

117TH CONGRESS  
2D SESSION

# H. R. 8661

To improve equity and accountability in State unemployment programs, recover fraudulent payments, and prevent future fraud in the unemployment insurance program.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 2022

Mr. HORSFORD introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve equity and accountability in State unemployment programs, recover fraudulent payments, and prevent future fraud in the unemployment insurance program.

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 “Guaranteeing Unem-  
5       ployment Assistance and Reducing Deception Act” or the  
6       “GUARD Act”.

1 **TITLE I—PAYMENT RECOVERY**  
2 **FOR PANDEMIC FRAUD VIC-**  
3 **TIMS AND TAXPAYERS**

4 **SEC. 101. SUPPORT FOR FEDERAL RECOVERY OF PAY-**  
5 **MENTS MADE DUE TO FRAUD.**

6       There is authorized to be appropriated \$5,000,000 in  
7 each of fiscal years 2023 and 2024 to the Secretary of  
8 Labor for costs related to funding any coordinating body  
9 or task force which includes the Secretary of Labor, the  
10 Inspector General of the Department of Labor, the Attor-  
11 ney General, the Secretary of Homeland Security, and  
12 other appropriate Federal agencies charged with sup-  
13 porting recovery of amounts paid due to fraud under an  
14 agreement under section 2102, 2104, 2105, or 2107 of  
15 the CARES Act.

16 **SEC. 102. SUPPORT FOR STATE RECOVERY OF PAYMENTS**  
17 **MADE DUE TO FRAUD.**

18       (a) IN GENERAL.—In determining the payments due  
19 to a State for administrative expenses incurred by the  
20 State by reason of an agreement under section 2102,  
21 2104, 2105, or 2107 of the CARES Act (as required  
22 under sections 2102(f)(2)(B), 2104(d)(1)(A)(ii),  
23 2105(c)(1)(B), and 2107(d)(2)(A) of such Act, respec-  
24 tively), the Secretary of Labor shall, subject to subsection

1 (b), include the cost of any administrative expenses in-  
2 curred for the purposes of—

3 (1) identifying payments made under the agree-  
4 ment potentially due to fraud;

5 (2) recovering payments made under the agree-  
6 ment due to fraud; and

7 (3) supporting prosecution of such fraud.

8 (b) STATE PARTICIPATION REQUIREMENTS.—Sub-  
9 section (a) shall not apply to any State that does not agree  
10 to submit annual reports to the Secretary of Labor  
11 through fiscal year 2024 describing any open fraud inves-  
12 tigation and recoveries in the State relating to assistance  
13 paid under an agreement under section 2102, 2104, 2105,  
14 or 2107 of the CARES Act.

15 (c) BBDCA EXEMPTION.—Any payments due to a  
16 State for administrative expenses under an agreement de-  
17 scribed in subsection (a) shall be exempt from any reduc-  
18 tion ordered under the Balanced Budget and Emergency  
19 Deficit Control Act of 1985.

20 **SEC. 103. DEFINED POINT OF CONTACT FOR IDENTITY**  
21 **THEFT VICTIMS.**

22 Section 303 of the Social Security Act (42 U.S.C.  
23 503) is amended by adding at the end the following:

1 “(n)(1) For purposes of subsection (a), the State  
2 agency charged with the administration of the State law  
3 shall—

4 “(A) ensure that individuals who report that  
5 they are victims of identity theft and that their in-  
6 formation was or is being used fraudulently to claim  
7 unemployment benefits have a defined point of con-  
8 tact within the State organization to follow up on  
9 their report;

10 “(B) coordinate with other State and Federal  
11 agencies to ensure prompt resolution of issues re-  
12 ported as described in subparagraph (A) and any  
13 other consequences related to the making of such a  
14 report; and

15 “(C) ensure clear and timely communication  
16 with each individual making a report as described in  
17 subparagraph (A) about the status of the resolution  
18 of issues reported.

19 “(2) Not later than 60 days after the date of enact-  
20 ment of this subsection, the Secretary of Labor shall pub-  
21 lish guidance to States establishing appropriate minimum  
22 standards, in consultation with appropriate Federal agen-  
23 cies, to ensure consistent reporting and resolution of  
24 issues reported to States as described in paragraph (1)(A).

