AMENDMENT TO SENATE AMENDMENT TO H.R. 3864
OFFERED BY MRS. STEEL OF CALIFORNIA

Page 2739, after line 15, insert the following:

DIVISION L—PANDEMIC UNEMPLOYMENT ASSISTANCE FRAUD PROTECTION ACT

SECTION 10100. SHORT TITLE.

This division may be cited as the “Pandemic Unemployment Assistance Fraud Protection Act”.

TITLE I—TAXPAYER AND UNEMPLOYED WORKER PROTECTION

SEC. 10101. STATE ANTI-FRAUD REQUIREMENTS.

(a) In General.—Section 2118 of the CARES Act (15 U.S.C. 9034) is amended—

(1) in subsection (b)(3), by inserting “the development and implementation of a recovery plan and the establishment of an anti-fraud task force as described in subsection (d) and” after “including”; and

(2) by adding at the end the following:

“(d) ANTI-FRAUD REQUIREMENTS.—
“(1) **IN GENERAL.**—As a condition of receiving a grant under subsection (b)(3), the Secretary of Labor shall require that each State or territory receiving such a grant take the following actions:

“(A) **RECOVERY PLAN.**—Not later than 30 days after the date of enactment of this subsection, each such State or territory shall submit to the Secretary of Labor a plan to recover all amounts of pandemic unemployment assistance paid under section 2102 to individuals who fraudulently obtained such assistance.

“(B) **TASK FORCE.**—Not later than 90 days after the date of enactment of this subsection, each such State or territory shall establish an anti-fraud task force to investigate and recover amounts described in paragraph (1), and to develop a strategy for the implementation of the plan described in such paragraph. Such task force shall seek the cooperation of relevant entities in the State or territory, including local law enforcement, State law enforcement, and the State Office of the Inspector General.

“(C) **REPORTS BY STATE OR TERRITORY.**—
“(i) IN GENERAL.—At such times and in such manner as the Secretary of Labor may provide, each such State or territory shall submit to the Secretary of Labor a report specifying the ratio (expressed as a percentage) of—

“(I) amounts described in paragraph (1) that have not been recovered as of the date of such report, to

“(II) the total amounts of pandemic unemployment assistance that have been paid to individuals under section 2102 by such State or territory.

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

“(2) REPORTS BY SECRETARY OF LABOR.—

“(A) RELATING TO STATE RECOVERY PLANS.—Not later than 45 days after the date
of enactment of this subsection, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall provide Congress with each plan submitted under paragraph (1)(A) and shall certify which such States and territories have submitted such a plan.

“(B) RELATING TO STATE REPORTING.—

“(i) IN GENERAL.—For each month beginning after the date of enactment of this subsection and ending on or before the termination date specified in clause (ii), the Secretary of Labor shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes, subject to clause (ii), the percentage described in paragraph (1)(C)(i) for each State or territory that has received a grant under subsection (b)(3).

“(ii) TERMINATION DATE.—The termination date specified in this clause is the earlier of December 31, 2025, or, with respect to each State or territory required to submit reports under paragraph (1)(C),
the date of the first such report in which
the percentage specified in such report
does not exceed 5 percent.”.

(b) Authorization of Funds for Federal Law
Enforcement.—There are authorized to be appropriated
to the Attorney General $50,000,000 for each of fiscal
years 2022 and 2023 for purposes of partnering with
State anti-fraud task forces and State and local law en-
forcement to implement section 2118(d) of the CARES
Act.

SEC. 10102. RECOVERY OF OVERPAYMENTS ATTRIBUTABLE
TO FRAUD.

(a) Recovery of Overpayments by the Treasury.—

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

(2) Effective date.—The amendments made
by paragraph (1) shall take effect as if included in
the enactment of the CARES Act (Public Law 116–
136).
(b) **PROCESSING FEE FOR UNRECOVERED OVERPAYMENTS ATTRIBUTABLE TO FRAUD.**—

(1) **IN GENERAL.**—Section 3304(a) of the Internal Revenue Code of 1986 is amended—

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

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

(B) by striking “and” at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following:

