

AMENDMENT TO SENATE AMENDMENT TO H.R.

3864

OFFERED BY MRS. STEEL OF CALIFORNIA

Page 2739, after line 15, insert the following:

1 **DIVISION L—PANDEMIC UNEM-**
2 **LOYMENT ASSISTANCE**
3 **FRAUD PROTECTION ACT**

4 **SECTION 10100. SHORT TITLE.**

5 This division may be cited as the “Pandemic Unem-
6 ployment Assistance Fraud Protection Act”.

7 **TITLE I—TAXPAYER AND UNEM-**
8 **LOYED WORKER PROTEC-**
9 **TION**

10 **SEC. 10101. STATE ANTI-FRAUD REQUIREMENTS.**

11 (a) IN GENERAL.—Section 2118 of the CARES Act
12 (15 U.S.C. 9034) is amended—

13 (1) in subsection (b)(3), by inserting “the devel-
14 opment and implementation of a recovery plan and
15 the establishment of an anti-fraud task force as de-
16 scribed in subsection (d) and” after “including”;

17 (2) by adding at the end the following:

18 “(d) ANTI-FRAUD REQUIREMENTS.—

1 “(1) IN GENERAL.—As a condition of receiving
2 a grant under subsection (b)(3), the Secretary of
3 Labor shall require that each State or territory re-
4 ceiving such a grant take the following actions:

5 “(A) RECOVERY PLAN.—Not later than 30
6 days after the date of enactment of this sub-
7 section, each such State or territory shall sub-
8 mit to the Secretary of Labor a plan to recover
9 all amounts of pandemic unemployment assist-
10 ance paid under section 2102 to individuals who
11 fraudulently obtained such assistance.

12 “(B) TASK FORCE.—Not later than 90
13 days after the date of enactment of this sub-
14 section, each such State or territory shall estab-
15 lish an anti-fraud task force to investigate and
16 recover amounts described in paragraph (1),
17 and to develop a strategy for the implementa-
18 tion of the plan described in such paragraph.
19 Such task force shall seek the cooperation of
20 relevant entities in the State or territory, in-
21 cluding local law enforcement, State law en-
22 forcement, and the State Office of the Inspector
23 General.

24 “(C) REPORTS BY STATE OR TERRI-
25 TORY.—

1 “(i) IN GENERAL.—At such times and
2 in such manner as the Secretary of Labor
3 may provide, each such State or territory
4 shall submit to the Secretary of Labor a
5 report specifying the ratio (expressed as a
6 percentage) of—

7 “(I) amounts described in para-
8 graph (1) that have not been recov-
9 ered as of the date of such report, to

10 “(II) the total amounts of pan-
11 demic unemployment assistance that
12 have been paid to individuals under
13 section 2102 by such State or terri-
14 tory.

15 “(ii) ENFORCEMENT.—In any case in
16 which the Secretary of Labor determines
17 that a State or territory has failed to sub-
18 mit any report under clause (i), section
19 1202(b)(10)(A) of the Social Security Act
20 shall not apply with respect to such State
21 or territory for any period after the date of
22 such failure.

23 “(2) REPORTS BY SECRETARY OF LABOR.—

24 “(A) RELATING TO STATE RECOVERY
25 PLANS.—Not later than 45 days after the date

1 of enactment of this subsection, the Secretary
2 of Labor, in consultation with the Secretary of
3 the Treasury, shall provide Congress with each
4 plan submitted under paragraph (1)(A) and
5 shall certify which such States and territories
6 have submitted such a plan.

7 “(B) RELATING TO STATE REPORTING.—

8 “(i) IN GENERAL.—For each month
9 beginning after the date of enactment of
10 this subsection and ending on or before the
11 termination date specified in clause (ii),
12 the Secretary of Labor shall submit to the
13 Committee on Ways and Means of the
14 House of Representatives and the Com-
15 mittee on Finance of the Senate a report
16 that includes, subject to clause (ii), the
17 percentage described in paragraph
18 (1)(C)(i) for each State or territory that
19 has received a grant under subsection
20 (b)(3).

21 “(ii) TERMINATION DATE.—The ter-
22 mination date specified in this clause is the
23 earlier of December 31, 2025, or, with re-
24 spect to each State or territory required to
25 submit reports under paragraph (1)(C),

1 the date of the first such report in which
2 the percentage specified in such report
3 does not exceed 5 percent.”.