1 “(3) The Secretary of Labor shall provide such tech-  
2 nical and financial assistance as may be necessary to as-  
3 sist States in carrying out the requirements of paragraph  
4 (1).

5 “(4) The requirements of paragraph (1) shall be ef-  
6 fective for weeks beginning on or after the date that is  
7 60 days after the Secretary of Labor issues the guidance  
8 required under paragraph (2).”.

9 **TITLE II—PREVENTING FUTURE**  
10 **UNEMPLOYMENT FRAUD AND**  
11 **IMPROVING PROGRAM INTEG-**  
12 **RITY**

13 **SEC. 201. MANDATORY PARTICIPATION IN INFORMATION**  
14 **SHARING SYSTEMS.**

15 (a) IN GENERAL.—Section 303(a) of the Social Secu-  
16 rity Act (42 U.S.C. 503(a)) is amended—

17 (1) in paragraph (11)(B), by striking the period  
18 at the end and inserting “; and”;

19 (2) in paragraph (12), by striking the period at  
20 the end and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(13) Participation by the State in any system  
23 designated by the Secretary of Labor for the pur-  
24 pose of preventing and detecting payments due to

1 fraud and other improper payments, including any  
2 such system for—

3 “(A) cross-matching claimants of unem-  
4 ployment compensation under State and Fed-  
5 eral law to prevent and detect payments due to  
6 fraud and other improper payments;

7 “(B) the electronic transmission of re-  
8 quests from employers (or their agents) for  
9 cross-matching information relating to unem-  
10 ployment compensation held by the State agen-  
11 cy charged with the administration of the State  
12 law;

13 “(C) the authentication of bank account or  
14 payment information;

15 “(D) the interstate exchange of beneficiary  
16 information for the purposes of identifying indi-  
17 viduals who have filed a claim for unemploy-  
18 ment compensation in more than one State;

19 “(E) cross-matching information on indi-  
20 viduals who are incarcerated using data which  
21 is verified to be accurate and up-to-date;

22 “(F) cross-matching against the National  
23 Directory of New Hires established under sec-  
24 tion 453(i) in accordance with section  
25 453(j)(8); and

1                   “(G) any other purpose determined by the  
2                   Secretary of Labor.

3                   “(14) Provision of access by the State to the  
4                   system specified in paragraph (13)(A) to the Inspec-  
5                   tor General of the Department of Labor solely for  
6                   purposes of investigating unemployment compensa-  
7                   tion fraud.”.

8                   (b) REGULATIONS.—Not later than 1 year after the  
9                   date of the enactment of this Act, the Secretary of Labor  
10                  shall issue a regulation designating the systems described  
11                  in section 303(a)(13) of the Social Security Act, and may,  
12                  in such regulations, remove a designation or designate  
13                  other systems as necessary. Such regulations shall—

14                  (1) specify the method and frequency of cross-  
15                  matching;

16                  (2) specify methods to ensure that data used  
17                  for cross-matching is accurate and up-to-date;

18                  (3) provide for a period of time for States to  
19                  implement a cross-matching system modified or  
20                  newly designated by the Secretary of Labor; and

21                  (4) take into account equity, access, and due  
22                  process in developing processes for using cross-  
23                  match data.

24                  (c) EFFECTIVE DATE.—The amendment made by  
25                  subsection (a) shall apply with respect to a system des-

1 igned by the Secretary of Labor under section  
 2 303(a)(13) of the Social Security Act beginning 2 years  
 3 after the date on which such system is so designated.

4 **SEC. 202. IMPROVING PROGRAM INTEGRITY THROUGH**  
 5 **COMMUNICATION WITH CLAIMANTS.**

6 Section 303(a)(12) of the Social Security Act (42  
 7 U.S.C. 503(a)), as amended by section 201, is further  
 8 amended by inserting after “actively seeking work” the  
 9 following: “, except that in any case in which the State  
 10 agency charged with the administration of the State law  
 11 determines that a claimant is not actively seeking work,  
 12 the State agency may issue not more than one warning  
 13 during a benefit year before taking any other action with  
 14 respect to the claimant’s eligibility for unemployment com-  
 15 pensation”.