“(19) in the case of any State that fails to recover at least 75 percent of amounts of pandemic unemployment assistance paid to individuals who fraudulently obtained such assistance under section 2102 of the CARES Act prior to December 31, 2022, the payment of a processing fee to the Secretary of the Treasury, for each withdrawal made from the unemployment fund of the State, in a total amount equal to the amounts of such assistance unrecovered as of such date, to be amortized, as deter-
mined by the Secretary of Labor, over a 5-year period beginning on January 1, 2023, except that in no case may the method governing the computation of regular compensation (as defined in section 205(2) of the Federal-State Extended Unemployment Compensation Act of 1970) under the State law be modified in a manner such that the number of weeks, or the average weekly benefit amount, of regular compensation (as so defined) which will be payable after any such withdrawal be less than the number of weeks, or the average weekly benefit amount, of the average weekly benefit amount of regular compensation (as so defined) which would otherwise have been payable at such time under the State law, as in effect on January 1, 2020; and”.

(2) CONFORMING AMENDMENT TO SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by striking “; and” at the end and inserting “: Provided further; That amounts may be withdrawn for the payment of fees in accordance with paragraph (19) of section 3304(a) of the Internal Revenue Code of 1986”.
TITLE II—PAYMENTS FOR ENTITLED AMERICANS AND ANTI-FRAUD

SEC. 10201. STATE CROSS-CHECK REQUIREMENTS.

(a) In General.—Section 2102(f) of the CARES Act (15 U.S.C. 9021(f)) is amended by adding at the end the following:

“(4) Comparing information for fraud prevention.—As a condition of any agreement under this section, a State shall—

“(A) enter into an agreement with the Attorney General under which the list of individuals receiving pandemic unemployment assistance under this section shall be regularly compared with a list of each prisoner in Federal custody at a Federal correction facility within that State;

“(B) establish a regular comparison of such list of individuals with a list of each prisoner in the custody of that State at a correctional facility in that State;

“(C) participate in the E-Verify Program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8
U.S.C. 1324a note) with respect to applicants
for pandemic unemployment assistance; and
“(D) use the results of the comparisons
and participation described in subparagraphs
(A), (B), and (C) to investigate and prosecute
fraud relating to pandemic unemployment as-
assistance under this section.”.

(b) Effective Date.—The amendment made by
subsection (a) shall apply with respect to pandemic unem-
ployment assistance paid under section 2102 of the
CARES Act on or after the date of enactment of this Act.

SEC. 10202. TEMPORARY ENHANCED PENALTIES FOR
FRAUD AND IDENTITY THEFT.

Any violation of section 1341 or 1343 of title 18,
United States Code, occurring in connection with an appli-
cation for, or continuing receipt of, pandemic unemploy-
ment assistance under section 2102 of the CARES Act
(15 U.S.C. 9021) during the period beginning on the date
of enactment of this Act and ending on December 31,
2021, shall be treated, for purposes of the final sentence
of section 1341 or 1343 of such title, as a violation of
such section 1341 or 1343 in relation to a presidentially
declared major disaster or emergency.
SEC. 10203. PROTECTIONS RELATING TO TAX LIABILITY.

(a) IN GENERAL.—Section 2118 of the CARES Act (15 U.S.C. 9034), as amended by section 101(a), is further amended—

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

(2) by adding at the end the following:

“(e) PROTECTIONS RELATING TO TAX LIABILITY.—

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

“(A) FRAUD HOTLINE.—Each such State or territory shall establish a fraud hotline designed to encourage individuals who are the victims of unemployment fraud and who have received an incorrect statement of unemployment compensation furnished under section 6050B of the Internal Revenue Code of 1986 for a cal-
endar year to report such fraud to the State or territory.

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

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

“(ii) investigate and make a final determination with respect to each such report;

“(iii) notify the Commissioner of Internal Revenue—

“(I) of each such report received with respect to an individual for a calendar year; and

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

“(2) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this subsection, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall submit a report to Congress certifying whether each State or territory receiving a grant under subsection (b)(3) has taken the actions described in paragraph (1).”.

(b) TIMELINESS OF TAX REFUNDS.—If the Commissioner of Internal Revenue is notified by a State that an
individual has filed a report under section 2118(e) of the CARES Act with respect to an incorrect statement of unemployment compensation furnished under section 6050B of the Internal Revenue Code of 1986—

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

(2) except as otherwise provided in section 6851 or 6861 of such Code, no assessment of any portion of a deficiency that is attributable to such any difference may be made, unless such delay or assessment is based on the final determination made by the State with respect to such report.