

**EXAMINING THE ADMINISTRATION OF  
THE UNEMPLOYMENT INSURANCE SYSTEM**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON HEALTH,  
EMPLOYMENT, LABOR, AND PENSIONS**

OF THE

**COMMITTEE ON EDUCATION AND LABOR**

**U.S. HOUSE OF REPRESENTATIVES**

**ONE HUNDRED SEVENTEENTH CONGRESS**

**SECOND SESSION**

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HEARING HELD IN WASHINGTON, DC, SEPTEMBER 21, 2022

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## EXAMINING THE ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE SYSTEM

Wednesday, September 21, 2022

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND  
PENSIONS,  
COMMITTEE ON EDUCATION AND LABOR,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:18 a.m., 2175 Rayburn House Office Building, Hon. Mark DeSaulnier (Chairman of the Subcommittee) presiding.

Present: Representatives DeSaulnier, Courtney, Norcross, McBeth, Levin, Stevens, Scott (Ex Officio), Allen, Walberg, Banks, Harshbarger, Miller, Fitzgerald and Foxx (Ex Officio).

Staff present: Brittany Alston, Operations Assistant; Melissa Bellin, Professional Staff; Ilana Brunner, General Counsel; Rasheedah Hasan, Chief Clerk; Sheila Havenner, Director of Information Technology; Max Moore, Policy Associate; Veronique Pluviose, Staff Director; Jessica Schieder, Economic Policy Advisor; Dhrtvan Sherman, Staff Assistant; Michele Simensky, Oversight Counsel-Labor; Banyon Vassar, Deputy Director of Information Technology; Sam Varie, Press Secretary; ArRone Washington, Clerk and Special Assistant to the Staff; Tanisha Wilburn, Director of Labor Oversight and Counsel; Cyrus Artz, Minority Staff Director; Caitlin Burke, Minority Professional Staff Member; Michael Davis, Minority Legislative Assistant; Cate Dillon, Minority Director of Operations; Trey Kovacs, Minority Professional Staff Member; Hannah Matesic, Minority Director of Member Services and Coalitions; Audra McGeorge, Minority Communications Director; Eli Mitchell, Minority Legislative Assistant; Ethan Pann, Minority Press Assistant; Gabriella Pistone, Minority Staff Assistant; Krystina Skurk, Minority Speechwriter; Katy Roberts, Minority Staff Assistant; Kelly Tyroler, Minority Professional Staff Member; Joe Wheeler, Minority Professional Staff Member.

Chairman DESAULNIER. Welcome everyone. The Subcommittee on Health Employment Labor and Pensions will come to order. I note that a quorum is present. I also note for the subcommittee that Mr. Takano of California and Mr. Jacobs of New York are permitted to participate today in today's hearing with the understanding that their questions will come only after all members of the subcommittee on both sides of the aisle who are present have had an opportunity to question the witnesses.

The subcommittee is meeting today to hear testimony on Examining the Administration of the Unemployment Insurance System.

This is a hybrid hearing pursuant to House Resolution 8 and the regulations thereto. All microphones, both in the room and on the platform will be kept muted as a general rule to avoid unnecessary background noise. Members and witnesses will be responsible for unmuting themselves when they are recognized to speak, or when they wish to seek recognition.

When members wish to speak or seek recognition, they should unmute themselves and allow a pause of 2 seconds to ensure the microphone picks up their speech. I will ask that members please identify themselves before they speak. Members who are participating in person should not be logged on to the remote platform in order to avoid feedback, echoes, and distortion.

Members participating remotely will be considered present in the proceeding when they are visible on camera, and they should be considered not present when they are not visible on camera. The only exception to this is if they are experiencing technical difficulty and inform the committee staff of such difficulty.

If any member experiences technical difficulty during the hearing, you should stay connected on the platform. Make sure you are muted and use your phone to immediately contact the committee's IT director whose number was provided in advance.

Should the Chair need to step away again for any reason, another majority member is hereby authorized to assume the gavel in the Chair's absence.

In order to ensure that the committee's 5-minute rule is adhered to, staff will be keeping track of time using the committee's digital timer and will be broadcast in the Committee room on the television monitor. The Committee room timer will not be in use. Members are asked to wrap up promptly when their time has expired.

Finally, while the recent items from the Office of Attending Physician has made mask wearing optional at this time, please note that we have in our midst, at both the member and staff levels, individuals who are immunocompromised and/or who have immediate family members who are immunocompromised as well, or who are not vaccinated either due to medical reasons, or because the vaccine is not yet available to children under 6 months of age.

Therefore, the committee strongly recommends that masks continue to be worn out of this concern for the safety of the unvaccinated, or immunocompromised committee members, staff, and their families.

Pursuant to Committee Rule 8(c), opening statements are limited to the Chair and the Ranking Member. This allows us to hear from our witnesses sooner and provides all members with adequate time to ask questions. I now recognize myself for the purpose of making an opening statement.

Thanks again everyone, our panelist members for joining us. Today we are meeting to discuss the importance of the unemployment insurance system and steps the Department of Labor and Congress can take to make improvements of the administration of the system.

Since 1985, the unemployment insurance, or UI system, has helped millions of Americans who have lost their jobs support themselves and their family until they can find new employment.

This social safety net is particularly important during times of economic downturns, like the COVID-19 pandemic.

As we all know, COVID-19 caused record unemployment. During the first week of March 2020, there were fewer than 300,000 initial UI claims. By the last week of March 2020, there were more than 6 million new UI benefit claims, that is 300,000 to 6 million within just a few weeks.

In response to the pandemic and the record unemployment, Congress passed the CARES Act, which among other actions gave three new temporary UI benefit programs to expand the state's capacity to provide UI benefits to workers. The CARES Act provided programs undoubtedly helped to prevent the country's economic collapse, supported 53 million workers, and put over 870 billion dollars back into the economy.

In fact, according to the Department of the Government Accountability Office, expansion of unemployment programs during adverse times, such as COVID-19, created overall economic stability, prevented detrimental outcomes from worsening, and had limited effects on worker's incentives to return to work.

Unfortunately, the implementation of these programs, in conjunction with this surge of the UI benefit claims, exasperated many of the long-standing challenges in inequities in the UI systems. For example, people with limited internet access, people with disabilities, people with limited English proficiency, and other marginalized communities faced steeper barriers to accessing their benefits.

While the UI system is a critical program, it has helped millions of workers in our economy during tough times. Congress should examine the challenges to the system that were made much worse by the pandemic to help improve the administration of the UI system. These improvements would help to better serve workers and employers before the next economic downturn.

When I was in the California State Legislature, I was Chair of the Labor Committee during the Great Recession, and we had many challenges. We worked with our Republican administration to try to in a bipartisan way make the system more efficient and understand that there were ebbs and flows to the economy, and we should be prepared for challenges like the Great Recession and the pandemic.

The Department of Labor needs additional resources to help protect the integrity of the UI system, like strengthening its fraud prevention measures, to stop fraud by sophisticated criminal syndicates. We must provide states with resources to address the gaps in the UI system, the technological infrastructure to prevent improper payments and fraud, to ensure better service delivery, and improve access to the UI system, especially when states most need the increased demand for UI benefits during these economic downturns.

Finally, to address the longstanding inequities and barriers to access the UI system, the Department and State agencies should proactively eliminate barriers, expand UI access for all workers, including those who have historically been ineligible to receive UI benefits. To help implement these reforms, the Department of

Labor used funding from the American Rescue Plan to create the Office of Unemployment Insurance Modernization.

I am impressed by the work the office has completed to date, particularly in the procuring more equitable distribution of benefits. Thank you again to our witnesses, and I look forward to discussing how we improve the administration of the UI system which remains an invaluable backstop for both workers and our economy.

I would now like to recognize the distinguished Ranking Member for the purpose of his opening statement, Mr. Allen, you are recognized.

[The Statement of Chairman DeSaulnier follows:]



# OPENING STATEMENT

House Committee on Education and Labor  
Chairman Robert C. "Bobby" Scott

**Opening Statement of Chair Mark DeSaulnier (CA-11)**  
Subcommittee on Health, Employment, Labor, and Pensions  
*Examining the Administration of the Unemployment Insurance System*  
Wednesday, September 21, 2022 | 10:15 a.m.

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Today, we are meeting to discuss the importance of the unemployment insurance system and steps the Department of Labor and Congress can take to make improvements to the administration of the system.

Since 1935, the unemployment insurance, or UI, system has helped millions of workers who have lost their jobs support themselves and their families until they can find new employment.

This social safety net is particularly important during times of economic downturns, like the COVID-19 pandemic.

As we all know, the COVID-19 pandemic caused record unemployment. During the first week of March 2020, there were fewer than 300,000 initial UI claims. By the last week of March 2020, there were more than 6 million new UI benefit claims.

In response to the pandemic and the record unemployment, Congress passed the CARES Act, which, among other actions, created three new, temporary UI benefit programs to expand the states' capacity to provide UI benefits to workers. The CARES Act UI programs undoubtedly helped to prevent the country's economic collapse, supported 53 million workers, and put over \$870 billion back into the economy.

In fact, according to the Government Accountability Office (or G-A-O), the "expansion of unemployment programs during adverse times, such as the...COVID-19 pandemic, created overall economic stability, prevented detrimental outcomes from worsening, and had a limited effect on workers' incentives to return to work."

Unfortunately, the implementation of these programs, in conjunction with the historic surge in UI benefit claims, exacerbated many of the longstanding challenges and inequities in the UI system.

For example, people with limited internet access, people with disabilities, people with limited English proficiency, and other marginalized communities faced steeper barriers to accessing benefits.

While the UI system is a critical program that has helped millions of workers and our economy during tough times, Congress should examine the challenges in the system that were made much worse by the pandemic to help improve the administration of the UI system. These improvements would help to better serve workers and employers before the next economic downturn. When I was in the California State Legislature, I was the Chair of Labor Committee during the Great Recession, and we had many challenges. We worked with our Republican administration to try—in a bipartisan way—make the system more efficient and understand that there were absent flows to the economy and we should be prepared for challenges like the Great Recession and the pandemic.

The Department of Labor needs additional resources to help protect the integrity of the UI system, like strengthening its fraud prevention measures to stop fraud by sophisticated criminal syndicates.

We must provide states with resources to address the gaps in their UI system's technological infrastructure, to prevent improper payments and fraud, ensure better service delivery, and improve access to the UI system, especially when states must meet an increased demand for UI benefits during economic downturns.

And finally, to address longstanding inequities and barriers to access in the UI system, the Department and state agencies should proactively eliminate barriers and expand UI access for all workers, including those who have historically been ineligible to receive UI benefits.

To help implement these reforms, the Department of Labor used funding from the American Rescue Plan to create the Office of Unemployment Insurance Modernization. I am impressed by the work the Office has completed to date—particularly in ensuring more equitable distribution of benefits.

Thank you, again, to our witnesses and I look forward to discussing how we can improve the administration of the UI system, which remains an invaluable backstop for both workers and our economy.

Mr. ALLEN. Thank you, Mr. Chairman, and thank you for holding this hearing, very important hearing today. Obviously because of COVID-19, the pandemic, we had economic shutdowns, and the Nation experienced historic levels of unemployment job loss.

In response, Congress created three new federally funded temporary unemployment insurance programs under the Coronavirus Aid Relief and Economic Security Act, called the CARES Act, which was bipartisan legislation. This legislation temporarily expanded eligibility, increased benefits, and extended benefit duration.

Democrats chose to continue to pay expanded benefits under the expensive and partisan American Rescue Plan Act. Recognizing that the vast majority of Americans had the opportunity to return to work, Republicans fought against this extension, and Democrats ignored our concerns.