16 **SEC. 203. RETENTION OF CERTAIN RECOVERIES FOR PRO-**  
 17 **GRAM INTEGRITY AND EQUITABLE ACCESS.**

18 (a) IN GENERAL.—Section 3304(a)(4) of the Internal  
 19 Revenue Code of 1986 is amended—

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

22 (2) by inserting after subparagraph (G) the fol-  
 23 lowing:

24 “(H) amounts may be withdrawn, to be de-  
 25 posited in a separate State fund from which



1 amounts may be withdrawn for administrative  
2 costs related to program integrity or equitable  
3 access to benefits for workers, up to the sum  
4 of—

5 “(i) a portion, not to exceed 5 per-  
6 cent, of any overpayment of compensation  
7 due to fraud that is recovered by the State;  
8 and

9 “(ii) a portion, not to exceed 5 per-  
10 cent, of any contribution collected as a re-  
11 sult of the misclassification of employees  
12 as independent contractors, implementa-  
13 tion of provisions of State law imple-  
14 menting section 303(k) of the Social Secu-  
15 rity Act, or other provisions of State law  
16 relating to employer fraud or evasion of  
17 contributions; and

18 “(I) amounts collected by the State in pen-  
19 alty and interest payments shall be deposited in  
20 a separate State fund from which amounts may  
21 be withdrawn for administrative costs, including  
22 costs relating to improving technology and ac-  
23 cess, and for reemployment services under sec-  
24 tion 306 of the Social Security Act, except that,  
25 in the case of a State with an improper pay-

1           ment rate of 10 percent or higher, at least 50  
2           percent of such funds must be used for pro-  
3           gram integrity;”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) INTERNAL REVENUE CODE.—Chapter 23 of  
6       the Internal Revenue Code of 1986 is amended—

7           (A) in section 3304(a)(3), by striking “and  
8           except for refunds paid in accordance with the  
9           provisions of section 3305(b)” and inserting  
10          “refunds paid in accordance with the provisions  
11          of section 3305(b), and as otherwise provided in  
12          section 3304(a)(4)”;

13          (B) in section 3306(f), by striking “; ex-  
14          cept that—” and all that follows and inserting  
15          “; except as otherwise provided in section  
16          3304(a)(4).”.

17          (2) SOCIAL SECURITY ACT.—Section 303(a) of  
18       the Social Security Act (42 U.S.C. 503(a)) is  
19       amended—

20          (A) in paragraph (4), by striking “and ex-  
21          cept for refunds paid in accordance with the  
22          provisions of 3305(b) of the Federal Unemploy-  
23          ment Tax Act” and inserting “refunds paid in  
24          accordance with the provisions of 3305(b) of  
25          the Internal Revenue Code of 1986, and as oth-

1           erwise provided in section 3304(a)(4) of such  
2           Code”; and

3                   (B) in paragraph (5), by striking “refunds  
4           paid in accordance with the provisions of  
5           3305(b)” and all that follows and inserting “,  
6           except as otherwise provided in section  
7           3304(a)(4) of the Internal Revenue Code of  
8           1986.”.

9           (c) GUIDANCE.—Not later than 1 year after the date  
10          of the enactment of this Act, the Secretary of Labor shall  
11          issue guidance describing—

12                   (1) the method by which a State shall deter-  
13          mine the amounts for deposit under a separate State  
14          fund pursuant to each of subparagraphs (H) and (I)  
15          of section 3304(a)(4) of the Internal Revenue Code  
16          of 1986;

17                   (2) requirements for the establishment of such  
18          separate State funds; and

19                   (3) the purposes for which amounts withdrawn  
20          from such separate State funds may be used.

21          (d) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply with respect to overpayments and  
23          contributions (or payments in lieu of contributions) col-  
24          lected as a result of an investigation and assessment by

1 a State agency and to penalties and interest collected after  
 2 the earlier of—

3 (1) the end of the two-year period beginning on  
 4 the date of the enactment of this Act; or

5 (2) the date on which a State’s law comes into  
 6 conformity with the requirements of this section.

