118TH CONGRESS
1ST SESSION

S. 1018

To extend the statute of limitations for fraud by individuals under the COVID–19 unemployment programs.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2023

Mr. MARSHALL (for himself, Mrs. BLACKBURN, Mr. BRAUN, Ms. ERNST, Mr. CRAMER, and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To extend the statute of limitations for fraud by individuals under the COVID–19 unemployment programs.

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 “Pandemic Unemploy-
5 ment Fraud Recoupment Act”.


SEC. 2. EXTENSION OF THE STATUTE OF LIMITATIONS FOR FRAUD BY INDIVIDUALS UNDER THE COVID–19 UNEMPLOYMENT PROGRAMS.

(a) Pandemic Unemployment Assistance.—Section 2102 of the CARES Act (15 U.S.C. 9021) is amended—

(1) in subsection (d), by striking paragraph (4);

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection:

“(h) Fraud and Overpayments.—

“(1) In general.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of pandemic unemployment assistance under this section to which such individual was not entitled, such individual shall be ineligible for further pandemic unemployment assistance under this section in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation.
“(2) Repayment.—In the case of individuals who have received amounts of pandemic unemployment assistance under this section to which they were not entitled, the State shall require such individuals to repay the amounts of such pandemic unemployment assistance to the State agency, except that the State agency may waive such repayment if it determines that—

“(A) the payment of such pandemic unemployment assistance was without fault on the part of any such individual; and

“(B) such repayment would be contrary to equity and good conscience.

“(3) Recovery by State Agency.—

“(A) In general.—The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 10-year period after the date such individ-
uals received the payment of the pandemic un-
employment assistance to which they were not
entitled, in accordance with the same proce-
dures as apply to the recovery of overpayments
of regular unemployment benefits paid by the
State.

“(B) OPPORTUNITY FOR HEARING.—No
repayment shall be required, and no deduction
shall be made, until a determination has been
made, notice thereof and an opportunity for a
fair hearing has been given to the individual,
and the determination has become final.

“(4) REVIEW.—Any determination by a State
agency under this section shall be subject to review
in the same manner and to the same extent as deter-
minations under the State unemployment compensa-
tion law, and only in that manner and to that ex-
tent.

“(5) STATUTE OF LIMITATIONS.—Notwith-
standing any other provision of law, any criminal
charge or civil enforcement action alleging that an
individual engaged in fraud with respect to the pay-
ment of any unemployment compensation claim
funded in whole or in part by pandemic unemploy-
ment assistance under this section shall be filed not
later than 10 years after the date on which the con-
duct that constitutes the fraud was committed.”.

(b) Federal Pandemic Unemployment Com-
pensation and Mixed Earner Unemployment Com-
pensation.—Section 2104(f) of the CARES Act (15
U.S.C. 9023(f)) is amended—

(1) in paragraph (3)(A), by striking “3-year”
and inserting “10-year”; and

(2) by adding at the end the following new
paragraph:

“(5) Statute of Limitations.—Notwith-
standing any other provision of law, any criminal
charge or civil enforcement action alleging that an
individual engaged in fraud with respect to the pay-
ment of any unemployment compensation claim
funded in whole or in part by Federal Pandemic Un-
employment Compensation or Mixed Earner Unem-
ployment Compensation under this section shall be
filed not later than 10 years after the date on which
the conduct that constitutes the fraud was com-
mitted.”.

(c) Pandemic Emergency Unemployment Com-
pensation.—Section 2107(e) of the CARES Act (15
U.S.C. 9025(e)) is amended—
(1) in paragraph (3)(A), by striking “3-year” and inserting “10-year”; and

(2) by adding at the end the following new paragraph:

“(5) Statute of Limitations.—Notwithstanding any other provision of law, any criminal charge or civil enforcement action alleging that an individual engaged in fraud with respect to the payment of any unemployment compensation claim funded in whole or in part by pandemic emergency unemployment compensation under this section shall be filed not later than 10 years after the date on which the conduct that constitutes the fraud was committed.”.

(d) Lost Wages Assistance.—

(1) Fraud and Overpayments.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of lost wages assistance to which such individual was not entitled, such individual shall be ineligible for further lost wages assistance in accordance
with the provisions of the applicable State unemploy-
ment compensation law relating to fraud in connec-
tion with a claim for unemployment compensation.

(2) Repayment.—In the case of individuals
who have received amounts of lost wages assistance
to which they were not entitled, the State shall re-
quire such individuals to repay the amounts of such
lost wages assistance to the State agency, except
that the State agency may waive such repayment if
it determines that—

(A) the payment of such lost wages assist-
ance was without fault on the part of any such
individual; and

(B) such repayment would be contrary to

equity and good conscience.

(3) Recovery by State Agency.—

(A) In General.—The State agency shall
recover the amount to be repaid, or any part
thereof, by deductions from any unemployment
compensation payable to such individual under
any State or Federal unemployment compensa-
tion law administered by the State agency or
under any other State or Federal law adminis-
tered by the State agency which provides for
the payment of any assistance or allowance with
respect to any week of unemployment, during
the 10-year period after the date such individ-
uals received the payment of the lost wages as-
sistance to which they were not entitled, in ac-
cordance with the same procedures as apply to
the recovery of overpayments of regular unem-
ployment benefits paid by the State.

(B) OPPORTUNITY FOR HEARING.—No re-
payment shall be required, and no deduction
shall be made, until a determination has been
made, notice thereof and an opportunity for a
fair hearing has been given to the individual,
and the determination has become final.

(4) REVIEW.—Any determination by a State
agency with respect to payments of lost wages as-
sistance shall be subject to review in the same man-
ner and to the same extent as determinations under
the State unemployment compensation law, and only
in that manner and to that extent.

(5) STATUTE OF LIMITATIONS.—Notwith-
standing any other provision of law, any criminal
charge or civil enforcement action alleging that an
individual engaged in fraud with respect to the pay-
ment of any unemployment compensation claim
funded in whole or in part by lost wages assistance
shall be filed not later than 10 years after the date on which the conduct that constitutes the fraud was committed.

(6) DEFINITIONS.—In this subsection:

(A) LOST WAGES ASSISTANCE.—In this subsection, the term “lost wages assistance” means financial assistance provided by the Federal Emergency Management Agency pursuant to the memorandum of the President entitled “Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019” and dated August 8, 2020.

(B) STATE AGENCY, STATE LAW, AND WEEK.—The terms “State agency”, “State law”, and “week” have the meaning given such terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).