What were the consequences of this unnecessary continuation of these expanded benefits? Record unemployment payouts and fewer workers returning to work. In fact, we have all been in our districts over the August work period, and we see help wanted signs everywhere, which highlights this very, very critical issue.

During the 18 months between March 2020, and September 21, the expanded unemployment program cost, or UI program cost, approximately an astounding 900 billion dollars, almost a trillion dollars. That is more debt on the backs of our children and grandchildren.

More unemployment checks were sent out in this 18-month period than were paid out across the 6-years during and following the Great Recession. Republicans resisted ARPA's extension of benefits because of perverse incentives it created. Two-thirds of those who collected increased unemployment benefits under the CARES Act earned more than when they were working.

When the Federal Government pays people more money not to work than they were making while employed, most people choose to stay home or drop out of the workforce. Democrats argue that this expansion should become permanent. Republicans completely disagree.

Expansion of these unemployment, or UI programs, was meant to be a robust, but temporary change to the unemployment system during an unprecedented emergency. The President himself has de-

clared that COVID is over, and it is time to return the UI system back to normal operations.

Get people back to work. Unemployment insurance is supposed to provide a temporary safety net for workers between jobs. We do not need another welfare system. Under this massive expansion, widespread fraud occurred in the UI system. The fraud has been so rampant that the Government Accountability Office has put DOL and the UI system on its high-risk list.

According to DOL's own Office of Inspector General, OIG, potential fraud payments could be as high, or even higher than 186 billion dollars as of March 2022. According to the Washington Post, only 4 billion of these fraudulent claims have been recovered. Nonetheless, the Biden Administration issued guidance allowing states to ignore suspicious overpayments, and to excuse DOL from reporting fraudulent overpayments and amounts recovered.

The Biden Administration should assist states to recover stolen money, not putting roadblocks in their way, or encouraging them to ignore fraudulent behavior. The OIG regularly reports on specific examples of fraud it detects. In one recent case a man attempted to defraud the Illinois Department of Employment Security of more than 4 million in State and Federal unemployment insurance by stealing the identities of elderly Illinois residents.

He then laundered the UI checks by purchasing salvaged automobiles that he and his co-conspirators then shipped to Nigeria. It was even reported that in California the State approved millions of dollars that went to prisoners, exposing further vulnerabilities in our unemployment system.

DOL and State UI systems struggled to process claims, implement new programs, and provide adequate customer service to states and claimants. There are clearly major shortcomings in the system that must be addressed. The bottom line is, DOL and the states must make significant reforms to their implementation of the UI system.

GAO gave DOL 21 recommendations, and it has yet to implement any of those recommendations. The American Rescue Plan Act included 2 billion for DOL to address the administration of the UI system, and Republicans want to ensure that the Biden Administration is spending that money wisely.

We must demand transparency and accountability. The mistakes made during the pandemic should not be repeated, and taxpayers should never again be cheated out of billions of dollars. In closing, President Biden even said that the pandemic is over, as I stated earlier.

It is time we stop funneling even more taxpayer dollars into a flawed system, and in fact you know, we do not know whether they are going to pay for us here. In order for our workforce to reach pre-pandemic levels we must ensure that unemployment insurance only serves as a bridge for people to find a job and lift themselves up.

We should focus on policies that will spur economic growth and give folks the opportunity to do what God created them to do. I look forward to hearing your testimonies, and with that Mr. Chairman I yield back.

[The Statement of Ranking Member Allen follows:]

**09.21.2022 – HELP Subcommittee Hearing: Examining the Administration of the Unemployment Insurance System**

**Opening Remarks from HELP Ranking Member, Rep. Rick Allen:**

“Because of the COVID-19 pandemic, we had economic shutdowns and the nation experienced historic levels of unemployment, job loss. In response, Congress created three new federally funded temporary unemployment insurance programs under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was bipartisan legislation. This legislation temporarily expanded eligibility, increased benefits, and extended benefit duration.

Democrats chose to continue to pay expanded benefits under the expensive and partisan American Rescue Plan Act (ARPA). Recognizing that the vast majority of Americans had the opportunity to return to work, Republicans fought against this extension. Democrats ignored our concerns.

What were the consequences of this unnecessary continuation of these expanded benefits? Record unemployment payouts and fewer workers returning to work. In fact, we’ve all been in our districts over the August work period and we see help wanted signs everywhere, which highlights this very critical issue. During the 18 months between March 2020 and September 2021, the expanded UI program cost approximately an astounding \$900 billion, almost a trillion dollars. That is more debt on the backs of our children and grandchildren. More unemployment checks were sent out in this 18-month period than were paid out across the six years during and following the Great Recession.

Republicans resisted ARPA’s extension of benefits because of the perverse incentives it created. Two-thirds of those who collected increased unemployment benefits under the CARES Act earned more than when they were working. When the federal government pays people more money not to work than they were making while employed, most people choose to stay home or drop out of the workforce.

While Democrats argue that this expansion should become permanent, Republicans completely disagree. The expansion of these UI programs was meant to be a robust but temporary change to the unemployment system during an unprecedented emergency. This emergency is now over, and it is time to return the UI system back to normal operations. Get people back to work. Unemployment insurance is supposed to provide a temporary safety net for workers between jobs. We do not need another welfare system.

Under this massive expansion, widespread fraud occurred in the UI system. The fraud has been so rampant that the Government Accountability Office has put DOL and the UI system on its ‘High Risk’ list. According to DOL’s own Office of Inspector General (OIG), potential fraud payments could be as high or even higher than \$163 billion as of March 2022. According to the Washington Post, only \$4 billion of these fraudulent claims have been recovered. Nonetheless, the Biden administration issued guidance allowing states to ignore suspicious overpayments and to excuse DOL from reporting fraudulent overpayments and amounts recovered. The Biden administration should be assisting states to recover stolen money, not putting roadblocks in their

way or encouraging them to ignore fraudulent behavior.

The OIG regularly reports on specific examples of fraud it detects. In one recent case, a man attempted to defraud the Illinois Department of Employment Security of more than \$4 million in state and federal unemployment insurance by stealing the identities of elderly Illinois residents. He then laundered the UI checks by purchasing salvaged automobiles that he and his co-conspirators then shipped to Nigeria. It was even reported that in California the state approved millions of dollars that went to prisoners, exposing further vulnerabilities in our unemployment system.

DOL and state UI systems struggled to process claims, implement new programs, and provide adequate customer service to states and claimants. There are clearly major shortcomings in the system that must be addressed. The bottom line is DOL and states must make significant reforms to their implementation of the UI system. GAO gave DOL 21 recommendations and it has yet to implement any of those recommendations.

The American Rescue Plan Act included \$2 billion for DOL to address the administration of the UI system, and Republicans want to ensure the Biden administration is spending this money wisely. We must demand transparency and accountability. The mistakes made during the pandemic should not be repeated, and taxpayers should never again be cheated out of billions of dollars.

In closing, President Biden even said that the pandemic is over, as I stated earlier, so it is time we stop funneling even more taxpayer dollars into a flawed system. In order for our workforce to reach pre-pandemic levels, we must ensure that unemployment insurance only serves as a bridge for people to find a job and lift themselves up. We should focus on policies that will spur economic growth and give folks the opportunity to do what God created them to do.”

Chairman DESAULNIER. Thank you, Mr. Allen, appreciate that perspective. I look forward to working with you as always on remedies. Without objection, all other members who wish to insert written statements into the record may do so by submitting them to the committee clerk electronically in Microsoft Word format by 5 p.m. on October 5th.

I am now happy to introduce and thank our witnesses. First, Mr. Thomas Costa is a Director in the U.S. Government Accountability Office, or GAO’s, Education, Workforce and Income Security Team. He oversees worker protection safety, employment and training issues. Mr. Costa joined GAO in 2005.

Ms. Rebecca Dixon is the Executive Director of the National Employment Law Project, or NELP. She has an expertise in occupational segregation, program management, unemployment insurance, and workplace equity issues. Ms. Dixon joined NELP in 2010.

Mr. Matt Weidinger is a Senior Fellow and Rhodes Scholar at the American Enterprise Institute.

Ms. Veronica Robinson is a private citizen who was born and raised in Philadelphia. She is a mother of two sons, and a lifelong worker with experience in a variety of industries, including her work as a classroom assistant in the Philadelphia School District, as a home health aide, and as an ambassador for the Southeastern Pennsylvania Transit Authority, or SEPTA.

Ms. Robinson lost her job at SEPTA at the onset of the COVID-19 pandemic.

Again, we really appreciate the witnesses for participating today. Look forward to your perspective and your testimony. Let me remind the witnesses that we have read your written statements,

and they will appear in full in the hearing record. Pursuant to Committee Rule 8(d) and committee practice, each of you is asked to limit your oral presentation to 5 minutes, a summary of your written statement.

Before you begin your testimony, please remember to unmute your microphone. During your testimony staff will be keeping track of time, and the timer will be visible to you at the witness stand.

Please be attentive to the time, wrap up when your time is over, and remute your microphone. We will let all the witnesses make their presentation before we move to member questions.

When answering a question please remember to unmute your microphone. The witnesses are aware of their responsibility to provide accurate information to the subcommittee, and therefore we will proceed with their testimony. Let me first recognize Mr. Costa. Mr. Costa, you are recognized for 5 minutes.

**STATEMENT OF MR. THOMAS COSTA, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY TEAM, GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. COSTA. Thank you, Mr. Chairman. Chairman DeSaulnier, Republican Leader Allen, Chairman Scott and members of the subcommittee, thank you for the opportunity to discuss the challenges and risks facing the unemployment insurance system. The Federal Government and states work together to manage the UI programs. States design and administer their own UI programs while the Department of Labor oversees states' compliance with Federal requirements.

However, the UI system has faced long-standing challenges with service delivery and program integrity, which worsened during the COVID pandemic. In June, we added the UI system to our high-risk list because we found these challenges posed significant risks to UI service delivery and exposed the system to significant financial loss.

Moving forward it will be important for Labor to take a coordinated and sustained approach, involving State and Federal stakeholders, including Congress, to ensure significant progress in improving the UI system's performance and integrity. My testimony is based on our June reports, which examined issues including first challenges related to the UI's systems ability to respond to the needs of unemployed workers.

Two, actions needed to address key risks facing the system. Three, potential obstacles for transforming the system, and four, the economic effects of expanding UI benefits during adverse times.

First, we found that the UI system faces challenges involving its program design because each State designs its own UI program, there are 53 State programs that differ by benefit amounts, duration of benefit periods, and eligibility rules. These differences have contributed to decline in access, inconsistent levels of support, and disparities in benefit distribution.

For example, prior to COVID the proportion of unemployed workers filing for UI benefits was near a historic low, dropping from 55 percent in 1958 to 28 percent in 2019. The reasons for this drop include State restrictions on eligibility as well as the lack of cov-

erage for workers who are not traditionally covered by UI, such as gig workers, self-employed workers, and independent contractors.

In addition to challenges around eligibility, we and others found racial and ethnic disparities in the receipt of benefits. In particular, in two of the four states we selected for our study we found significant disparities in the benefit approval rates for black, American Indian, and Hispanic claimants, with approval rates sometimes half that of white claimants.

We also found that states face challenges in providing customer service, delivering timely benefits, implementing the new pandemic programs, and using and modernizing their IT systems. For example, during the pandemic some unemployed workers experienced long waits for benefits, which caused financial and other hardship.

States were overwhelmed by record levels of UI claims as they simultaneously implemented the new pandemic programs. In addition, many states were reliant on legacy IT systems that were underfunded, inefficient, and lacked all the necessary capabilities to detect improper payments and fraud.