## 7 **TITLE III—IMPROVING EQUITY** 8 **AND ACCOUNTABILITY**

### 9 **SEC. 301. ADDITIONAL TARGETED PENALTIES TO ENFORCE** 10 **FEDERAL REQUIREMENTS.**

11 (a) IN GENERAL.—Section 303(b) of the Social Secu-  
 12 rity Act (42 U.S.C. 503(b)) is amended—

13 (1) by striking “Whenever” and inserting “(1)  
 14 Whenever”;

15 (2) by striking “(1) A denial” and inserting  
 16 “(A) A denial”;

17 (3) by striking “(2) A failure to comply sub-  
 18 stantially with any provision specified in this sec-  
 19 tion” and inserting “(B) A failure to comply sub-  
 20 stantially with any provision specified in this section  
 21 or section 307”;

22 (4) by inserting “, except as provided in para-  
 23 graph (2),” after “the Secretary of Labor shall no-  
 24 tify”;

1           (5) by striking “clause (1)” and inserting “sub-  
2       paragraph (A)”; and

3           (6) by adding at the end the following:

4       “(2)(A) Whenever a denial or failure to comply as  
5       described in paragraph (1) occurs in a substantial number  
6       of cases, the Secretary of Labor may, in lieu of imposing  
7       the penalty described in such paragraph, withhold up to  
8       15 percent of each payment (with such percentage to be  
9       determined by the Secretary of Labor based on factors in-  
10      cluding the severity and the extent of such denial or fail-  
11      ure) made to the State under section 302 until such time  
12      as the Secretary of Labor is satisfied that there is no  
13      longer any such denial or failure to comply. The Secretary  
14      of Labor may make such withheld amount available to the  
15      State, and shall provide technical assistance to the State  
16      for such purpose.

17       “(B) The Secretary of Labor shall provide for a re-  
18      duction to, or an exemption from, the penalty described  
19      in subparagraph (A) in cases where the Secretary of Labor  
20      determines that good cause for substantial noncompliance  
21      exists, and may allow for flexibility in times of heightened  
22      workload or reduced penalties in a case in which a State  
23      is making progress toward compliance.”.

1 (b) REGULATIONS.—Not later than 2 years after the  
2 date of enactment of this Act, the Secretary of Labor shall  
3 issue an interim final regulation prescribing—

4 (1) the circumstances in which a penalty de-  
5 scribed in paragraph (2)(A) of section 303(b) of the  
6 Social Security Act will be imposed, including a de-  
7 scription of what constitutes substantial noncompli-  
8 ance within the meaning of such section;

9 (2) the method to be used to determine—

10 (A) the percentage of payment to be with-  
11 held;

12 (B) any increased penalty to be imposed  
13 for failure to take corrective action after the  
14 imposition of an initial penalty; and

15 (C) a description of any circumstances in  
16 which all or a portion of the penalty will be pro-  
17 vided to the State to be used only for corrective  
18 action as specified by the Secretary of Labor;

19 (3) procedures under which the Secretary of  
20 Labor shall notify a State of any penalty that may  
21 potentially be imposed;

22 (4) the timing in which the penalty will be im-  
23 posed;

1           (5) the permissible uses of any withheld amount  
 2           made available to the State for corrective action pur-  
 3           suant to such paragraph (2)(A); and

4           (6) any other requirements or guidance the Sec-  
 5           retary of Labor deems appropriate to implement the  
 6           amendments made by subsection (a).

7           (c) EFFECTIVE DATE.—The amendments made by  
 8           subsection (a) shall apply with respect to fiscal years be-  
 9           ginning on or after the date on which the regulations de-  
 10          scribed in subsection (b) are finalized.

