

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8873
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Recover COVID Un-
3 employment Fraud in Banks Act”.

**4 SEC. 2. NATIONAL RECOVERY COORDINATOR AND TASK
5 FORCE.**

6 (a) IN GENERAL.—

7 (1) DESIGNATION OF NATIONAL RECOVERY CO-
8 ORDINATOR.—The Secretary of Labor, in consulta-
9 tion with the Secretary of the Treasury, the Inspec-
10 tor General of the Department of Labor, and the At-
11 torney General, shall designate an official to serve as
12 National Recovery Coordinator to oversee and co-
13 ordinate the activities and responsibilities of the task
14 force described in paragraph (2).

15 (2) TASK FORCE ESTABLISHMENT.—Not later
16 than 30 days after the date of enactment of this
17 Act, the National Recovery Coordinator shall con-
18 vene a task force to be named the “Recover Pan-

1 demic Unemployment Funds in Banks Task Force”
2 (in this section, the “Task Force”).

3 (3) MEMBERS.—The Task Force shall in-
4 clude—

5 (A) the Attorney General, or their des-
6 ignee;

7 (B) the Secretary of Labor, or their des-
8 ignee;

9 (C) the Inspector General of the Depart-
10 ment of Labor, or their designee;

11 (D) the Secretary of the Treasury, or their
12 designee;

13 (E) the Chairman of the Federal Deposit
14 Insurance Corporation, or their designee; and

15 (F) the Director of the Consumer Finan-
16 cial Protection Bureau, or their designee.

17 (b) TASK FORCE RESPONSIBILITIES.—It shall be the
18 responsibility of the Task Force to—

19 (1) coordinate with applicable State agencies to
20 identify Federal pandemic unemployment compensa-
21 tion payments issued on prepaid debit cards that—

22 (A) are held by financial institutions, and
23 other entities identified by the Inspector Gen-
24 eral of the Department of Labor, contracted by

1 a State agency to transfer such payments to
2 unemployment claimants; or

3 (B) were transferred by such an entity to,
4 and are currently held by, a State agency re-
5 sponsible for unclaimed property;

6 (2) coordinate with appropriate Federal agen-
7 cies to develop model processes which comply with
8 relevant Federal and State laws and result in cost-
9 effective recovery of the payments identified under
10 paragraph (1), including issuing guidance, in coordi-
11 nation with the Secretary of Labor, to administra-
12 tors of State agencies responsible for administering
13 Federal unemployment compensation payments or
14 determining fraud in such programs, including—

15 (A) guidelines for—

16 (i) reviewing such payments and de-
17 termining if such a payment was an im-
18 proper payment;

19 (ii) determining whether cost-effective
20 recovery of an improper payment is pos-
21 sible, including a threshold, or a method-
22 ology for calculating a dollar threshold, for
23 cost-effective recovery; and

24 (iii) actions, consistent with State law,
25 to be taken by the State agency if an im-

1 proper payment is determined to be the re-
2 sult of fraud;

3 (B) assurances that, subject to section
4 303(g) of the Social Security Act (42 U.S.C.
5 503(g)), any action taken in relation to a deter-
6 mination that a payment identified under para-
7 graph (1) is an improper payment shall be
8 taken under State law;

9 (C) a model notice and information, devel-
10 oped in coordination with the Consumer Finan-
11 cial Protection Bureau, about resources avail-
12 able to individuals whose identity information is
13 determined to have been fraudulently used to
14 obtain Federal pandemic unemployment com-
15 pensation;

16 (D) information on the legal pathways de-
17 scribed under paragraphs (3) and (4) for recov-
18 ery of payments that are improper payments
19 held by financial institutions and agencies de-
20 scribed in paragraph (1); and

21 (E) procedural requirements for State
22 agencies to follow when funds are returned by
23 such institutions that provides a standardized
24 methodology to return funds to the Federal
25 Government;

1 (3) issue guidance, in coordination with the
2 Comptroller of the Currency and Chairman of the
3 Federal Deposit Insurance Corporation, to financial
4 institutions described in paragraph (1) that are
5 holding payments that are improper payments that
6 provides information on a legal pathway, consistent
7 with banking regulations and applicable contracts
8 with State agencies, for returning such payments to
9 the appropriate State agency; and

10 (4) issue guidance, in coordination with the
11 Secretary of Treasury, to administrators of State
12 agencies responsible for unclaimed property on the
13 obligations of such agencies to review and return
14 payments described in paragraph (1)(B) to the ap-
15 propriate State agency.

16 (c) CONSULTATION REQUIREMENT.—In developing
17 the guidance required to be issued under paragraphs (2),
18 (3), and (4) of subsection (b), the Task Force shall consult
19 with State agencies and incorporate best practices from
20 previous attempts by any such States to recover payments
21 determined to be improper payments from institutions de-
22 scribed in paragraph (1)(A) of such subsection.