4 (b) AUTHORIZATION OF FUNDS FOR FEDERAL LAW
5 ENFORCEMENT.—There are authorized to be appropriated
6 to the Attorney General \$50,000,000 for each of fiscal
7 years 2022 and 2023 for purposes of partnering with
8 State anti-fraud task forces and State and local law en-
9 forcement to implement section 2118(d) of the CARES
10 Act.

11 **SEC. 10102. RECOVERY OF OVERPAYMENTS ATTRIBUTABLE**
12 **TO FRAUD.**

13 (a) RECOVERY OF OVERPAYMENTS BY THE TREAS-
14 URY.—

15 (1) IN GENERAL.—Section 2102(f)(3) of the
16 CARES Act (15 U.S.C. 9021(f)(3)) is amended by
17 adding at the end the following: “In any case in
18 which a State agency makes an overpayment of as-
19 sistance to any individual under an agreement under
20 this section, the State shall make restitution to the
21 Secretary for the amount of such overpayment.”.

22 (2) EFFECTIVE DATE.—The amendments made
23 by paragraph (1) shall take effect as if included in
24 the enactment of the CARES Act (Public Law 116–
25 136).

1 (b) PROCESSING FEE FOR UNRECOVERED OVERPAY-
2 MENTS ATTRIBUTABLE TO FRAUD.—

3 (1) IN GENERAL.—Section 3304(a) of the In-
4 ternal Revenue Code of 1986 is amended—

5 (A) in paragraph (4), by striking “and” at
6 the end of subparagraph (F), by inserting
7 “and” at the end of subparagraph (G), and by
8 adding at the end the following:

9 “(H) amounts may be withdrawn for the
10 payment of fees in accordance with paragraph
11 (19);”; and

12 (B) by striking “and” at the end of para-
13 graph (18), by redesignating paragraph (19) as
14 paragraph (20), and by inserting after para-
15 graph (18) the following:

16 “(19) in the case of any State that fails to re-
17 cover at least 75 percent of amounts of pandemic
18 unemployment assistance paid to individuals who
19 fraudulently obtained such assistance under section
20 2102 of the CARES Act prior to December 31,
21 2022, the payment of a processing fee to the Sec-
22 retary of the Treasury, for each withdrawal made
23 from the unemployment fund of the State, in a total
24 amount equal to the amounts of such assistance un-
25 recovered as of such date, to be amortized, as deter-

1 mined by the Secretary of Labor, over a 5-year pe-
2 riod beginning on January 1, 2023, except that in
3 no case may the method governing the computation
4 of regular compensation (as defined in section
5 205(2) of the Federal-State Extended Unemploy-
6 ment Compensation Act of 1970) under the State
7 law be modified in a manner such that the number
8 of weeks, or the average weekly benefit amount, of
9 regular compensation (as so defined) which will be
10 payable after any such withdrawal be less than the
11 number of weeks, or the average weekly benefit
12 amount, of the average weekly benefit amount of
13 regular compensation (as so defined) which would
14 otherwise have been payable at such time under the
15 State law, as in effect on January 1, 2020; and”.

16 (2) CONFORMING AMENDMENT TO SOCIAL SE-
17 CURITY ACT.—Section 303(a)(5) of the Social Secu-
18 rity Act (42 U.S.C. 503(a)(5)) is amended by strik-
19 ing “; and” at the end and inserting “: *Provided fur-*
20 *ther*; That amounts may be withdrawn for the pay-
21 ment of fees in accordance with paragraph (19) of
22 section 3304(a) of the Internal Revenue Code of
23 1986”.

1 **TITLE II—PAYMENTS FOR ENTI-**
2 **TLED AMERICANS AND ANTI-**
3 **FRAUD**

4 **SEC. 10201. STATE CROSS-CHECK REQUIREMENTS.**

5 (a) IN GENERAL.—Section 2102(f) of the CARES
6 Act (15 U.S.C. 9021(f)) is amended by adding at the end
7 the following:

8 “(4) COMPARING INFORMATION FOR FRAUD
9 PREVENTION.—As a condition of any agreement
10 under this section, a State shall—

11 “(A) enter into an agreement with the At-
12 torney General under which the list of individ-
13 uals receiving pandemic unemployment assist-
14 ance under this section shall be regularly com-
15 pared with a list of each prisoner in Federal
16 custody at a Federal correction facility within
17 that State;

18 “(B) establish a regular comparison of
19 such list of individuals with a list of each pris-
20 oner in the custody of that State at a correc-
21 tional facility in that State;

