally, including the subset of
20 overpayments made specifically due to fraud, and
21 detailed by program as applicable, including a sepa-
22 rate accounting for the pandemic unemployment as-
23 sistance program.

24 (3) EXPEDITED COLLECTION.—The Secretary
25 of Labor may waive the requirements of subchapter

1 I of chapter 35 of title 44, United States Code (com-
2 monly referred to as the “Paperwork Reduction
3 Act”) with respect to the provisions in the amend-
4 ments made by this Act.

5 (4) APPLICABILITY.—For purposes of this sec-
6 tion, the term “unemployment compensation” shall
7 be considered to refer to—

8 (A) regular compensation and extended
9 compensation (as such terms are defined by
10 section 205 of the Federal-State Extended Un-
11 employment Compensation Act of 1970);

12 (B) unemployment compensation (as de-
13 fined by section 85(b) of the Internal Revenue
14 Code of 1986) provided under any program ad-
15 ministered by a State under an agreement with
16 the Secretary;

17 (C) pandemic unemployment assistance
18 under section 2102 of the CARES Act;

19 (D) pandemic emergency unemployment
20 compensation under section 2107 of the
21 CARES Act; and

22 (E) short-time compensation under a
23 short-time compensation program (as defined in
24 section 3306(v) of the Internal Revenue Code of
25 1986).

1 **SEC. 7. REINSTATING FEDERAL WORK SEARCH REQUIRE-**
2 **MENT.**

3 (a) IN GENERAL.—Section 4102(b) of the Families
4 First Coronavirus Relief Act (26 U.S.C. 3304 note) is
5 amended by striking “work search,” after “with respect
6 to”.

7 (b) EFFECTIVE DATE.—The amendment made under
8 subsection (a) shall take effect on the date that is 30 days
9 after the date of enactment of this Act.

○