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

Mr. BRADY introduced the following bill; which was referred to the Committee on

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 “Combatting COVID
5 Unemployment Fraud Act of 2021”.

H. R. 3268
Sec. 2. Preventing Fraud in Pandemic Unemployment Assistance.

(a) Verification of Eligibility for Pandemic Unemployment Assistance Prior to Authorizing Benefits.—

(1) In general.—Section 2102 of the CARES Act (15 U.S.C. 9021) is amended—

(A) in subsection (a)(3)(A)—

(i) in clause (ii)—

(I) in the matter preceding subclause (I), by striking “provides self-certification” and inserting “provides, not later than 30 days after the date of application, such documentation as the State may require, demonstrating”;

(II) in subclause (I), in the matter preceding item (aa), by inserting “in the employment or service described in clause (iv)” after “unavailable to work”; and

(III) in subclause (II), by striking “and” at the end;

(ii) by amending clause (iii) to read as follows:
“(iii)(I) provides, not later than 30 days after the date of application and prior to the authorization of pandemic unemployment assistance, such documentation as the State agency may require (in accordance with section 625.6(e) of title 20, Code of Federal Regulations, or any successor thereto, except with respect to the deadline for submission) to substantiate prior employment or self-employment or the planned commencement of employment and earnings, as applicable, except that the deadline for submission may be extended if the individual has shown good cause under applicable State law that justifies a delay in submitting such documentation; and

“(II) provides documentation to the satisfaction of the State agency, or the entity verifying identify on behalf of the State agency, verifying the individual’s identity prior to authorizing benefits; and”;

and

(iii) by adding at the end the following:
“(iv) provides self-certification that
the principal source of income and livelihood of the individual are dependent upon
the individual’s employment for wages or the individual’s performance of service in
self-employment; and”.

(B) in subsection (f)(1), by inserting
“prior to authorizing benefits” after “validation”; and

(C) in subsection (f)(2)(B), by striking the
period at the end and inserting at the end the following: “: Provided, That such expenses shall be claimed by States on a reimbursable basis and shall not be subject to restrictions imposed by the Department of Labor’s resource justification model.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to individuals who apply for pandemic unemployment assistance on or after the date that is 30 days after the date of enactment of this Act

(b) LIMITATION ON BACKDATING CLAIMS FOR PANDEMIC UNEMPLOYMENT ASSISTANCE.—In the case of a covered individual whose first application for pandemic unemployment assistance under section 2102 of the
CARES Act is filed after the date of enactment of this Act, subsection (c)(1)(A)(i) of such section 2102 of the CARES Act shall be applied by substituting “April 1, 2021” for “January 27, 2020”.

(c) APPLICATION DEADLINE FOR PANDEMIC UNEMPLOYMENT ASSISTANCE.—Subsection (c) of section 2102 of the CARES Act (15 U.S.C. 9021) is amended by adding at the end the following:

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

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

“(i) DEPARTMENT OF LABOR GUIDANCE ON VERIFICATION OF ELIGIBILITY FOR PANDEMIC UNEMPLOYMENT ASSISTANCE PRIOR TO AUTHORIZING BENEFITS.—Not later than 60 days after the enactment of this subsection, the Secretary of Labor, in consultation with the Director of the National Institute of Standards and Technology, shall issue guidance to State workforce agen-
cies outlining the latest industry practices with regard to cybersecurity, digital identity proofing services, standards for privacy, and procedures for verifying and validating the identity of individuals, pursuant to subsection (f)(1), and the availability of third-party income verification technology to prevent fraud in the pandemic unemployment assistance program.”.

SEC. 3. LIMITATION ON PAYMENTS OF FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION.

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

“(5) LIMITATION.—Notwithstanding any other provision of this subsection, no Federal pandemic unemployment compensation may be paid retroactively for a week of unemployment to claimants who apply for regular compensation for such week more than 14 days after the dates specified in clauses (i) and (ii) of subsection (b)(3)(A) with respect to such week.”.

SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION FRAUD AND IMPROPER PAYMENTS THROUGH DATA MATCHING.

(a) UNEMPLOYMENT COMPENSATION DATA INTEGRITY HUB.—
(1) IN GENERAL.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended by adding at the end the following:

“(13) The State agency charged with administration of the State law shall use the system designated by the Secretary of Labor for cross-matching claimants of unemployment compensation under State law against any databases in the system to prevent and detect fraud and improper payments.”.