11   **SEC. 302. SETTING AND ENFORCING OVERALL STANDARDS**  
 12                           **FOR EQUITY, PERFORMANCE, AND PROGRAM**  
 13                           **INTEGRITY.**

14          (a) IN GENERAL.—Title III of the Social Security  
 15          Act (42 U.S.C. 501 et seq.) is amended by adding at the  
 16          end the following:

17   **“SEC. 307. PERFORMANCE AND ADMINISTRATIVE STAND-**  
 18                           **ARDS.**

19          “(a) PROGRAM PERFORMANCE STANDARDS.—

20               “(1) IN GENERAL.—The Secretary of Labor  
 21               shall, by regulation, establish program performance  
 22               standards applicable to each State to which a pay-  
 23               ment is made under section 302(a) for a fiscal year.  
 24               Such standards shall—

1           “(A) set forth categories that include  
2           measures addressing equity (including with re-  
3           spect to race, ethnicity, gender, and disability  
4           status), timeliness, access, program integrity,  
5           assistance in fraud recovery, and other perform-  
6           ance areas as determined by the Secretary of  
7           Labor;

8           “(B) define each such measure and the  
9           minimum acceptable performance level with re-  
10          spect to such measure; and

11          “(C) require that States report such data  
12          as the Secretary of Labor may require and that  
13          such data—

14               “(i) include the total number of indi-  
15               viduals receiving unemployment compensa-  
16               tion in the State;

17               “(ii) as necessary, be disaggregated by  
18               race, ethnicity, gender, language, disability,  
19               and other demographic groups; and

20               “(iii) be stored and maintained as re-  
21               quired by the use, disclosure, and storage  
22               requirements of section 308(b).

23          “(2) INCLUSION OF TECHNOLOGY STAND-  
24          ARDS.—The program performance standards estab-  
25          lished under paragraph (1) shall include minimum



1 standards for the technology used to administer the  
2 unemployment compensation program which ensure  
3 that the process of filing initial and continuing  
4 claims for unemployment compensation can be read-  
5 ily understood and accomplished by the vast major-  
6 ity of individuals, including those with limited  
7 English proficiency, individuals with disabilities (in  
8 compliance with section 508 of the Rehabilitation  
9 Act of 1973 (29 U.S.C. 794d)), older individuals,  
10 and individuals with literacy challenges.

11 “(b) STATE DATA REPORTING REQUIREMENT.—  
12 Each State to which a payment is made under section  
13 302(a) for a fiscal year shall provide to the Secretary of  
14 Labor such data as the Secretary of Labor may require  
15 related to the program performance standards issued pur-  
16 suant to subsection (a). Any State that fails to provide  
17 such data shall be ineligible for a performance bonus  
18 under subsection (c) for that fiscal year and any subse-  
19 quent fiscal year until such State has provided data for  
20 all fiscal years and may also be subject to any other pen-  
21 alty provided under this title.

22 “(c) PERFORMANCE BONUSES.—

23 “(1) IN GENERAL.—In each fiscal year for  
24 which appropriations are made available for such  
25 purpose pursuant to paragraph (4), the Secretary of

1 Labor shall award performance bonuses to States  
2 that the Secretary of Labor determines have dem-  
3 onstrated sustained excellent performance or sub-  
4 stantial improvement with respect to program per-  
5 formance standards issued pursuant to subsection  
6 (a).

7 “(2) TIMING OF AWARD.—The Secretary of  
8 Labor shall award a performance bonus under para-  
9 graph (1) to a State not later than the end of the  
10 year following the year in which the performance on  
11 which such award is based occurs. An award under  
12 this subsection shall remain available to a State for  
13 a period of 2 years following the date of award.

14 “(3) AMOUNT OF AWARD.—The amount of a  
15 performance bonus under paragraph (1) for a fiscal  
16 year shall be determined on the basis of a formula  
17 to be prescribed by the Secretary of Labor taking  
18 into account each of the following:

19 “(A) The performance of the State in such  
20 fiscal year in comparison to its performance in  
21 prior years and to the performance of other  
22 States.

23 “(B) The rate of insured unemployment  
24 (as defined in Section 203(e)(1) of the Federal-  
25 State Extended Unemployment Compensation

1 Act of 1970 (26 U.S.C. 3304 note (e)(1))) in  
2 the State for such fiscal year.

3 “(C) The volume of weekly claims expected  
4 to be filed in the State as determined by Sec-  
5 retary of Labor for such fiscal year.