22 “(C) participate in the E-Verify Program
23 described in section 403 of the Illegal Immigra-
24 tion Reform and Immigrant Responsibility Act
25 of 1996 (division C of Public Law 104–208; 8

1 U.S.C. 1324a note) with respect to applicants
2 for pandemic unemployment assistance; and

3 “(D) use the results of the comparisons
4 and participation described in subparagraphs
5 (A), (B), and (C) to investigate and prosecute
6 fraud relating to pandemic unemployment as-
7 sistance under this section.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
9 subsection (a) shall apply with respect to pandemic unem-
10 ployment assistance paid under section 2102 of the
11 CARES Act on or after the date of enactment of this Act.

12 **SEC. 10202. TEMPORARY ENHANCED PENALTIES FOR**
13 **FRAUD AND IDENTITY THEFT.**

14 Any violation of section 1341 or 1343 of title 18,
15 United States Code, occurring in connection with an appli-
16 cation for, or continuing receipt of, pandemic unemploy-
17 ment assistance under section 2102 of the CARES Act
18 (15 U.S.C. 9021) during the period beginning on the date
19 of enactment of this Act and ending on December 31,
20 2021, shall be treated, for purposes of the final sentence
21 of section 1341 or 1343 of such title, as a violation of
22 such section 1341 or 1343 in relation to a presidentially
23 declared major disaster or emergency.

1 **SEC. 10203. PROTECTIONS RELATING TO TAX LIABILITY.**

2 (a) IN GENERAL.—Section 2118 of the CARES Act
3 (15 U.S.C. 9034), as amended by section 101(a), is fur-
4 ther amended—

5 (1) in subsection (b)(3), by striking the period
6 at the end and inserting “: *Provided*, That up to 10
7 percent of the amount made available under sub-
8 section (a) may be used, pursuant to a grant de-
9 scribed in this paragraph, for the establishment of
10 the fraud hotline and claim processing procedures
11 described in subsection (e).”; and

12 (2) by adding at the end the following:

13 “(e) PROTECTIONS RELATING TO TAX LIABILITY.—

14 “(1) IN GENERAL.—As a condition of receiving
15 a grant under subsection (b)(3), the Secretary of
16 Labor shall require that each State or territory re-
17 ceiving such a grant take the following actions, at
18 such times and in such manner as the Secretary of
19 Labor may provide:

20 “(A) FRAUD HOTLINE.—Each such State
21 or territory shall establish a fraud hotline de-
22 signed to encourage individuals who are the vic-
23 tims of unemployment fraud and who have re-
24 ceived an incorrect statement of unemployment
25 compensation furnished under section 6050B of
26 the Internal Revenue Code of 1986 for a cal-

1 endar year to report such fraud to the State or
2 territory.

3 “(B) PROCESSING OF CLAIMS.—Each such
4 State or territory shall—

5 “(i) maintain a database of all reports
6 made as described under paragraph (1);

7 “(ii) investigate and make a final de-
8 termination with respect to each such re-
9 port;

10 “(iii) notify the Commissioner of In-
11 ternal Revenue—

12 “(I) of each such report received
13 with respect to an individual for a cal-
14 endar year; and

15 “(II) of the final determination
16 made with respect to such report.

17 “(2) REPORT TO CONGRESS.—Not later than
18 90 days after the date of enactment of this sub-
19 section, the Secretary of Labor, in consultation with
20 the Secretary of the Treasury, shall submit a report
21 to Congress certifying whether each State or terri-
22 tory receiving a grant under subsection (b)(3) has
23 taken the actions described in paragraph (1).”.

24 (b) TIMELINESS OF TAX REFUNDS.—If the Commis-
25 sioner of Internal Revenue is notified by a State that an

1 individual has filed a report under section 2118(e) of the
2 CARES Act with respect to an incorrect statement of un-
3 employment compensation furnished under section 6050B
4 of the Internal Revenue Code of 1986—

5 (1) the Commissioner shall not delay making
6 any refund with respect to a return of tax by such
7 individual solely on account of a difference between
8 the amount of unemployment compensation included
9 on such return and furnished on such statement;
10 and

11 (2) except as otherwise provided in section 6851
12 or 6861 of such Code, no assessment of any portion
13 of a deficiency that is attributable to such any dif-
14 ference may be made,
15 unless such delay or assessment is based on the final de-
16 termination made by the State with respect to such report.