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

“(n) USE OF UNEMPLOYMENT CLAIMS DATA TO PREVENT AND DETECT FRAUD.—The Inspector General of the Department of Labor shall, for the purpose of conducting audits, investigations, and other oversight activities authorized under the Inspector General Act of 1978 (5 U.S.C. App.) relating to unemployment compensation programs, have direct access to each of the following systems:

“(1) The system designated by the Secretary of Labor for the electronic transmission of requests for information relating to interstate claims for unemployment compensation.
“(2) The system designated by the Secretary of Labor for cross-matching claimants of unemployment compensation under State law against databases to prevent and detect fraud and improper payments (as described in subsection (a)(13)).”.

(c) USE OF FRAUD PREVENTION AND DETECTION SYSTEMS IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503), as amended by subsection (b), is further amended by adding at the end the following:

“(o) STATE USE OF FRAUD PREVENTION AND DETECTION SYSTEMS.—

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

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

“(i) to compare information in such Directory against information about individuals claiming unemployment compensation to identify any such individuals who may have become employed, in accordance
with any regulations that the Secretary of Health and Human Services may issue and consistent with the computer matching provisions of the Privacy Act of 1974;

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

“(iii) upon verification pursuant to clause (ii), to take appropriate action to suspend or modify unemployment compensation payments, and to initiate recovery of any improper unemployment compensation payments that have been made.

“(B) STATE INFORMATION DATA EXCHANGE SYSTEM.—Use the Department of Labor’s State Information Data Exchange System to facilitate employer responses to requests for information from State workforce agencies.

“(C) INCARCERATED INDIVIDUALS.—Seek information from the Commissioner of Social Security under sections 202(x)(3)(B)(iv) and 1611(e)(1)(I)(iii), and from such other sources as the State agency determines appropriate, to obtain the information necessary to carry out the provisions of a State law under which an in-
dividual who is confined in a jail, prison, or other penal institution or correctional facility is ineligible for unemployment compensation on account of such individual's inability to satisfy the requirement under subsection (a)(12).

“(D) DECEASED INDIVIDUALS.—Compare information of individuals claiming unemployment compensation against the information regarding deceased individuals furnished to or maintained by the Commissioner of Social Security under section 205(r).

“(2) ENFORCEMENT.—Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that the State agency fails to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no future certification to the Secretary of the Treasury with respect to such State.
“(3) UNEMPLOYMENT COMPENSATION.—For the purposes of this subsection, any reference to unemployment compensation described in this paragraph shall be considered to refer to—

“(A) regular or extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970);

“(B) regular compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary;

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

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

“(E) short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986).”.
(d) **Effective Date.**—The amendments made by subsections (a) and (e) shall take effect with respect to each State to weeks of unemployment beginning on or after the earlier of—

(1) the date the State changes its statutes, regulations, or policies in order to comply with such amendment; or

(2) October 1, 2022.

**Sec. 5. Recovering Fraudulent COVID Unemployment Compensation Benefit Payments.**

(a) **State Unemployment Fraud Recoupment Plans.**—

(1) **In General.**—Section 2118(b)(3) of the CARES Act (15 U.S.C. 9034(b)(3)) is amended to read as follows:

“(3) to make grants to States or territories administering unemployment compensation programs described in subsection (a) (including territories administering the Pandemic Unemployment Assistance program under section 2102) for such purposes, including for—

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

“(i) the procurement of technology capabilities and building of infrastructure to
verify and validate identity and earnings of unemployment compensation claimants;

“(ii) the establishment of procedures to implement Federal guidance regarding prevention of overpayments and fraud detection and prevention; and

“(iii) improving the efficiency and integrity of claims administration or processing of claims backlogs due to the pandemic; and

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

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

“(ii) an explanation of the causes of fraudulent payments, including any weaknesses in the State’s internal control procedures;

“(iii) a description of State efforts to recover fraudulent unemployment payments;
“(iv) a description of State actions taken to reduce and prevent fraudulent payments; and

“(v) the identification of additional resources or authority needed to facilitate recovery of fraudulently paid benefits; and

“(C) targeted funding to support State efforts to claw back fraudulent payments, which may be done by an independent third party contracted by the State, through State prosecution of criminal unemployment fraud schemes in coordination with Federal law enforcement officials, as applicable.”.

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

(3) Effective Date.—Not later than 60 days after the date of enactment of this Act, each State with an agreement under section 2102 of the CARES Act shall, as a condition of such agreement, submit to the Secretary of Labor and make publicly available a State unemployment fraud recoupment
plan as described in section 2118(b)(3)(B) of such Act.