6 “(4) USE OF AWARD FUNDS.—Amounts re-  
7 ceived by a State as a performance bonus under this  
8 subsection shall—

9 “(A) be deposited by the State in State’s  
10 account in the Unemployment Trust Fund;

11 “(B) be used for costs of administering the  
12 unemployment compensation law of the State;  
13 or

14 “(C) be used for the State’s program of re-  
15 employment services and eligibility assessments  
16 in accordance with section 306.

17 “(5) NOTIFICATION OF ELIGIBILITY REQUIRE-  
18 MENT.—No State shall be eligible for a performance  
19 bonus under paragraph (1) for a year unless the  
20 State—

21 “(A) has in effect during such year a re-  
22 quirement that employers notify workers when  
23 they are potentially eligible for unemployment  
24 compensation; and

1 “(B) provides information to the Secretary  
2 of Labor describing the State’s process for en-  
3 forcing the requirement described in subpara-  
4 graph (A).

5 “(6) AUTHORIZATION OF APPROPRIATIONS.—  
6 There is authorized to be appropriated to the Sec-  
7 retary of Labor to carry out this subsection  
8 \$280,000,000 for each fiscal year beginning with fis-  
9 cal year 2024.

10 “(7) HOLDOVER FUNDS.—In any fiscal year for  
11 which an insufficient number of States qualify for a  
12 performance bonus under the criteria established for  
13 such purpose by the Secretary of Labor, the Sec-  
14 retary may withhold a portion of the funds appro-  
15 priated pursuant to paragraph (5) for such fiscal  
16 year. Any funds so withheld shall remain available to  
17 the Secretary of Labor for the purposes of para-  
18 graph (1) for subsequent fiscal years.

19 “(d) REQUIREMENT TO CONDUCT ANALYSIS AND  
20 TAKE CORRECTIVE ACTIONS REGARDING EQUITY RELAT-  
21 ING TO RACE AND ETHNICITY.—

22 “(1) IN GENERAL.—The Secretary of Labor  
23 shall conduct an analysis of the data reported by  
24 each State to which a payment is made under sec-  
25 tion 302(a) as such data measures equity related to

1 race and ethnicity in the unemployment compensa-  
2 tion program of the State. Such analysis shall be  
3 conducted in the 4th fiscal year beginning after the  
4 date of enactment of this section and every 2 fiscal  
5 years thereafter, shall assess the State during the  
6 period of the 2 most recent fiscal years (or, in the  
7 case of the 1st such analysis, the most recent fiscal  
8 year), and shall include the following:

9 “(A) An assessment of equity related to  
10 race and ethnicity measures in each of the fol-  
11 lowing categories:

12 “(i) Access to benefits, including with  
13 respect to—

14 “(I) how information about eligi-  
15 bility and benefits are provided to po-  
16 tentially eligible workers, including  
17 any targeted outreach to specific  
18 groups or categories of workers and  
19 any requirement that employers pro-  
20 vide notification of the availability of  
21 unemployment compensation to em-  
22 ployees at the time of separation from  
23 employment;

24 “(II) administrative procedures,  
25 including documentation and notice

1 requirements, for filing new and con-  
2 tinuing claims; and

3 “(III) what specific steps the  
4 State takes to ensure that individuals  
5 with limited English proficiency have  
6 access to translated information and  
7 application materials or free language  
8 assistance in order to provide mean-  
9 ingful access to program benefits, in-  
10 cluding claims filing, recertification,  
11 program compliance, and appeals.

12 “(ii) Eligibility for benefits, including  
13 with respect to—

14 “(I) eligibility conditions; and

15 “(II) how information about re-  
16 quirements relating to eligibility for  
17 continuing benefits is provided, in-  
18 cluding requirements relating to the  
19 documentation of work search.

20 “(iii) Timeliness and accuracy of  
21 claims processing, payment, and appeals,  
22 including information about reasons for de-  
23 nial.

1                   “(iv) Adequacy of benefits, including  
2                   with respect to wage replacement and ben-  
3                   efit exhaustion.

4                   “(B) A description of any equity-focused  
5                   training provided to employees of the State  
6                   agency charged with the administration of the  
7                   State unemployment compensation law, and the  
8                   frequency and content of such training.