Second, we identified a number of steps that Labor is taking to address the risks facing the UI system, including sending technical assistance teams to states, and offering UI related grants. However, additional action is needed. We made five new recommendations in our three UI reports in June, and have a total of 21 open UI recommendations, including that Labor develop and execute a transformation plan that outlines actions to address effective service delivery and mitigate financial risk.

Labor generally agreed with our recommendations, and we think it is critical that Labor implement our, and related Inspector General recommendations. We also convened a panel of stakeholders with UI expertise to identify options for transforming the system. Panelists had a wide variety of suggestions, including changes to program design to better target support. Improvements to IT systems, and ways to enhance program integrity. These suggestions are detailed in my written testimony and our related report.

Last, although the system faces many challenges, we found the expansion of UI programs during adverse times, such as the 2007–2009 Recession, and the COVID pandemic helped to stabilize the economy, prevent detrimental outcomes from worsening, and had limited effect on the return to work.

In conclusion, it is critical to address the challenges and risks facing the UI system. Given the important role it plays in supporting unemployed workers and stabilizing the economy during economic downturns, Labor has started taking some actions to address our recommendations, but that alone will not be enough.

Labor also needs to continue to work in partnership with the states, and also with Congress, to address both service delivery and program integrity. This completes my statement. I look forward to your questions.

[The Statement of Mr. Costa follows:]

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United States Government Accountability Office

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Testimony  
Before the Subcommittee on Health,  
Employment, Labor and Pensions,  
Committee on Education and Labor,  
House of Representatives

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For Release on Delivery  
Expected at 10:15 a.m. ET  
Wednesday, September 21, 2022

## UNEMPLOYMENT INSURANCE

### Opportunities to Address Long-Standing Challenges and Risks

Statement of Thomas Costa, Director, Education,  
Workforce, and Income Security

# GAO Highlights

Highlights of [GAO-22-106159](#), a testimony before the Subcommittee on Health, Employment, Labor and Pensions, Committee on Education and Labor, House of Representatives

## Why GAO Did This Study

The UI system has faced long-standing challenges with effective service delivery, which worsened during the pandemic because of historic levels of job loss. In a June 2022 report ([GAO-22-105162](#)), GAO found that these challenges pose significant risks to effectively delivering benefits to unemployed workers. Due to these and other financial risks, GAO has added the UI system to its High-Risk List.

This testimony discusses (1) challenges related to the UI system's ability to respond to the needs of unemployed workers and to changing economic conditions; (2) actions needed to address key risks for the UI system; (3) potential options for transforming the UI system; and (4) the economic effects of expanding UI benefits during adverse times.

This testimony is based on two June 2022 reports. For [GAO-22-105162](#), GAO reviewed audit products; reviewed relevant literature; convened a panel of stakeholders with UI expertise; and compared findings against GAO criteria for designating programs as high risk. For [GAO-22-104251](#), GAO conducted a literature review to identify relevant studies on the effects of expanded UI benefits for individuals and the economy during adverse times.

## What GAO Recommends

In [GAO-22-105162](#), GAO recommended that DOL develop and implement a plan for transforming UI that meets GAO's high-risk criteria. DOL agreed with the recommendation. GAO has 21 open recommendations to DOL on UI, including several related to managing fraud risk.

View [GAO-22-106159](#). For more information, contact Thomas Costa at (202) 512-4769 or [costat@gao.gov](mailto:costat@gao.gov).

September 21, 2022

## UNEMPLOYMENT INSURANCE

### Opportunities to Address Long-Standing Challenges and Risks

#### What GAO Found

In June 2022, GAO reported that long-standing challenges with Unemployment Insurance (UI) administration have affected states' ability to effectively meet the needs of unemployed workers. These challenges have been identified in prior GAO reports, in other audits, and by stakeholder panelists with UI expertise. They have persisted over time and worsened during times of economic downturn—such as the COVID-19 pandemic. Reported challenges with program design and variation in how states administer UI—such as differences in minimum and maximum UI benefit amounts, duration of benefit periods, and eligibility rules—have contributed to declining access, inconsistent levels of support across states, and disparities in benefit distribution. Other reported challenges for states include providing customer service, delivering timely benefits, implementing new programs, and using and modernizing legacy IT systems. For example, during the pandemic, some unemployed workers experienced long waits for benefit payments, which sometimes caused financial and other hardships.

GAO designated the UI system as high risk because its administrative and program integrity challenges pose significant risks to service delivery and expose the system to significant financial losses. For example, estimated UI improper payments—some of which were due to fraud—increased from approximately \$8.0 billion in fiscal year 2020 to approximately \$78.1 billion in fiscal year 2021. In June 2022, GAO reported that the Department of Labor (DOL) has some activities planned and underway that may address the risks GAO identified, but additional action is needed. GAO recommended that DOL develop and execute a transformation plan that outlines actions to address issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. GAO also noted that DOL will need to work closely with states, and potentially with the Congress, to make progress. DOL agreed with the recommendation and noted that it has a variety of efforts underway. These include efforts to enhance equity in program access and benefit distribution; reach worker populations reflective of the modern economy; and rebuild program performance, efficiency in claims processing, and payment timeliness.

Participants in stakeholder panels GAO convened identified various options for transforming the UI system. Options include changes to program design to better target support, such as broadening eligibility, reducing administrative barriers to access, and standardizing requirements across states. Other options include strategies to help improve UI IT systems, such as establishing well-defined modernization outcome goals, and enhancing system integrity, such as maintaining employer verification and improving identity verification.

Although the UI system faces challenges, GAO's June 2022 review of empirical studies found that the expansion of UI programs during adverse times—such as the 2007-2009 recession and the COVID-19 pandemic—helped to stabilize the economy, prevented detrimental outcomes from worsening, and had a limited effect on workers' incentives to return to work. Some of the studies also showed that UI expansion had other positive benefits such as an improved labor market.

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Chairman DeSaulnier, Republican Leader Allen, and Members of the Subcommittee:

Thank you for the opportunity to discuss our work on the challenges and risks facing the Unemployment Insurance (UI) system. The UI system has faced long-standing challenges with effective service delivery and program integrity, which worsened during the COVID-19 pandemic because of historic levels of job loss. For example, in recent years, some UI claimants experienced long waits for benefits, and there was a steep increase in estimated UI improper payments, some of which were due to fraud.<sup>1</sup> In June 2022, we added the UI system to our High-Risk list because we found that these and other challenges pose significant risk to UI service delivery and expose the UI system to significant financial losses.<sup>2</sup> The Department of Labor (DOL) has taken some steps to address these challenges. Moving forward, it will be important for DOL to take a coordinated and sustained approach—involving state and federal stakeholders, as appropriate—to ensure significant progress in improving the UI system's performance and integrity.<sup>3</sup>

This testimony is based on our June 2022 reports, which examined issues including (1) challenges related to the UI system's ability to respond to the needs of unemployed workers and to changing economic conditions; (2) actions needed to address key risks for the UI system; (3)

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<sup>1</sup>The Department of Labor estimated that UI improper payments increased over ninefold from fiscal year 2020 to fiscal year 2021, from approximately \$8.0 billion to approximately \$78.1 billion. Some, but not all, improper payments are due to fraud. Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems.

<sup>2</sup>The High-Risk List highlights federal programs and operations that we have determined are in need of transformation, and also names federal programs and operations that are vulnerable to waste, fraud, abuse, and mismanagement. See GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, GAO-22-105184 (Washington, D.C.: Mar. 3, 2022).

<sup>3</sup>For the purposes of this testimony, the UI system includes UI programs that were established prior to the COVID-19 pandemic (including the regular UI program and Extended Benefits), and programs established in response to the COVID-19 pandemic (such as Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation, among others).

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potential options for transforming the UI system; and (4) the economic effects of expanding UI benefits during adverse times.<sup>4</sup>

For the June 2022 report on which this testimony is primarily based, to determine the challenges that DOL and states face in responding to unemployed workers' needs and to changing economic conditions, we reviewed audit products by GAO, the DOL Office of Inspector General (OIG), and state audit agencies, as well as relevant literature. To identify risks facing the UI system and actions needed to address those risks, we also reviewed GAO and DOL OIG reports on UI-related issues. To determine whether UI should be on the High-Risk List, we compared our findings from prior reports, DOL OIG reports, and our June 2022 reports against the GAO criteria for determining whether a government program or function is high risk.<sup>5</sup> We also met with DOL officials to discuss ongoing and planned activities to address challenges. To obtain stakeholder views on the challenges facing the UI system, and options for how it could be transformed, we convened a 2-day virtual roundtable composed of 16 stakeholder panelists with UI-related academic research experience, experience running or assessing the UI system, or both.<sup>6</sup> Furthermore, for the other June 2022 report discussed in this testimony, we conducted a literature review to identify key government, industry, and academic studies examining the effects of expanded UI benefits for

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<sup>4</sup>The first three objectives of this testimony are based on GAO, *Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Program Integrity Risks*, [GAO-22-105162](#) (Washington, D.C.: June 7, 2022). The fourth objective is based on *Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning*, [GAO-22-104251](#) (Washington, D.C.: June 7, 2022). Both reports address additional topics that are not included in this testimony. We also issued a report in June 2022 focused on the Pandemic Unemployment Assistance program, one of the four UI programs established in response to the COVID-19 pandemic. See *Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt*, [GAO-22-104438](#) (Washington, D.C.: June 7, 2022).

<sup>5</sup>GAO, *Determining Performance and Accountability Challenges and High Risks*, [GAO-01-159SP](#) (Washington, D.C.: Nov. 1, 2000).

<sup>6</sup>We selected potential panelists from government, the private sector, public-private partnerships, and academia to obtain educated views on topics related to transforming the UI system. The inclusion in this testimony of individual options that stakeholders provided for transforming the UI system is meant to be illustrative and should not be interpreted as an endorsement by GAO or any federal agency or department.

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individuals and the economy during adverse times.<sup>7</sup> Detailed information on our objectives, scope, and methodology can be found in the issued reports.

We conducted the work on which this testimony is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### UI Program Administration and Funding

The federal government and states work together to administer UI programs. States design and administer their own UI programs within federal parameters, while DOL oversees states' compliance with federal requirements, such as by reviewing state laws to confirm they are designed to ensure payment of benefits when due. According to DOL, state statutes establish specific benefit structures, eligibility provisions, benefit amounts, and other aspects of the program. Regular UI benefits—those provided by state UI programs before the CARES Act was enacted—are funded primarily through state taxes levied on employers and are intended to replace a portion of a claimant's previous employment earnings, according to DOL.<sup>8</sup>

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<sup>7</sup>We searched relevant databases to identify scholarly and peer-reviewed research, working papers, government reports, trade and industry articles, as well as association and non-profit publications published in the last 20 years. We determined that 30 studies fulfilled our criteria for inclusion in our literature review. For more information on our literature review methodology, see [GAO-22-104251](#).

<sup>8</sup>To be eligible for regular UI benefits, applicants must generally demonstrate workforce attachment, be able and available to work, and be actively seeking work. 42 U.S.C. § 503(a)(12). Administration of the regular UI program is financed by a federal tax on employers, according to DOL.

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The CARES Act created three federally funded temporary UI programs—Pandemic Unemployment Assistance (PUA),<sup>9</sup> Federal Pandemic Unemployment Compensation (FPUC),<sup>10</sup> and Pandemic Emergency Unemployment Compensation (PEUC)<sup>11</sup>—that expanded benefit eligibility and enhanced benefit amounts. These programs were amended by the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021. In addition, the Consolidated Appropriations Act, 2021, created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by the American Rescue Plan Act of 2021.<sup>12</sup> The federal government directly funded the administration of, and benefits for, these pandemic UI programs and relied on states to ensure benefits reached unemployed workers. These programs expired on September 6, 2021, although some states ended their participation before that date.

