

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1163
OFFERED BY M. _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Protecting Taxpayers
3 and Victims of Unemployment Fraud Act”.

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

6 (a) ALLOWING STATES TO RETAIN PERCENTAGE OF
7 OVERPAYMENTS FOR PROGRAM INTEGRITY.—

8 (1) PANDEMIC UNEMPLOYMENT ASSISTANCE.—

9 Section 2102(d) of the CARES Act (15 U.S.C.
10 9021(d)) is amended by amending paragraph (4) to
11 read as follows:

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

1 (2) FEDERAL PANDEMIC UNEMPLOYMENT COM-
2 PENSATION.—Section 2104(f)(3) of such Act (15
3 U.S.C. 9023(f)(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:

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 Federal Pandemic Unemploy-
16 ment Compensation or Mixed Earner Unem-
17 ployment Compensation that were determined
18 to be made due to fraud. Amounts so retained
19 by 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 (3) PANDEMIC EMERGENCY UNEMPLOYMENT
10 COMPENSATION.—Section 2107(e)(3) of such Act
11 (15 U.S.C. 9025(e)(3)) is amended—

12 (A) in subparagraph (A)—

13 (i) by striking “3-year” and inserting
14 “10-year”; and

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

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

20 “(C) RETENTION OF PERCENTAGE OF RE-
21 COVERED FUNDS.—The State agency may re-
22 tain 25 percent of any amount recovered from
23 overpayments of pandemic emergency unem-
24 ployment compensation that were determined to
25 be made due to fraud. Amounts so retained by

1 the State agency shall be used for any of fol-
2 lowing:

3 “(i) Modernizing unemployment com-
4 pensation systems and information tech-
5 nology to improve identity verification and
6 validation of applicants.

7 “(ii) Reimbursement of administrative
8 costs incurred by the State to identify and
9 pursue recovery of fraudulent overpay-
10 ments.

11 “(iii) Hiring fraud investigators and
12 prosecutors.

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

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

1 by the State agency shall be used for any of the pur-
2 poses described in section 2107(e)(3)(C) of the
3 CARES Act (15 U.S.C. 9025(e)(3)(C)).

4 (5) FIRST WEEK OF REGULAR COMPENSA-
5 TION.—A State that was a party to an agreement
6 under section 4105 of the CARES Act (15 U.S.C.
7 9024) may retain 25 percent of any amount recov-
8 ered from overpayments of regular compensation
9 paid to individuals by the State for their first week
10 of regular unemployment for which the State re-
11 ceived full Federal funding under such agreement in
12 any case in which such overpayments 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 (b) TREATMENT UNDER WITHDRAWAL STANDARD
18 AND IMMEDIATE DEPOSIT REQUIREMENTS.—Any amount
19 retained by a State pursuant to paragraph (4) or (5) of
20 subsection (a) or under section 2102(d)(4), section
21 2104(f)(3)(C), or 2107(e)(3)(C) of the CARES Act, and
22 used for the purposes described therein, shall not be con-
23 sidered to violate the withdrawal standard and immediate
24 deposit requirements of paragraph (4) or (5) of section
25 303(a) of the Social Security Act (42 U.S.C. 503(a)) or

1 paragraph (3) or (4) of section 3304(a) of the Internal
2 Revenue Code of 1986.

3 (c) **LIMITATION ON RETENTION AUTHORITY.**—The
4 authority of a State to retain any amount pursuant to
5 paragraph (4) or (5) of subsection (a) and under section
6 2102(d)(4), section 2104(f)(3)(C), and 2107(e)(3)(C) of
7 the CARES Act shall apply only—

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

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

13 **SEC. 3. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR**
14 **PROGRAM ADMINISTRATION.**

15 (a) **WITHDRAWAL STANDARD IN THE INTERNAL**
16 **REVENUE CODE.**—Section 3304(a)(4) of the Internal
17 Revenue Code of 1986 is amended—

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

20 (2) by inserting after subparagraph (G) the fol-
21 lowing new subparagraphs:

22 “(H) 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
3 overpayment of compensation recovered by the
4 State (other than an overpayment made as the
5 result of agency error) may, immediately fol-
6 lowing the State’s receipt of such recovered
7 amount, be deposited in a State fund from
8 which money may be withdrawn for—

9 “(i) the payment of costs of deterring,
10 detecting, and preventing improper pay-
11 ments;

12 “(ii) purposes relating to the proper
13 classification of employees and the provi-
14 sions of State law implementing section
15 303(k) of the Social Security Act;

16 “(iii) the payment to the Secretary of
17 the Treasury to the credit of the account
18 of the State in the Unemployment Trust
19 Fund;

20 “(iv) modernizing the State’s unem-
21 ployment insurance technology infrastruc-
22 ture; or