9                   “(C) A descriptive analysis of the impact  
10                  of the State’s policies with respect to each of  
11                  the categories described in subparagraph (A) on  
12                  the State’s performance.

13                  “(D) Other relevant information or anal-  
14                  ysis as determined by the Secretary of Labor.

15                  “(2) STATE PARTICIPATION REQUIRED.—Each  
16                  State to which a payment is made under section  
17                  302(a) shall provide any data not already required  
18                  under Section 303 or regulations implementing Sec-  
19                  tion 303, and all other information requested by the  
20                  Secretary of Labor for the purpose of conducting the  
21                  analysis under paragraph (1). Such data and infor-  
22                  mation is to be reported in a manner prescribed by  
23                  the Secretary of Labor and, as necessary, be  
24                  disaggregated by race and ethnicity. The Secretary  
25                  of Labor shall ensure the data is stored and main-

1       tained as required by the use, disclosure, and stor-  
2       age requirements of section 308(b).

3               “(3) CORRECTIVE ACTION AND CONTINUOUS  
4       IMPROVEMENT PLANS.—In any case in which the  
5       Secretary of Labor finds that an analysis conducted  
6       under this paragraph demonstrates that a State does  
7       not meet the performance metrics defined by the  
8       Secretary of Labor pursuant to subsection (a) re-  
9       lated to equitable treatment by race and ethnicity,  
10      the Secretary of Labor shall negotiate specific good  
11      faith efforts the State will make to improve equity  
12      related to race and ethnicity in the unemployment  
13      compensation program and shall set specific mile-  
14      stones or performance targets for future improve-  
15      ment.

16              “(4) PUBLICATION AND REPORTING.—

17                      “(A) IN GENERAL.—Not later than 180  
18                      days after the beginning of the 4th fiscal year  
19                      beginning after the date of enactment of this  
20                      section, and every 2 fiscal years thereafter, the  
21                      Secretary of Labor shall post on a publicly ac-  
22                      cessible website of the Department of Labor the  
23                      results of the most recent equity analyses con-  
24                      ducted pursuant to paragraph (1).



1           “(B) REPORT TO CONGRESS.—Whenever  
2           the Secretary of Labor publishes the results de-  
3           scribed in subparagraph (A), the Secretary of  
4           Labor shall prepare a comprehensive report  
5           summarizing the results of all State data used  
6           in the preparation of such publication, including  
7           a State-by-State comparison with respect to in-  
8           formation described in paragraph (1) and an  
9           analysis of key factors driving disparities in eli-  
10          gibility, access, or benefit levels for workers on  
11          the basis of race or ethnicity, and any penalties  
12          or corrective action plans applicable to the  
13          State based on the analysis. Such report shall  
14          be publicly displayed on the website described in  
15          subparagraph (A) and shall be submitted to the  
16          Committee on Ways and Means of the House of  
17          Representatives and the Committee on Finance  
18          of the Senate.

19          “(e) AUTHORITY NOT AFFECTED.—Nothing in this  
20          section shall limit the authority otherwise provided to the  
21          Secretary of Labor regarding program administration  
22          under this title.”.

23          (b) REGULATIONS.—Not later than 18 months after  
24          the date of enactment of this Act, the Secretary of Labor  
25          shall issue regulations to implement the amendments

1 made by subsection (a), including with respect to the pro-  
 2 gram performance standards and performance bonuses.

3 (c) EFFECTIVE DATE.—The amendment made by  
 4 subsection (a) shall apply with respect to fiscal years be-  
 5 ginning 2 or more years after the date of enactment of  
 6 this Act.