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#### States' UI IT Environment

State workforce agencies rely extensively on IT systems to carry out their program functions, including benefit eligibility determinations and calculating benefit amounts. However, many states continue to rely on aging, or legacy, IT systems developed in the 1970s and 1980s.<sup>13</sup> Legacy systems run on outdated or unsupported hardware and software that are expensive to maintain and may use older programming languages. As a

<sup>9</sup>PUA authorized UI benefits for individuals not otherwise eligible for UI benefits, such as self-employed and certain gig economy workers, who were unable to work as a result of specified COVID-19-related reasons. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118 (2021); Pub. L. No. 116-260, div. N, tit. II, § 201(a), (b), 134 Stat. 1182, 1950-1951 (2020); Pub. L. No. 116-136, § 2102, 134 Stat. 281, 313 (2020).

<sup>10</sup>FPUC generally authorized an additional weekly benefit for individuals who were eligible for weekly benefits under the permanent UI programs—e.g. regular UI—and the temporary CARES Act UI programs. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953; Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318.

<sup>11</sup>PEUC generally authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits. Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120; Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954; Pub. L. No. 116-136, § 2107, 134 Stat. 281, 323.

<sup>12</sup>The MEUC program authorized an additional \$100 weekly benefit for certain UI claimants who received at least \$5,000 of self-employment income in the most recent tax year prior to their application for UI benefits. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961.

<sup>13</sup>The National Defense Authorization Act for Fiscal Year 2018 defines a legacy IT system as an IT system that is outdated or obsolete. Pub. L. No. 115-91, § 1076(8), 131 Stat. 1283, 1586-87 (2017).

result, state workforce agencies may not be able to ensure these systems have effective internal controls to address current security vulnerabilities and other IT risks. Furthermore, in May 2021, the DOL OIG found that legacy IT systems were one of the causes of states' inability to detect and recover UI improper payments, including those as a result of fraudulent activity.<sup>14</sup> According to the National Association of State Workforce Agencies (NASWA), as of July 2022, 32 of the 53 states and territories were still using legacy IT systems to support their UI benefits system, tax system, or both. We previously reported that modernizing legacy IT systems allowed agencies to leverage IT to successfully address their missions and achieve a wide range of benefits.<sup>15</sup>

### Reported Challenges with State UI Administration and Outdated IT Systems Affect UI Responsiveness

Our June 2022 report on UI transformation highlighted the long-standing challenges with UI administration and outdated IT systems that have affected states' ability to effectively meet the needs of unemployed workers. These challenges have occurred both historically and during times of economic downturn—particularly the COVID-19 pandemic. According to our past work and that of the DOL OIG, and the views of our stakeholder panelists, challenges that have affected the responsiveness of the UI system include those related to (1) program design; (2)

<sup>14</sup>Department of Labor Office of Inspector General, Report No. 19-21-004-03-315. The Payment Integrity Information Act of 2019 (PIIA) defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. 31 U.S.C. § 3351(4). Further, when an executive agency's review is unable to discern, because of lacking or insufficient documentation, whether a payment was proper, the agency must treat the payment as improper in producing an improper payment estimate. 31 U.S.C. § 3352(c)(2).

<sup>15</sup>IT modernization can include transforming legacy code into a more modern programming language, migrating legacy services to cloud computing solutions, and redesigning mainframe applications to cloud-based applications. The benefits of a successful IT modernization effort can include cost savings, improved customer service, enhanced security, and reduced amount of labor needed to maintain legacy systems and software. See GAO, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems*, GAO-19-471 (Washington, D.C.: June 11, 2019).

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customer service, payment timeliness, and implementing new programs; and (3) states' ability to use and modernize legacy IT systems.<sup>16</sup>

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### UI Program Design Has Led to Challenges

**Decline in workers' participation in UI.** Prior to the COVID-19 pandemic, the proportion of unemployed workers filing for UI benefits—referred to as the reciprocity rate—was near a historic low. According to DOL, the reciprocity rate was 54.6 percent in 1958 and declined to 28.1 percent in 2019.<sup>17</sup> Program design is among the factors contributing to the decline in the reciprocity rate, including states tightening requirements for participation in UI, according to DOL and participants in our stakeholder panels. In addition, some stakeholder panelists noted that, as an employer-based structure, the regular UI program does not cover contingent workers for whom payroll taxes are not paid, such as independent contractors or self-employed workers, who are estimated to number in the millions.<sup>18</sup> Also, contingent workers, who may have irregular work and earnings histories, may be more likely to face difficulties in qualifying for regular UI.<sup>19</sup>

**Differing UI administration across states and territories.** The regular UI program was designed as a federal-state partnership that gives states considerable flexibility, resulting in essentially 53 different UI programs across the states and territories. Stakeholder panelists noted that minimum and maximum UI benefit amounts, duration of benefit periods,

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<sup>16</sup>There are currently 21 open GAO recommendations related to UI. We identified five of these recommendations as priorities for the Department of Labor. Priority open recommendations are the GAO recommendations that warrant priority attention from heads of key departments or agencies because their implementation could save large amounts of money, improve congressional and/or executive branch decision-making on major issues, eliminate mismanagement, fraud, and abuse, or ensure that programs comply with laws and funds are legally spent, among other benefits. See appendix I for a detailed list of the open recommendations.

<sup>17</sup>In 2019, reciprocity rates varied widely by state, from 9.5 percent (North Carolina) to 59.0 percent (New Jersey), according to DOL. In 2020, the reciprocity rate increased sharply to 78.0 percent. According to DOL officials, this was due to the large number of UI continued claims during the pandemic.

<sup>18</sup>We use the term "contingent workers" to refer broadly to workers without traditional employment arrangements, such as those with temporary or gig employment, independent contractors, and self-employed workers.

<sup>19</sup>During the COVID-19 pandemic, the temporary PUA program was the first nationwide program to provide contingent workers with access to UI benefits, provided they met program eligibility criteria. For more information about the PUA program and the experiences of contingent workers during the pandemic, see [GAO-22-104438](#).

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and eligibility rules are substantially different by state, resulting in inconsistent levels of support for workers. In our 2015 report, we found that reductions in state benefit durations resulted in some individuals receiving substantially less in total UI benefits.<sup>20</sup>

In addition, DOL, panelists, and we have identified concerns about racial and other disparities in accessing and receiving UI benefits. Specifically, in our June 2022 report, we found substantial racial and ethnic disparities in PUA benefit receipt in three of four selected states. For example, in two states, the percentage of Black applicants who received PUA was about half that of White applicants.<sup>21</sup> Panelists noted that there is a correlation between states with low UI reciprocity rates and states with a high percentage of African American residents, as compared to other states. Moreover, states take different approaches to monitoring ongoing UI claimant eligibility, including compliance with work search requirements.<sup>22</sup>

**Limited effectiveness of Extended Benefits program.** Stakeholder panelists noted limitations with the Extended Benefits (EB) program's effectiveness amid changing national economic conditions. The EB program responds to recessions by extending the duration of UI benefits

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<sup>20</sup>GAO, *Unemployment Insurance: States' Reductions in Maximum Benefit Durations Have Implications for Federal Costs*, [GAO-15-281](#) (Washington, D.C.: Apr. 22, 2015).

<sup>21</sup>Results from two national surveys show similar disparities in UI receipt. Various factors could explain these disparities, such as how states reviewed claims or whether fraudsters more frequently used certain demographics when filing. See [GAO-22-104438](#) and GAO, *Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic*, [GAO-21-599R](#) (Washington, D.C.: June 17, 2021). As we have previously reported, DOL has taken a variety of steps to address equity in the UI program, including making grant funds available to states to address equity issues and deploying equity experts to states to identify challenges to UI benefit access and best practices for addressing them. In April 2022, DOL released an Equity Action Plan, which among other things summarized DOL's ongoing and planned actions to advance equity in the UI system.

<sup>22</sup>In our 2018 report, we made four recommendations related to monitoring ongoing claimant eligibility—two of which we designated as high priority—that remain unaddressed. For example, we recommended that DOL clarify and monitor states' compliance with work-search verification requirements. GAO, *Unemployment Insurance: Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements*, [GAO-18-486](#) (Washington, D.C.: Aug. 22, 2018).

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if certain economic criteria, known as triggers, are met.<sup>23</sup> According to DOL, the program provides, depending on state law, up to an additional 13 or 20 weeks of benefits during periods of high unemployment.<sup>24</sup> Also, an important part of the mission of UI is to stabilize the U.S. economy during recessions by helping individuals maintain their purchasing power by replacing a portion of income lost through unemployment, according to DOL. However, panelists highlighted various issues with the EB program, including questions about the statistical validity of the specific triggers that are used to activate the program. Panelists also noted that in recent recessions, Congress created temporary programs to expand UI because the EB program could not respond adequately to national recessions. In addition, panelists noted that in prior recessions, most workers were re-employed before their regular UI benefits ran out, and therefore, the EB program was not relevant for those workers.

**State agencies' struggles to fund UI.** States' benefit amounts and approaches to UI financing risk the viability of the program. The regular UI program is generally funded through a combination of federal and state taxes on employers.<sup>25</sup> When a state exhausts the funds available for regular UI benefits, it may borrow from the federal government. As we previously reported, during the 2007–2009 recession, many states took out federal loans to pay for UI benefits.<sup>26</sup> This also occurred during the

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<sup>23</sup>Specifically, the EB program uses triggers based on the unemployment rate of people covered by UI (the insured unemployment rate), and the unemployment rate based on the wider population (the total unemployment rate). Pub. L. No. 91-373, Title II, 84 Stat. 695, 708-13 (codified as amended at 26 U.S.C. § 3304, note).

<sup>24</sup>During the pandemic, regular UI claimants who exhausted their regular UI and PEUC benefits also had access to the EB program if their claim was in a state that triggered the program. The EB program was activated in all states except South Dakota at some point during the pandemic, according to DOL.

<sup>25</sup>According to DOL, three states also require employee contributions under certain conditions.

<sup>26</sup>For example, in 2010, after the 2007–2009 recession, 30 states and territories held approximately \$40.2 billion in federal loans. See GAO, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, GAO-22-105051 (Washington, D.C.: Oct. 27, 2021). We did not adjust this 2010 loan balance amount for inflation. In 2015, we found that states that had reduced UI benefit durations after the 2007–2009 recession had weaker pre-recession trust funds, among other factors. See GAO-15-281.

pandemic.<sup>27</sup> In addition, participants in our stakeholder panels noted that funding for UI administration has been a historical challenge. From fiscal years 2010 to 2019, funding for state UI administration declined by about 32 percent, after adjusting for inflation.<sup>28</sup> Several panelists commented that insufficient federal funding for UI administration has resulted in state agencies being understaffed or having outdated technology.<sup>29</sup>

**State UI Programs Have Faced Administrative Challenges with Customer Service, Payment Timeliness, and Implementing New Programs**

We and others have reported on administrative challenges that states encountered as they implemented both the regular and pandemic UI programs, in the areas of providing customer service, delivering timely benefits, and implementing new programs.

**Customer service.** States reported facing ongoing administrative challenges in providing effective customer service to UI claimants, even outside of economic downturns. In our 2016 report, we found that during the 2007–2009 recession many states reported facing challenges in processing record numbers of UI claims, including staff turnover and insufficient call center staff, as well as delays in claimants receiving benefits.<sup>30</sup> Furthermore, many states reported that insufficient call center staff was still a challenge in 2014 and 2015. Also, in our focus groups, regular UI claimants who applied for benefits by phone between July 2014 and July 2015 reported experiencing long call wait times or having to call multiple times to reach program representatives. During the

<sup>27</sup>For example, as of April 23, 2021, 20 states and territories held loans with a combined total balance of \$55.1 billion. By September 7, 2022, the number of states and territories holding federal loans had dropped to six with a total combined balance of about \$27.6 billion.