(b) ESTABLISHMENT OF THE COVID UNEMPLOYMENT FRAUD TASKFORCE.—Section 2118 of the CARES Act (15 U.S.C. 9034) is amended by adding at the end the following:

“(d) ESTABLISHMENT OF THE COVID UNEMPLOYMENT FRAUD TASKFORCE.—

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of this paragraph, the Secretary of Labor, the Attorney General, and the Secretary of Homeland Security shall establish a joint taskforce, to be known as the ‘COVID Unemployment Fraud Taskforce’, to combat fraud in unemployment compensation programs. The taskforce shall—

“(A) coordinate and support State and Federal unemployment insurance fraud detection;

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

“(C) take the lead with respect to violations of Federal law on prosecution of individuals suspected of unemployment fraud;
“(D) facilitate information sharing regarding unemployment fraud, particularly with regard to international and multi-State organized crime rings;

“(E) coordinate with State workforce agencies to develop State unemployment fraud recoupment plans as described in subsection (b)(3)(B); and

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

“(2) STATE DASHBOARD.—Not later than 60 days after the date of enactment of this paragraph, the COVID Unemployment Fraud Taskforce shall make available on a public website, and shall update on a regular basis, a dashboard that shows the status of each State’s efforts to prevent fraud and recover fraudulently paid funds, including the amount of overpayments, prosecutions of unemployment fraud, and information provided by each State pursuant to (b)(3)(B).

“(3) RESERVATION OF FUNDS.—Of the amount made available under subsection (a), not less than $20,000,000 shall be used for the administration and operations of the COVID Unemployment Fraud
Taskforce established under paragraph (1), including for hiring of personnel to identify and combat fraud schemes targeting State unemployment compensation systems.”.

(c) ALLOWING STATES TO RETAIN PERCENTAGE OF OVERPAYMENTS FOR ADMINISTRATION AND PROGRAM INTEGRITY.—The Department of Labor shall issue guidance to States that allows State workforce agencies to retain 5 percent of any amounts recovered in fraudulent or improperly paid State or Federal unemployment benefits made in 2020 or 2021 for use in administration of the State’s unemployment compensation program, including for hiring fraud investigators and for other program integrity purposes. Recovered amounts retained by a State and used for the purposes described in this subsection shall not be considered to violate the withdrawal requirements of section 303(a)(5) of the Social Security Act or section 3304(a)(4) of the Internal Revenue Code of 1986.

SEC. 6. PROTECTIONS FOR TAXPAYERS AND VICTIMS OF UNEMPLOYMENT FRAUD.

(a) ASSISTANCE FOR VICTIMS OF UNEMPLOYMENT FRAUD.—Section 2118 of the CARES Act (15 U.S.C. 9034), as amended by section 5(b), is further amended by adding at the end the following:
“(e) Assistance for Victims of Unemployment Fraud.—

“(1) In general.—The Department of Labor shall establish an agreement with the Federal Trade Commission and other identity theft victim resource centers, as applicable, to assist victims of identity theft and unemployment fraud, including assistance with individual case mitigation and victim assistance.

“(2) Reservation of funds.—Of the amount made available under subsection (a), not less than $2,000,000 shall be used for the purposes described under paragraph (1).”.

(b) Relief for Taxpayers That Were Victims of Identity Theft to Commit Unemployment Fraud.—The Commissioner of the Internal Revenue Service, in collaboration with the Secretary of Labor, shall implement a process to hold harmless taxpayers who are flagged for unreported income related to Form 1099-G, Certain Government Payments, in taxable years 2020 and 2021, if such taxpayer claims they are victims of identity theft, or that fraudulent unemployment benefits were claimed in their name, such that no penalties or interest shall accrue against the taxpayer, while the matter is being investigated and resolved.
(c) REPORTING UNEMPLOYMENT COMPENSATION OVERPAYMENTS.—

(1) IN GENERAL.—The Secretary of Labor, through the Office of Unemployment Insurance in the Employment and Training Administration, shall collect data from each State on the amounts of overpayments waived in unemployment compensation programs, including a breakdown of overpayments waived and excluded by each State from Form 1099-G, Certain Government Payment during taxable years 2020 and 2021, due to suspected or confirmed fraud.

(2) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that describes the aggregate amount of overpayments nationally, including the subset of overpayments made specifically due to fraud, and detailed by program as applicable, including a separate accounting for the pandemic unemployment assistance program.

(3) EXPEDITED COLLECTION.—The Secretary of Labor may waive the requirements of subchapter
I of chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”) with respect to the provisions in the amendments made by this Act.

(4) APPLICABILITY.—For purposes of this section, the term “unemployment compensation” shall be considered to refer to—

(A) regular compensation and extended compensation (as such terms are defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970);

(B) unemployment compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary;

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

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

(E) short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986).
SEC. 7. REINSTATING FEDERAL WORK SEARCH REQUIREMENT.

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

(b) Effective Date.—The amendment made under subsection (a) shall take effect on the date that is 30 days after the date of enactment of this Act.