23 (d) STATE ADMINISTRATIVE COSTS.—The Secretary
24 of Labor shall reimburse States for all administrative
25 costs incurred as a result of coordination with the Task

1 Force by reason of an agreement under section 2102,
2 2104, or 2107 of the CARES Act (15 U.S.C. 9201; 9203;
3 9205).

4 (e) DEFINITIONS.—Except as otherwise specified, in
5 this section:

6 (1) FEDERAL PANDEMIC UNEMPLOYMENT COM-
7 PENSATION.—The term “Federal pandemic unem-
8 ployment compensation” means a payment of—

9 (A) pandemic unemployment assistance
10 under section 2102(b) of the CARES Act (15
11 U.S.C. 9021(b));

12 (B) Federal Pandemic Unemployment
13 Compensation and Mixed Earner Unemploy-
14 ment Compensation under section 2104(b)(1) of
15 the CARES Act (15 U.S.C. 9023(b)(1)); and

16 (C) pandemic emergency unemployment
17 compensation under section 2107(a)(2) of the
18 CARES Act (15 U.S.C. 9025(a)(2)).

19 (2) IMPROPER PAYMENT.—The term “improper
20 payment” means any amount of a pandemic unem-
21 ployment payment to which the individual is not en-
22 titled.

23 (3) STATE; STATE AGENCY; STATE LAW.—The
24 terms “State”, “State agency”, and “State law”
25 have the meanings given those terms in section 205

1 of the Federal-State Extended Unemployment Com-
2 pensation Act of 1970 (26 U.S.C. 3304 note).

3 **SEC. 3. EXTENSION OF THE STATUTE OF LIMITATIONS FOR**
4 **PANDEMIC UNEMPLOYMENT FRAUD BY INDI-**
5 **VIDUALS UNDER CERTAIN UNEMPLOYMENT**
6 **PROGRAMS.**

7 (a) PANDEMIC UNEMPLOYMENT ASSISTANCE.—Sec-
8 tion 2102 of the CARES Act (15 U.S.C. 9021) is amend-
9 ed—

10 (1) by redesignating subsection (h) as sub-
11 section (i); and

12 (2) by inserting after subsection (g) the fol-
13 lowing new subsection:

14 “(h) STATUTE OF LIMITATIONS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law and subject to paragraph (2), any
17 criminal prosecution or civil enforcement action for
18 a violation of, or conspiracy to violate, section 371,
19 641, 1028A, 1029, 1341, 1343, 1344, 1349, 1956,
20 or 1957 of title 18, United States Code, or section
21 3729 or 3802 of title 31, United States Code, with
22 respect to any unemployment compensation claim
23 funded in whole or in part by pandemic unemploy-
24 ment assistance under this section shall be brought

1 not later than 10 years after the date of the viola-
2 tion or conspiracy.

3 “(2) EXCEPTION.—Paragraph (1) shall not
4 apply with respect to a criminal prosecution or civil
5 enforcement action if the statute of limitations appli-
6 cable to such criminal prosecution or civil enforce-
7 ment action expired prior to the date of enactment
8 of the Recover COVID Unemployment Fraud in
9 Banks Act.”.

10 (b) FEDERAL PANDEMIC UNEMPLOYMENT COM-
11 PENSATION AND MIXED EARNER UNEMPLOYMENT COM-
12 PENSATION.—Section 2104(f) of the CARES Act (15
13 U.S.C. 9023(f)) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(5) STATUTE OF LIMITATIONS.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of law and subject to subpara-
18 graph (B), any criminal prosecution or civil en-
19 forcement action for a violation of, or con-
20 spiracy to violate, section 371, 641, 1028A,
21 1029, 1341, 1343, 1344, 1349, 1956, or 1957
22 of title 18, United States Code, or section 3729
23 or 3802 of title 31, United States Code, with
24 respect to any unemployment compensation
25 claim funded in whole or in part by Federal

1 Pandemic Unemployment Compensation or
2 Mixed Earner Unemployment Compensation
3 under this section shall be brought not later
4 than 10 years after the date of the violation or
5 conspiracy.

6 “(B) EXCEPTION.—Subparagraph (A)
7 shall not apply with respect to a criminal pros-
8 ecution or civil enforcement action if the statute
9 of limitations applicable to such criminal pros-
10 ecution or civil enforcement action expired prior
11 to the date of enactment of the Recover COVID
12 Unemployment Fraud in Banks Act.”.

13 (c) PANDEMIC EMERGENCY UNEMPLOYMENT COM-
14 PENSATION.—Section 2107(e) of the CARES Act (15
15 U.S.C. 9025(e)) is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(5) STATUTE OF LIMITATIONS.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law and subject to subpara-
20 graph (B), any criminal prosecution or civil en-
21 forcement action for a violation of, or con-
22 spiracy to violate, section 371, 641, 1028A,
23 1029, 1341, 1343, 1344, 1349, 1956, or 1957
24 of title 18, United States Code, or section 3729
25 or 3802 of title 31, United States Code, with

1 respect to any unemployment compensation
2 claim funded in whole or in part by Pandemic
3 Emergency Unemployment Compensation under
4 this section shall be brought not later than 10
5 years after the date of the violation or con-
6 spiracy.

7 “(B) EXCEPTION.—Subparagraph (A)
8 shall not apply with respect to a criminal pros-
9 ecution or civil enforcement action if the statute
10 of limitations applicable to such criminal pros-
11 ecution or civil enforcement action expired prior
12 to the date of enactment of the Recover COVID
13 Unemployment Fraud in Banks Act.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 section Act shall take effect on the date of enactment of
16 this Act.