<sup>28</sup>Before adjusting for inflation, administrative funding declined by about 21 percent. We adjusted for inflation using the gross domestic product price index.

<sup>29</sup>In its official comments on [GAO-22-105162](#), DOL stated that funding constraints for the UI system have historically posed ongoing threats to states' ability to administer UI programs with efficiency and integrity.

<sup>30</sup>GAO, *Unemployment Insurance: States' Customer Service Challenges and DOL's Related Assistance*, [GAO-16-430](#) (Washington, D.C.: May 12, 2016).

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COVID-19 pandemic, similar challenges were again cited by states and claimants.<sup>31</sup>

**Payment timeliness.** Stakeholder panelists noted the importance of delivering timely UI benefits to unemployed workers who need assistance. The long waits for payments during the pandemic caused financial and other hardships for some workers. For example, some PUA claimants we spoke with as part of our work examining that program said they needed to negotiate rent payment delays, defer bills, or accrue credit card debt while they were waiting for their first PUA payment.<sup>32</sup> Claimants we spoke with as a part of our work examining CARES Act UI programs told us that they used funds from their retirement accounts and other savings, relied on family and friends for loans to meet living expenses, and accepted assistance from community-based food pantries and other organizations to get help with food and utilities amidst payment delays.<sup>33</sup>

As we previously reported, extensive claims-processing backlogs led to substantial delays in first payments of regular UI benefits early in the pandemic, and those delays continued for some states later in the pandemic. The nationwide percentage of regular UI first benefits paid within 21 days of a claimant's initial eligibility fell from about 97 percent in March 2020 to about 52 percent in June 2020.<sup>34</sup> Since then, the

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<sup>31</sup>GAO-22-104251. In addition, our work examining the PUA program identified a variety of challenges for PUA claimants. For example, PUA claimants we spoke with faced some difficulties navigating how to verify their eligibility, including gathering and providing the appropriate documentation. A few of these workers said these challenges were in part due to being new to the UI system and unfamiliar with the process and its requirements. Worker advocacy groups we spoke with in several states also reported various challenges for PUA claimants, including that non-English speaking claimants had difficulty accessing translated information in a timely manner. See [GAO-22-104438](#).

<sup>32</sup>A few PUA claimants we spoke with who were victims of identity theft said they experienced long delays before receiving benefits as the fraud was investigated. They also told us they invested substantial time investigating their own cases. See [GAO-22-104438](#).

<sup>33</sup>GAO-22-104438 and [GAO-22-104251](#).

<sup>34</sup>GAO-22-105051 and GAO, *COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies*, [GAO-22-105291](#) (Washington D.C.: Jan. 27, 2022). One of DOL's core performance measures is the percentage of all regular UI first payments made within either 14 or 21 days of the first week of benefits for which claimants are eligible; DOL considers 87 percent to be an acceptable level of performance. DOL uses 14 days as the timeliness goal for states with a waiting week requirement and uses 21 days for states without a waiting week requirement.

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timeliness of these first payments has fluctuated, and in June 2022, about 75 percent of first payments were paid within 21 days.<sup>35</sup>

**Implementing new programs.** Prior to the pandemic, the DOL OIG had noted concerns with DOL and states' ability to deploy program benefits quickly and efficiently while ensuring program integrity and adequate oversight, particularly in response to national emergencies and disasters. During the pandemic, states were overwhelmed by record levels of UI claims as they simultaneously implemented the new CARES Act UI programs. Initial claims for regular UI benefits nationwide reached a historic peak of more than 6 million per week in late March and early April 2020, and states reported receiving more than 1.3 million weekly PUA initial claims in late May 2020. We and the DOL OIG have reported that selected states struggled to implement the CARES Act UI programs due to insufficient staffing and unclear guidance from DOL, among other issues.<sup>36</sup> The DOL OIG also reported that states had to develop new systems to implement the CARES Act UI programs, resulting in backlogs in processing claims for weeks, and in some cases, months.<sup>37</sup>

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**State IT Challenges Include Using and Modernizing Legacy UI Systems**

As discussed in our June 2022 report on UI transformation, many states rely on legacy systems for their UI programs. The DOL OIG and we have reported on the risks and challenges that legacy systems pose for state UI programs, which have led to, among other things, reduced efficiency and effectiveness.<sup>38</sup> For example:

- **Inefficient system performance.** Prior to the COVID-19 pandemic, in May 2016, we reported that legacy IT systems were a challenge for

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<sup>35</sup>We analyzed first-payment timeliness data that states had reported to DOL as of August 10, 2022. At that point, all 53 states had reported data for June 2022 and prior months.

<sup>36</sup>[GAO-22-104251](#). Also see Department of Labor Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, Report No. 19-21-004-03-315 (Washington, D.C.: May 28, 2021).

<sup>37</sup>Department of Labor Office of Inspector General, Report No. 19-21-004-03-315.

<sup>38</sup>We have ongoing work looking at state UI IT system modernization efforts, including successes and challenges, as well as DOL's management and oversight of its efforts to assist state agencies with their modernization efforts.

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many states, according to our survey.<sup>39</sup> After the start of the pandemic, in June 2020, we reported that the unprecedented number of UI claims posed challenges for states' capacity to process them.<sup>40</sup> Specifically, state UI programs faced system performance issues with legacy data systems.

- **Slower processing of payments.** In May 2021, the DOL OIG reported that states with legacy systems started the PEUC program 15 days slower than states with modernized systems, and the PUA program 8 days slower on average.<sup>41</sup> Further, the DOL OIG reported that officials from 17 of 50 states and territories (34 percent) stated their IT systems were unable to implement provisions of the CARES Act, such as those creating the PUA program.<sup>42</sup>
- **Inability to detect improper payments (including from fraud).** Also in the May 2021 DOL OIG report, state officials mentioned that their IT systems did not have the capability to perform cross-matches—a method used to detect improper payments, including those as a result of fraudulent activity—for such a large volume of claims.
- **Difficulty reporting UI program activities to DOL.** The May 2021 DOL OIG report also identified legacy IT systems as one of the causes of states being unable to report their CARES Act UI program activities to DOL. For example, state officials noted that they were unable to program the newly required reports in their IT systems.

More generally, we have previously reported that the use of legacy systems can contribute to additional risks, including security vulnerabilities, staffing issues, and increased cost.<sup>43</sup>

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<sup>39</sup>Specifically, 29 of 48 states (60 percent) reported that their IT systems had significant limitations, which had implications for the ability of state programs to efficiently process UI claims and serve claimants. We did not receive survey responses from UI programs in the District of Columbia, North Carolina, and Vermont. Our review did not include UI programs in Puerto Rico and the U.S. Virgin Islands. See [GAO-16-430](#).

<sup>40</sup>GAO, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, [GAO-20-625](#) (Washington, D.C.: June 25, 2020).

<sup>41</sup>Department of Labor Office of Inspector General, Report No. 19-21-004-03-315.

<sup>42</sup>Arkansas, Idaho, and Vermont were not included among the states.

<sup>43</sup>GAO, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems*, [GAO-19-471](#) (Washington, D.C.: June 11, 2019).

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Additionally, our work has identified challenges that states face in modernizing their legacy UI systems.<sup>44</sup> For example:

- **Funding uncertainty.** In our prior reporting, we identified challenges that states reported regarding declining or inconsistent federal and state funding for UI IT modernization, leading to difficulties in project planning, among other difficulties.<sup>45</sup>
- **Staffing and vendor limitations.** We also found that UI IT system development can be hindered by a shortage of staff with technical and project management expertise to manage IT modernizations efforts. We identified challenges that states reported related to using vendors for UI modernization efforts, such as having too few vendors for selection and lacking sufficient staff expertise to maintain systems once vendor staff left.
- **System capacity and scaling limitations.** We previously reported that states faced challenges in ensuring sufficient system capacity to process the unprecedented number of UI claims during the COVID-19 pandemic. According to NASWA officials, this challenge was due to states not sufficiently load testing their systems to handle large volumes of claims prior to the pandemic.

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### Transformation Plan and Sustained Action Are Critical to Address Risks to UI System

As a result of the many challenges facing the UI system that we and others have identified, we added the UI system to our High-Risk List in June 2022. In designating a program as high risk, we consider: (1) qualitative factors such as whether risks could result in significantly impaired service delivery; (2) exposure to financial loss; and (3) effectiveness of corrective actions that are planned or underway. We determined that the administrative and program integrity challenges facing the UI system pose significant risks to service delivery and expose the system to significant financial losses. For example, there was a steep increase in estimated UI improper payments—some of which were due to fraud—from fiscal year 2020 to 2021. To address these risks to the UI system, we also recommended that DOL develop and implement a

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<sup>44</sup>GAO-20-625, GAO-16-430, and GAO, *Information Technology: Department of Labor Could Further Facilitate Modernization of States' Unemployment Insurance Systems*, GAO-12-957 (Washington, D.C.: Sept. 26, 2012).

<sup>45</sup>GAO-16-430 and GAO-12-957.

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transformation plan that meets factors in GAO's criteria for high-risk list removal.<sup>46</sup>

**Risk to service delivery.** The chronic management and resource challenges we and others have identified are extensive enough to pose significant risk to UI service delivery. During the pandemic, historic and urgent demand for services and the need to implement new and expanded UI benefits overwhelmed states, causing benefit payment timeliness to plummet and significantly straining customer service. These challenges exacerbated inherent risks in the program that challenge its ability to respond effectively to economic downturns and to ensure equity in service delivery across states and workers.

**Risk of financial loss.** Prior to the pandemic, DOL regularly estimated that improper payments in the regular UI program totaled billions of dollars annually. During the pandemic, DOL's estimated amount of improper payments for a portion of the UI programs increased over ninefold, from approximately \$8.0 billion in fiscal year 2020 to approximately \$78.1 billion in fiscal year 2021.<sup>47</sup> This increase in estimated improper payments resulted from (1) the doubling of the estimated improper payment rate from approximately 9.2 percent in fiscal year 2020 to approximately 18.9 percent in fiscal year 2021; and (2) the increase of reported outlays in the UI program from approximately \$86.9 billion in fiscal year 2020 to approximately \$413.0 billion in fiscal year 2021.<sup>48</sup> DOL expects this elevated estimated improper payment rate to continue for fiscal year 2022. Some, but not all, improper payments are due to fraud.<sup>49</sup> We have previously reported that the amount of fraudulent and potentially fraudulent activity in UI programs increased substantially after the three CARES Act UI programs were enacted, relative to the amount of such activity in the regular UI program before the pandemic.<sup>50</sup>

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<sup>46</sup>GAO-22-105162.

<sup>47</sup>The estimated improper payments for the 2021 UI program includes improper payment estimations for the FPUC and PEUC programs, but does not include PUA and MEUC improper payment estimations.

<sup>48</sup>The source for these outlays is [www.paymentaccuracy.gov](http://www.paymentaccuracy.gov). The sampling period covers outlays from July 1, 2020 to June 30, 2021.

<sup>49</sup>Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems.

<sup>50</sup>GAO-22-105051.