23 “(v) otherwise assisting the State in
24 improving the timely and accurate admin-

1 istration of the State’s unemployment com-
2 pensation law; and

3 “(I) provided the certifications made by
4 the State as described in section 4 of the Pro-
5 tecting Taxpayers and Victims of Unemploy-
6 ment Fraud Act are in effect at the time of ap-
7 proval of the State law under this subsection,
8 an amount, not to exceed 5 percent, of any pay-
9 ments of contributions, or payments in lieu of
10 contributions, that are collected as a result of
11 an investigation and assessment by the State
12 agency may, immediately following receipt of
13 such payments, be deposited in a State fund
14 from which moneys may be withdrawn for the
15 purposes specified in subparagraph (H);”.

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

23 (c) WITHDRAWAL STANDARD IN SOCIAL SECURITY
24 ACT.—Section 303(a)(5) of the Social Security Act (42
25 U.S.C. 503(a)(5)) is amended by striking “and for refunds

1 of sums” and all that follows and inserting “except as oth-
2 erwise provided in this section, section 3304(a)(4) of the
3 Internal Revenue Code of 1986, or any other provisions
4 of Federal unemployment compensation law; and”.

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

9 “(3) all money received in the unemployment
10 fund shall immediately upon such receipt be paid
11 over to the Secretary of the Treasury to the credit
12 of the Unemployment Trust Fund established by
13 section 904 of the Social Security Act (42 U.S.C.
14 1104), except for—

15 “(A) refunds of sums improperly paid into
16 such fund;

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

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

22 (e) IMMEDIATE DEPOSIT REQUIREMENT IN SOCIAL
23 SECURITY ACT REQUIREMENT.—Section 303(a)(4) of the
24 Social Security Act (42 U.S.C. 503(a)(4)) is amended by
25 striking the parenthetical and inserting “(except as other-

1 wise provided in this section, section 3304(a)(3) of the In-
2 ternal Revenue Code of 1986, or any other provisions of
3 Federal unemployment compensation law)”.

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

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

1 year period beginning on the date of the enactment of this
2 Act.

3 **SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION**
4 **FRAUD THROUGH DATA MATCHING.**

5 (a) IN GENERAL.—As a condition for the eligibility
6 of a State to implement the exceptions to the withdrawal
7 standard described in subparagraphs (H) and (I) of sec-
8 tion 3304(a)(4) of the Internal Revenue Code, the State
9 shall certify each of the following:

10 (1) INTEGRITY DATA HUB.—The State uses the
11 system designated by the Secretary of Labor (or an-
12 other system at the discretion of the State) for
13 cross-matching claimants of unemployment com-
14 pensation to prevent and detect fraud and improper
15 payments.

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

19 (A) NATIONAL DIRECTORY OF NEW
20 HIRES.—Use the National Directory of New
21 Hires established under section 453(i) of the
22 Social Security Act—

23 (i) to compare information in such Di-
24 rectory against information about individ-
25 uals claiming unemployment compensation

1 to identify any such individuals who may
2 have become employed;

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

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

12 (B) STATE INFORMATION DATA EXCHANGE
13 SYSTEM.—Use the State Information Data Ex-
14 change System (or another system at the dis-
15 cretion of the State) to facilitate employer re-
16 sponses to requests for information from State
17 workforce agencies.

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

1 in a jail, prison, or other penal institution or
2 correctional facility is ineligible for unemploy-
3 ment compensation on account of such individ-
4 uals inability to satisfy the requirement under
5 section 303(a)(12) of such Act.

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) of the Social Secu-
12 rity Act.

13 (b) UNEMPLOYMENT COMPENSATION.—For the pur-
14 poses of this section, any reference to unemployment com-
15 pensation shall be considered to refer to compensation as
16 defined in section 3306 of the Internal Revenue Code of
17 1986.

18 **SEC. 5. EXTENSION OF EMERGENCY STATE STAFFING**
19 **FLEXIBILITY.**

20 If a State modifies its unemployment compensation
21 law and policies with respect to personnel standards on
22 a merit basis on an emergency temporary basis as deter-
23 mined by the Secretary, including for detection, pursuit,
24 and recovery of fraudulent overpayments under Federal
25 pandemic unemployment compensation programs author-

1 ized under the CARES Act (15 U.S.C. 9021 et seq.), sub-
2 ject to the succeeding sentence, such modifications shall
3 be disregarded for the purposes of applying section 303
4 of the Social Security Act (42 U.S.C. 503) and section
5 3304 of the Internal Revenue Code of 1986 to such State
6 law. Such modifications may continue through December
7 31, 2030.

8 **SEC. 6. FRAUD ENFORCEMENT HARMONIZATION.**

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

15 **SEC. 7. BUDGET OFFSET.**

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