## 7 **TITLE IV—GENERAL** 8 **PROVISIONS**

9 **SEC. 401. CENTRALIZED SUPPORT AND TECHNICAL ASSIST-**  
 10 **ANCE FOR STATE PROGRAM IMPROVEMENT.**

11 Title III of the Social Security Act (42 U.S.C. 501  
 12 et seq.), as amended by section 302, is further amended  
 13 by adding at the end the following:

14 **“SEC. 308. CENTRALIZED SUPPORT AND TECHNICAL AS-**  
 15 **SISTANCE FOR STATE PROGRAM IMPROVE-**  
 16 **MENT.**

17 **“(a) CENTRALIZED SUPPORT AND TECHNICAL AS-**  
 18 **SISTANCE FOR STATE PROGRAM IMPROVEMENT.—**

19 **“(1) IN GENERAL.—**Subject to the availability  
 20 of the appropriations made available by section 403  
 21 of the GUARD Act, the Secretary of Labor shall  
 22 make available to each State administering an un-  
 23 employment compensation program central sup-  
 24 portive services and direct technical assistance to as-  
 25 sist the State in—

1           “(A) promoting equitable access to such  
2           unemployment compensation program;

3           “(B) preventing and identifying fraud and  
4           supporting law enforcement in the recovery of  
5           payments made due to fraud; and

6           “(C) improving timely payments and re-  
7           ducing workload backlogs.

8           “(2) SCOPE OF ASSISTANCE.—The assistance  
9           provided by the Secretary of Labor under subsection  
10          (a) may include the following:

11           “(A) Response teams that provide consult-  
12           ative assessments.

13           “(B) Prototyping and piloting technology  
14           solutions and conducting feasibility studies.

15           “(C) Sustaining technology solutions and  
16           supporting State process changes to improve  
17           access and efficiency.

18          “(b) ADMINISTRATIVE DATABASE.—

19           “(1) IN GENERAL.—The Secretary of Labor  
20           may establish and maintain a database for the pur-  
21           poses of administering the requirements of sections  
22           303 and 307.

23           “(2) USE.—The Secretary of Labor may use  
24           data contained in the database established under  
25           paragraph (1) only—

1           “(A) for purposes of program administra-  
2           tion, including research, evaluation, and per-  
3           formance assessment, of State and Federal un-  
4           employment compensation programs, including  
5           reemployment services and eligibility assess-  
6           ments in accordance with section 306; and

7           “(B) to address identity theft within such  
8           unemployment compensation programs.

9           “(3) STORAGE.—The Secretary of Labor shall  
10          comply with appropriate industry safeguards with  
11          respect to the storage of such data.

12          “(4) DISCLOSURE.—

13               “(A) IN GENERAL.—Such data may be dis-  
14               closed by the Secretary of Labor to Federal or  
15               State government officials, or their contractors,  
16               only to the extent necessary to carry out the  
17               purposes described in paragraph (2) and only  
18               under the terms of a written agreement with  
19               the Federal or State government official pro-  
20               viding for appropriate measures to protect the  
21               confidentiality of such data, including oversight  
22               of their contractors. The Secretary of Labor  
23               may not disclose such data to any other person  
24               or entity, and no Federal or State government  
25               official, or their contractor, may redisclose such

1 data to any person or entity, except as provided  
2 in this subparagraph.

3 “(B) EXEMPTION FROM DISCLOSURE.—  
4 Such data shall be exempt from disclosure  
5 under 552(b)(3) of title 5, United States  
6 Code.”.

7 **SEC. 402. IMPLEMENTATION.**

8 (a) NON-APPLICATION OF THE PAPERWORK REDUC-  
9 TION ACT.—Chapter 35 of title 44, United States Code  
10 (commonly referred to as the “Paperwork Reduction Act  
11 of 1995”), shall not apply to the provisions of, and the  
12 amendments made by, this Act.

13 (b) OPERATING INSTRUCTIONS OR OTHER GUID-  
14 ANCE.—Notwithstanding any other provision of law, the  
15 Secretary of Labor may issue any regulations, operating  
16 instructions, or other guidance necessary to carry out the  
17 provisions of, or the amendments made by, this Act.

18 **SEC. 403. AUTHORIZATION OF APPROPRIATIONS.**

19 There is authorized to be appropriated to the Sec-  
20 retary of Labor to carry out this Act and the amendments  
21 made by this Act, including maintaining staffing levels,  
22 hiring new staff, extending grants and contracts, and en-  
23 tering into grants and contracts—

1           (1) any unobligated balance of funds appro-  
2           priated under section 2118 of the CARES Act (15  
3           U.S.C. 9034); and

4           (2) for each fiscal year beginning with fiscal  
5           year 2024, such sums as may be necessary.

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