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Federal and state entities continue to investigate and report on high levels of fraud, potential fraud, and fraud risks in the UI programs.<sup>51</sup>

**Effectiveness of corrective actions.** In designating the UI system as high risk, we also considered actions—in the areas of leadership commitment, capacity, action plan, monitoring, and demonstrating progress—that DOL could take to help address challenges. DOL has some activities planned and underway that may address the risks we have identified. For example, DOL has sent teams of experts to states to provide technical assistance and make recommendations related to payment timeliness, equity, technology, and fraud. DOL has also offered grant opportunities to states to implement the expert teams' recommendations, address equity issues, and improve program access. However, further action is needed. In June 2022, we recommended that DOL develop and execute a transformation plan that outlines coordinated and sustained actions to address issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements.<sup>52</sup> In addition, we noted that DOL will need to work closely with states to make progress in these areas, and that if DOL determines that legislative action is needed, providing technical assistance to Congress could also be helpful.

We reported in June 2022 that action in each of these areas is important to address the significant risks facing the UI system. For example:

- **Leadership commitment.** We and the DOL OIG have identified the need for DOL to improve its leadership and coordination of actions to address risks to UI service delivery and program integrity. DOL leadership has acknowledged the need for significant reform of the UI system. In August 2021, DOL announced the establishment of the Office of Unemployment Insurance Modernization within the Office of the Secretary to provide strategic leadership as the department

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<sup>51</sup>We have ongoing work reviewing the extent of fraud in the UI system.

<sup>52</sup>[GAO-22-105162](#). DOL agreed with the recommendation and noted that it has related efforts underway, which we discuss later in this testimony.

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implements its UI modernization plan.<sup>53</sup> While this is promising, the office is temporary, consists of a small leadership team, and does not have long-term timelines for planned activities due to the temporary nature of its role.<sup>54</sup> A long-term strategic plan and sustained leadership are critical to fulfill the vision outlined in DOL's UI modernization plan.

- **Capacity.** Limitations in state and federal capacity have been recurring findings in our UI reports and those of the DOL OIG, especially related to ensuring the UI system responds effectively to economic downturns. Our June 2022 report identified staffing limitations, outdated IT infrastructure, and the limited effectiveness of benefit triggers during economic downturns as some of the capacity challenges faced by the UI system.<sup>55</sup> DOL has used funding from the American Rescue Plan Act of 2021 to support states in modernizing their IT systems, including beginning to develop modular technology solutions that can be integrated with state IT systems and a blueprint for the UI customer experience. However, lasting and system-wide solutions are important to meet the vision for infrastructure improvements outlined in DOL's UI modernization plan.
- **Action plan.** DOL outlined several principles for reform of the UI system in its fiscal year 2022 and 2023 congressional budget justifications.<sup>56</sup> In addition, in April 2022, DOL released an Equity Action Plan, which outlined existing barriers to equitable outcomes in the UI system and summarized DOL's ongoing and planned actions to advance equity. However, we reported in June 2022 that DOL has not yet conducted comprehensive analyses of the extent of or potential causes of system-wide disparities in benefit receipt or options for

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<sup>53</sup>See Department of Labor, *Fact Sheet: Unemployment Insurance Modernization: American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs* (Washington, D.C.: Aug. 11, 2021). The office is also providing oversight and management of \$2 billion in funds from the American Rescue Plan Act of 2021 to prevent and detect fraud, promote equitable access, and ensure timely benefits payments, according to DOL.

<sup>54</sup>DOL officials said they expected that the longer-term modernization effort would eventually be led by the Employment and Training Administration's Office of Unemployment Insurance.

<sup>55</sup>[GAO-22-105162](#).

<sup>56</sup>These principles included the need for a modern system to provide adequate benefits in every state, be easily scalable and respond automatically to economic downturns, reflect the modern economy and labor force, and ensure access and integrity before the next crisis.

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supporting nontraditional workers and reflecting a modern economy.<sup>57</sup> In addition, we found that DOL has not comprehensively assessed UI fraud risks in alignment with leading practices as provided in our Fraud Risk Framework.<sup>58</sup> Additionally, as noted above, in our June report we recommended that DOL develop and execute planned actions as part of meeting GAO's high risk criteria for transformation. Clear plans to identify root causes and potential solutions to the challenges underlying DOL's reform principles are necessary for long-term progress. Action plans can also support DOL's monitoring efforts and help ensure progress.

- **Monitoring.** Understanding the effectiveness of DOL's efforts is important to ensuring progress. DOL collects data from states including data on UI claims, compensation, payment timeliness, and overpayments. However, we have identified some limitations in the completeness and accuracy of these data.<sup>59</sup> For example, we have made several recommendations related to obtaining more accurate and complete data on the number of people who receive benefits and the amount of PUA overpayments that were recovered and waived.<sup>60</sup> We have also recommended that DOL obtain information about customer service challenges during the pandemic to identify best practices for helping claimants.<sup>61</sup> Monitoring the effectiveness of

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<sup>57</sup>GAO-22-104438.

<sup>58</sup>To help managers combat fraud and preserve integrity in government agencies and programs, GAO identified leading practices for managing fraud risks and organized them into a conceptual framework called the Fraud Risk Framework. The Fraud Risk Framework encompasses control activities to prevent, detect, and respond to fraud, with an emphasis on prevention, as well as structures and environmental factors that influence or help managers achieve their objective to mitigate fraud risks. In addition, the framework highlights the importance of monitoring and incorporating feedback. For more information on the Fraud Risk Framework, see GAO, *A Framework for Managing Fraud Risks in Federal Programs*, GAO-15-593SP (Washington, D.C.: Jul. 28, 2015) and GAO-22-105051.

<sup>59</sup>GAO, *COVID-19: Current and Future Federal Preparedness Requires Fixes to Improve Health Data and Address Improper Payments*, GAO-22-105397 (Washington, D.C.: Apr. 27, 2022) and GAO-22-104438.

<sup>60</sup>GAO, *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191 (Washington, D.C.: Nov. 30, 2020), GAO, *COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention*, GAO-21-265 (Washington, D.C.: Jan. 28, 2021), and GAO, *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year*, GAO-21-387 (Washington, D.C.: Mar. 31, 2021).

<sup>61</sup>GAO-22-104251.

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DOL's UI modernization activities will need high-quality and potentially new data.

- **Demonstrated progress.** Areas where progress is needed include reducing the improper payment rate; advancing equity in the UI system, including across racial and ethnic groups and states; better reaching current worker populations and reflecting the modern economy; restoring pre-pandemic payment timeliness levels; and improving the UI system's response to economic downturns. Implementing our UI-related recommendations and those of the DOL OIG can help demonstrate progress in these areas, which align with DOL's principles and vision for UI reform and are critical for resolving the significant risks in the UI system.

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### Panelists Offered Options to Transform UI Program Design, IT Systems, and System Integrity

Stakeholders participating in our panel discussion identified specific options for transforming the UI system, including changes to program design to better target UI support, improvements to UI IT systems, and enhancing system integrity.<sup>62</sup> We discussed these options in our June 2022 report on UI transformation.

**Changes to program design to better target UI support.** Panelists identified a variety of potential changes to better target UI support, including: broadening eligibility and reducing administrative barriers; changing how benefits are calculated; standardizing certain UI requirements and operations across states; and increasing federal funding for UI administration and certain UI benefits (see table 1).

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<sup>62</sup>We identified options for UI transformation based on our analysis of the stakeholder panel discussions. These options for transformation are not listed in any specific rank or order and their inclusion in this testimony should not be interpreted as GAO endorsing any of them. Implementing any one transformation option or a combination of options might require additional efforts to address program design or legal issues. We did not assess how effective the potential transformation options may be or the extent to which legal changes and federal financial support would be needed to implement them. Options presented do not represent a consensus among panelists but instead represent discussion by the group as a whole. For further discussion of options for UI transformation identified by stakeholder panelists see [GAO-22-105162](#).

**Table 1: Potential Transformation Options Stakeholder Panelists Identified Related to Changing Unemployment Insurance (UI) Program Design**

| Transformation objective           | Potential transformation options identified by stakeholder panelists  |
|------------------------------------|---|
| Increase access to UI              | <ul style="list-style-type: none"> <li>• Create a new program specifically to cover workers not currently covered by regular UI, such as independent contractors and self-employed workers, to broaden eligibility</li> <li>• Narrow the classification of independent contractors to increase UI coverage</li> <li>• Streamline UI application and employment verification processes, thus reducing administrative barriers to access</li> </ul> |
| Better target UI benefit amounts   | <ul style="list-style-type: none"> <li>• Use a flexible wage-replacement rate to adjust benefits based on economic conditions and income level</li> </ul>   |
| Increase consistency of UI support | <ul style="list-style-type: none"> <li>• Federalize the UI system</li> <li>• Tighten federal standards for state UI programs</li> <li>• Revise triggers for the Extended Benefits program and set parameters for other recessionary expansions to make UI expansions more automatic and consistent across states</li> </ul>   |
| Ensure sufficient UI funding       | <ul style="list-style-type: none"> <li>• Increase federal funding for UI administration<sup>a</sup></li> <li>• Provide federal funding for certain UI benefits</li> <li>• Require employee contributions to UI</li> </ul>   |

Source: GAO analysis of stakeholder statements. | GAO-22-106159

Note: We identified transformation objectives based on our analysis of the stakeholder panelists' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

<sup>a</sup>The Department of Labor's (DOL) fiscal year 2023 budget justification noted that the factors included in DOL's formula for estimating state administrative funding had not been updated in decades, and proposed updates to two of these factors. Specifically, the budget justification stated that outdated measures of claims processing rates and staff salary rates had resulted in state administrative funding estimates that were not reflective of current administrative costs. According to DOL, the use of these outdated factors consistently left states underfunded, which contributed to them not being prepared for the surge in claims from the pandemic.

**Improving and modernizing IT systems.** We and others have reported that states have faced challenges in modernizing their UI IT systems. Stakeholder panelists identified strategies to help improve UI systems and overcome challenges associated with modernizing them (see table 2).

**Table 2: Potential Transformation Options Stakeholder Panelists Identified Related to Improving Unemployment Insurance (UI) System Infrastructure**

| Transformation objective             | Potential transformation options identified by stakeholder panelists   |
|--------------------------------------|--|
| Improving and modernizing IT systems | <ul style="list-style-type: none"> <li>• Increase the focus on the user experience in state UI IT systems<sup>a</sup></li> <li>• Ensure that staff have project and product management expertise<sup>b</sup></li> <li>• Use incremental or modular development and implementation practices<sup>c</sup></li> <li>• Establish well-defined modernization outcome goals</li> </ul> |

Source: GAO analysis of stakeholder statements. | GAO-22-106159

Note: We identified transformation objectives based on our analysis of the stakeholders' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

<sup>a</sup>User experience testing can occur as part of usability testing. Usability testing refers to evaluating a product or service by testing it with representative users. Typically, during a test, participants will try to complete typical tasks while observers watch, listen, and take notes. The goal is to identify any usability problems, collect qualitative and quantitative data, and determine the participant's satisfaction with the product.

<sup>b</sup>Product management is the practice of identifying customer requirements, prioritizing those requirements, and interfacing with product owners to confirm alignment between the software components and enterprise goals.

<sup>c</sup>Incremental or modular development is where an investment may be broken down into discrete projects, increments, or useful segments, each of which are undertaken to develop and implement the products and capabilities that the larger investment must deliver. Dividing investments into smaller parts helps to reduce investment risk, deliver capabilities more rapidly, and permit easier adoption of newer and emerging technologies.

**Enhancing Program Integrity.** Stakeholder panelists identified strategies to help strengthen internal controls and improve the use of resources to address fraud (see table 3).

**Table 3: Potential Transformation Options Stakeholders Identified Related to Enhancing Unemployment Insurance (UI) System Integrity**

| Transformation objective  | Potential transformation options identified by stakeholder panelists   |
|---|--|
| Strengthening existing internal controls                        | <ul style="list-style-type: none"> <li>• Improve communication and guidance</li> <li>• Maintain employer verification requirements</li> </ul>  |
| Identifying and improving the use of resources to address fraud | <ul style="list-style-type: none"> <li>• Improve identity verification</li> <li>• Obtain additional data sources for analytics</li> <li>• Obtain additional information on fraud schemes</li> <li>• Encourage states' use of UI Integrity Center's Integrity Data Hub</li> <li>• Provide additional training</li> <li>• Improve workforce planning</li> <li>• Provide additional resources to investigate and prosecute fraud</li> </ul> |

Source: GAO analysis of stakeholder statements. | GAO-22-106159

Note: We identified transformation objectives based on our analysis of the stakeholders' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

**Studies Show UI Expansion in Adverse Times Created Economic Stability, with Limited Negative Effects on Workers' Return to Employment**

Our June 2022 report on UI pandemic programs reviewed studies on the economic effects of expanding UI benefits.<sup>63</sup> Although UI administration has had a challenged history, the 30 empirical studies included in our literature review showed that an expansion of UI programs during adverse times, such as the recession of 2007-2009 and the COVID-19 pandemic, created overall economic stability, prevented detrimental outcomes from worsening, and had a limited effect on workers' incentives to return to work.<sup>64</sup>

**Stabilized economy overall.** UI expansion during economic crises helped create overall economic stability by helping to maintain consumer spending and may even have increased aggregate spending during the

<sup>63</sup>GAO-22-104251.

<sup>64</sup>Among the 30 empirical studies included in our literature review, six measured the benefits of UI expansion, and 13 empirically analyzed the relationship between UI expansion and workers' incentives to return to work.

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pandemic.<sup>65</sup> The studies in our review explained that by maintaining aggregate demand in the economy, expanded benefits acted as an automatic stabilizer by limiting reductions in expected revenue of firms and further reductions in jobs offered. In addition, according to the authors, the extra income from expanded UI benefits was particularly important for families who did not have alternative income sources or personal savings during periods of high unemployment or sufficient access to other income transfer programs.<sup>66</sup>

**Prevented worsening of detrimental outcomes.** A few of these selected studies demonstrated how expanded UI prevented worsening of detrimental outcomes in families' consumption and financial insecurity. For example, studies conducted during the pandemic noted that specific occupations, such as service-oriented or low-paying occupations in the restaurant industry, experienced more layoffs and reductions in hours than occupations in other industries. The studies added that because these low-wage occupations disproportionately employ people of color or women, UI expansion likely also prevented existing inequities among this group from getting worse. Studies also showed that in the absence of expanded UI, poverty levels would have been higher during the 2007-2009 recession and the pandemic.

**Limited negative effects on workers' incentives to return to work.** The studies we reviewed either found that expanded UI had no disincentive effects or, if they found some effect, it was limited to a small group of workers. Specifically, eight studies we reviewed found that expanded UI benefits either during the 2007-2009 recession or the pandemic had no effect on workers' incentives to return to work. Four studies found some disincentive effects but these were limited to a certain group of workers. For example, one of the studies found that the \$600 FPUC benefit had moderate disincentive effects on job-finding rates, but

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<sup>65</sup>Aggregate spending refers to total spending on all goods and services in the economy. Aggregate demand shows the quantity demanded for all goods and services at the existing price levels.

<sup>66</sup>See Jesse Rothstein and Robert G. Valletta, "Scraping By: Income and Program Participation after the Loss of Extended Unemployment Benefits," *Journal of Policy Analysis and Management* 36, no. 4 (2017).

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only for a small share of job seekers, such as janitors or workers in food service occupations.<sup>67</sup>

**Other factors affecting employment.** Some studies included in our review explored factors other than disincentive effects that could be influencing the relationship between expansion of UI and high unemployment observed during the 2007-2009 recession and the pandemic. These studies found that factors such as longer labor force attachment; reduced demand for labor; fear of risk of illness; as well as loss of childcare could have been responsible for high levels of unemployment observed during these adverse times.<sup>68</sup>

The studies included in our review also found that UI expansion may enable people to wait longer or search more and potentially find jobs better matched to their skill level. For example, one study found that increasing the generosity of UI improved the quality of employee-employer matches because it allowed workers to search longer and eventually find jobs better suited to their skills and level of education.<sup>69</sup> The authors state that this could potentially increase the general welfare by improving the functioning of the labor markets.

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<sup>67</sup>See N. Petrosky-Nadeau and R. G. Valletta, *UI Generosity and Job Acceptance: Effects of the 2020 CARES Act*, Federal Reserve Bank of San Francisco Working Paper 2021-13 (San Francisco, CA: Federal Reserve Bank of San Francisco, 2021).

<sup>68</sup>Longer labor force attachment can be a factor in high unemployment levels primarily due to more workers staying attached to the labor force longer because of UI expansion rather than refusing employment or reducing their job search efforts. The Bureau of Labor Statistics defines the "labor force" to include all people age 16 and older who are classified as either employed or unemployed. Thus the labor force level is the number of people who are either working or actively looking for work. Farber, Rothstein, and Valletta, "The Effect of Extended Unemployment Insurance Benefits"; Farber and Valletta, "Do Extended Unemployment Benefits Lengthen Unemployment Spells?"; Jesse Rothstein, "Unemployment Insurance and Job Search in the Great Recession," *Brookings Papers on Economic Activity* (Fall 2011) and Robert G. Valletta, "Recent Extensions of U.S. Unemployment Benefits: Search Responses in Alternative Labor Market States," *IZA Journal of Labor Policy* 3, no. 18 (2014). Three of the seven studies did not explore the labor market exits. Figura and Ratner, *How Large were the Effects*; Gabriel Chodorow-Reich, John Coglianesi, and Loukas Karabarbounis, "Macro Effects of Unemployment Benefit Extensions: A Measurement Error Approach," *The Quarterly Journal of Economics* (2019) and Makoto Nakajima, "A Quantitative Analysis of Unemployment Benefit Extensions," *Journal of Monetary Economics* 59 (2012).

<sup>69</sup>A. Farooq, D. Kugler, and U. Muratori, *Do Unemployment Insurance Benefits Improve Match Quality? Evidence from Recent U.S. Recession*, NBER Working Paper Series Working Paper 27574 (Cambridge, MA: Federal Reserve Bank, July 2020).

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In conclusion, it is critical to address the challenges and risks facing the UI system, given the important role it plays in supporting unemployed workers and stabilizing the economy during economic downturns. Research shows that expanding UI benefits during adverse times has created overall economic stability and provided needed income support, with limited negative effects on workers' incentives to return to work. However, the UI system has struggled to meet the needs of unemployed workers efficiently and effectively, and these historical service delivery challenges have worsened during downturns such as the pandemic. Similarly, DOL regularly estimated high levels of improper payments for the regular UI program prior to the pandemic, and the risk of improper payments—including those due to fraud—greatly increased across all UI programs during the pandemic.

Our work has identified actions needed to transform the UI system so that it is better positioned to fulfill its purpose. As noted above, we recommended that DOL develop and execute a transformation plan that outlines coordinated and sustained actions to address issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. DOL agreed with the recommendation and described efforts underway to enhance equity in program access and benefit distribution; reach worker populations reflective of the modern economy; rebuild program performance, efficiency in claims processing, and payment timeliness; reduce improper payment rates; and improve responsiveness to economic downturns. Further, DOL recognized that modernizing the UI system to address these challenges will also require congressional action.

Additionally, we have identified actions that are needed in the areas of leadership commitment, capacity, action planning, monitoring, and demonstrating progress. Implementing the recommendation discussed above and our other recommendations, as well as taking action in these areas, will help ensure DOL's progress in improving the performance of the UI system. Such actions will also be crucial in responding to future economic disruptions. We will continue to monitor DOL's efforts.

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Chairman DeSaulnier, Republican Leader Allen, and Members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

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**GAO Contact and  
Staff  
Acknowledgments**

If you or your staff have any questions about this testimony, please contact Thomas Costa, Director, Education, Workforce, and Income Security at (202) 512-4769 or [costat@gao.gov](mailto:costat@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Seto Bagdoyan (Director), M. Hannah Padilla (Director), Danielle Giese (Assistant Director), Cole Haase (Analyst in Charge), and Caitlin Croake. In addition, key support was provided by Lawrance Evans, Gabrielle Fagan, Alex Galuten, Carol Harris, Lee Hinga, Lauren Kirkpatrick, Anne Thomas, Jon Ticehurst, and Adam Wendel. Contributors to the reports on which this statement is based can be found in those reports.

## Appendix I: Open Unemployment Insurance-Related Recommendations to the Department of Labor

As shown in table 4, GAO has 21 open recommendations to the Department of Labor (DOL) to improve the Unemployment Insurance system. Of these 21 recommendations, GAO currently considers five of these recommendations to be priority recommendations.<sup>1</sup>

**Table 4: Unemployment Insurance (UI) System Recommendations to the Department of Labor (DOL) That Are Open as of September 14, 2022**

| No. | Source report and recommendation number | Priority | Recommendation  |
|-----|---|----------|---|
| 1.  | <a href="#">GAO-22-105162</a> , #1      | -        | The Secretary of Labor should develop and execute a transformation plan that meets GAO's high risk criteria for transformation; the plan should outline coordinated and sustained actions to address known issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. Planned actions may include addressing audit recommendations, and determining whether legislative changes are needed, as appropriate. Planned actions may also include achieving quantifiable results in reducing improper payment rates, including those related to fraud; improving efficiency in claims processing and restoring pre-pandemic payment timeliness levels; better reaching current worker populations; and enhancing equity in benefit distribution. |
| 2.  | <a href="#">GAO-22-104438</a> , #1      | -        | The Secretary of Labor should study and advise the Congress and other policymakers on the costs, benefits, and risks of various options to systematically support self-employed and contingent workers during periods of involuntary unemployment outside of declared disasters, including considering options' feasibility and approach to fraud prevention.   |
| 3.  | <a href="#">GAO-22-104438</a> , #2      | √        | The Secretary of Labor should ensure the Office of Unemployment Insurance examines and publicly reports on the extent of and potential causes of racial and ethnic inequities in the receipt of Pandemic Unemployment Assistance benefits, as part of the agency's efforts to modernize UI and improve equity in the system. The report should also address whether there is a need to examine racial, ethnic, or other inequities in regular UI benefit receipt, based on the PUA findings.  |
| 4.  | <a href="#">GAO-22-104251</a> , #1      | -        | The Secretary of Labor should ensure that the Office of Unemployment Insurance review the customer service challenges that states faced during the pandemic, identify comprehensive information on customer service best practices, and provide states with this information to assist them in improving service delivery.  |
| 5.  | <a href="#">GAO-22-104251</a> , #2      | -        | The Secretary of Labor should ensure the Office of Unemployment Insurance assesses lessons learned from the pandemic to inform its future disaster response efforts and support the Congress on ways to address future emergencies.   |

<sup>1</sup>Priority recommendations are the GAO recommendations that warrant priority attention from heads of key departments or agencies because their implementation could save large amounts of money; improve congressional and executive branch decision making on major issues; eliminate mismanagement, fraud, and abuse; or ensure that programs comply with laws and funds are legally spent, among other benefits.

Appendix I: Open Unemployment Insurance-  
Related Recommendations to the Department  
of Labor

| No. | Source report and recommendation number | Priority | Recommendation  |
|-----|---|----------|---|
| 6.  | <a href="#">GAO-22-105051, #4</a>       | -        | The Secretary of Labor should designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues. |
| 7.  | <a href="#">GAO-22-105051, #5</a>       | -        | The Secretary of Labor should identify inherent fraud risks facing the unemployment insurance program.  |
| 8.  | <a href="#">GAO-22-105051, #6</a>       | -        | The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the unemployment insurance program.   |
| 9.  | <a href="#">GAO-22-105051, #7</a>       | -        | The Secretary of Labor should determine fraud risk tolerance for the unemployment insurance program.  |
| 10. | <a href="#">GAO-22-105051, #8</a>       | √        | The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks.   |
| 11. | <a href="#">GAO-22-105051, #9</a>       | -        | The Secretary of Labor should document the fraud risk profile for the unemployment insurance program.   |
| 12. | <a href="#">GAO-21-387, #15</a>         | -        | The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments waived in the Pandemic Unemployment Assistance program, similar to the regular unemployment insurance program.  |
| 13. | <a href="#">GAO-21-265, #12</a>         | -        | The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments recovered in the Pandemic Unemployment Assistance program, similar to the regular unemployment insurance program.   |
| 14. | <a href="#">GAO-21-191, #8</a>          | √        | The Secretary of Labor should ensure the Office of Unemployment Insurance pursues options to report the actual number of distinct individuals claiming benefits, such as by collecting these already available data from states, starting from January 2020 onward.   |
| 15. | <a href="#">GAO-18-633, #1</a>          | -        | The Secretary of Labor should systematically collect sufficient information on state profiling systems, possibly through DOL's new UI state self-assessment process, to identify states at risk of poor profiling system performance. For instance, DOL could collect information on challenges states have experienced using and maintaining their profiling systems, planned changes to the systems, or state processes for assessing the systems' performance.                                     |
| 16. | <a href="#">GAO-18-633, #2</a>          | -        | The Secretary of Labor should develop a process to use information on state risks of poor profiling system performance to provide technical assistance to states that need to improve their systems. DOL may also wish to tailor its technical assistance based on state service delivery goals and technical capacity.   |
| 17. | <a href="#">GAO-18-633, #3</a>          | -        | The Secretary of Labor should update agency guidance to ensure that it clearly informs states about the range of allowable profiling approaches.  |

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**Appendix I: Open Unemployment Insurance-  
Related Recommendations to the Department  
of Labor**

| No. | Source report and recommendation number | Priority | Recommendation   |
|-----|---|----------|--|
| 18. | <a href="#">GAO-18-486, #1</a>          | √        | The Assistant Secretary of DOL's Employment and Training Administration should provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law.   |
| 19. | <a href="#">GAO-18-486, #2</a>          | -        | The Assistant Secretary of DOL's Employment and Training Administration should monitor states' efforts to discontinue the use of formal warning policies.  |
| 20. | <a href="#">GAO-18-486, #3</a>          | √        | The Assistant Secretary of DOL's Employment and Training Administration should clarify information on work search verification requirements in its revised Benefit Accuracy Measurement procedures. The revised procedures should include an explanation of what DOL considers to be sufficient verification of claimants' work search activities. |
| 21. | <a href="#">GAO-18-486, #4</a>          | -        | The Assistant Secretary of DOL's Employment and Training Administration should monitor states' compliance with the clarified work search verification requirements.  |

Source: GAO analysis. | GAO-22-106159

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Chairman DESAULNIER. Thank you, Mr. Costa, so much. I will now recognize Ms. Dixon for 5 minutes. Ms. Dixon, you are recognized.

**STATEMENT OF MS. REBECCA DIXON, EXECUTIVE DIRECTOR,  
NATIONAL EMPLOYMENT LAW PROJECT**

Ms. DIXON. Good morning, Chairman DeSaulnier, Ranking Member Allen, and the members of the subcommittee. Thank you for the opportunity to testify today. I am Rebecca Dixon, Executive Director, the National Employment Law Project.

NELP is a non-profit research, policy, and capacity-building organization that for more than 50 years has sought to strengthen protections and build power for workers in the United States, including those who are unemployed.

Unemployment insurance programs played a crucial role during the pandemic as a lifeline, not only for unemployed workers and their families, but for entire communities, businesses both small and large, and the Nation's economy as a whole.

Unemployment benefits enabled 4.7 million people to avoid poverty in 2020, and 2.3 million in 2021, in particular by covering workers who traditionally would be ineligible for UI, an estimated 1.1 million black workers, and 1.2 million Latino workers and their families avoided poverty in 2020.

Before I go any further, let me lay to rest on pernicious untruth about pandemic UI benefits. These programs did not cause worker shortages. The GAO conducted an extensive literature review of over 30 recent empirical studies, including those comparing states that cutoff benefits prematurely.

All of those studies demonstrated that UI benefits had limited to no effect on workers returning to work. Collectively, the pandemic unemployment programs covered additional workers who would not have received benefits, including those in occupations disproportionately occupied by women, people of color, older workers, and people with disabilities.

It provided much needed extra weeks of benefits to all, but particularly to black men who experienced notably longer durations of unemployment than their white counterparts.

They made up for extremely low benefits in states that have high proportions of black and Latino workers, which tend to pay the lowest benefits in the Nation.

Despite the substantial advances toward equity and pandemic UI, compared to regular UI, GAO details that white workers have far more success accessing pandemic UI benefits than black workers, just as they do in the regular benefit program.

As we all know—we all know that many workers had to wait months, weeks, even longer, to receive UI benefits that they were entitled to, and this was because even before the pandemic struck virtually every State was working with antiquated technology systems, deficient staffing and resources.

For the past 40 years Congress has either level-funded, or decreased funding for UI administration, including a 21 percent decline in the decade leading up to the pandemic.

The 2 billion dollars in funding that Congress provided as part of the American Rescue Plan for DOL to improve UI delivery was a critical first step, but only that. DOL is off to a good start with those funds for equity grants, tiger teams, and claimant experience pilot programs and a navigator pilot program.

The DOL and the State UI programs need increased and sustained funding and staffing if they are to function as they should. DOL and Congress must also do what they can to mandate and ensure that UI applications, websites, and materials are not needlessly complex and confusing, that they are translated into sufficient languages to reach states populations of workers, that UI websites are optimized for use on mobile devices.

All technology updates must be done with the worker experience at the center and making sure that these sites are optimized for a good user experience. Many of the same factors that undermine inequitable access also make the U.S. system an appealing target for organized crime during the pandemic.

The spike in fraudulent UI claims during the pandemic, was primarily the result of criminal enterprises engaging in identity theft fraud. The system was particularly vulnerable, given the age, need of new UI benefits and haste, and the inadequate staffing levels in offices across the country.

Congress can remedy these problems by appropriating sufficient funds to all states to have and maintain adequate technology, staff, and to authorize more effective, permanent UI programs for times of economic emergency, so that they can be pre-programmed and ready to go, and not have to be built from scratch every time there's a crisis.

Congress and Department of Labor must also ensure that states appropriately balance equitable timely access to benefits for eligible workers, the need to prevent and detect improper payments and fraud.

Passing the recently introduced Guaranteeing Unemployment Assistance and Reducing Deception Act, by Congressman Horsford would help to achieve this goal, and balance mandating DOL to set new performance standards in key areas for access.

Workers deserve access to UI, whether the entire economy has shutdown, or just their workplace, and where they used to be employed. There is a particular urgency to fix UI before the next recession takes hold. Congress must learn from the experience and build on the success of pandemic unemployment benefits while also securing the system's failing infrastructure, thank you.

[The prepared statement of Ms. Rebecca Dixon follows:]



**Testimony of Rebecca Dixon**

National Employment Law Project

**Examining the  
Administration of the  
Unemployment Insurance  
System**

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**Hearing before the U.S. House of  
Representatives**

Committee on Education and Labor

Subcommittee on Health, Employment, Labor, and Pensions

September 21, 2022

**Rebecca Dixon**  
Executive Director

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# Examining the Administration of the Unemployment Insurance System

Good morning, Chairman DeSaulnier, Ranking Member Allen, and Members of the Subcommittee. Thank you for the opportunity to testify today. I am Rebecca Dixon, Executive Director of the National Employment Law Project (NELP).

NELP is a nonprofit research, policy, and capacity building organization that for more than 50 years has sought to strengthen protections and build power for workers in the U.S., including workers who are unemployed. For decades, NELP has researched and advocated for policies that create good jobs, expand access to work, and strengthen protections and support for underpaid and jobless workers both in the workplace and when they are displaced from work. Our primary goals are to build worker power, dismantle structural racism, and ensure economic security for all.

As the committee considers the administration of the unemployment insurance (UI) system, I will address the ways that UI provided critical support to workers, communities, and the economy during the pandemic and helped to advance racial equity. I will also discuss how the pandemic exacerbated the long-standing weaknesses of the UI system, including underfunded and inadequately staffed state workforce agencies and antiquated technology, which made the system particularly vulnerable to international organized crime.

Learning from both the successes and the shortcomings of the pandemic unemployment insurance programs reveals the need for a permanent overhaul of the UI system to enhance eligibility, duration, adequacy, and access to enable all workers to thrive. Congress must also increase the amount of consistent, reliable funding for state UI staffing and technological modernization to ensure both more equitable access and greater security. To prepare for the next recession, Congress must reform and enhance emergency UI programs that automatically trigger on during periods of high unemployment and remain on for the duration of the crisis.

## **Pandemic Unemployment Insurance Was Vital for Workers, Communities, and the Economy**

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As the Subcommittee considers the administration of UI during the pandemic, it is essential to recognize the program's pivotal role as a lifeline not only for unemployed workers and their families, but for entire communities, businesses both small and large, and the nation's economy as a whole.

When the coronavirus pandemic hit the United States in early 2020, much of the economy shut down. By April, 23 million U.S. workers were unemployed—the greatest job loss since

the Great Depression.<sup>1</sup> Black, Latino, Native American and Asian workers, as well as women of all races, disproportionately worked in occupations and locations hit hardest by pandemic shutdowns and faced the highest rates of unemployment.<sup>2</sup>

Working people across the country demanded relief, and Congress stepped up to pass the Coronavirus Aid, Relief, and Economic Security (CARES) Act and additional legislation. These measures established temporary new UI programs that significantly expanded UI eligibility (Pandemic Unemployment Assistance, (PUA)), increased benefit amounts (Federal Pandemic Unemployment Compensation (FPUC)), and extended benefit duration (Pandemic Emergency Unemployment Compensation (PEUC)).<sup>3</sup>

**Pandemic UI benefits substantially reduced poverty and hardship and promoted equity.**

Unemployment insurance benefits—including both regular UI and temporary pandemic programs—enabled 4.7 million people, including 1.4 million children, to avoid poverty in 2020.<sup>4</sup> Analysis of the Supplemental Poverty Measure shows that UI kept 2.3 million workers and their families out of poverty in 2021.<sup>5</sup>

By covering workers in occupations and situations who would traditionally be disqualified or ineligible for UI benefits, pandemic UI benefits particularly benefitted Black and Latino workers and their families: An estimated 1.1 million Black workers and their families and 1.2 million Latino workers and their families avoided poverty because of UI benefits in 2020.

Beyond curtailing poverty, unemployment benefits substantially reduced hardship and broadly improved the well-being of households, including recipients' financial stability and mental health. The Bureau of Labor Statistics (BLS) compared households that received unemployment benefits at some point in the pandemic with households in which a worker applied for benefits but did not receive them. The BLS found that those who successfully received unemployment benefits were significantly less likely to experience food insecurity, have difficulty with household expenses, fall behind on their mortgage or rent, or report symptoms of anxiety or depression.<sup>6</sup> These disparities remained significant even after controlling for pre-pandemic differences in household income, education, and demographics.

**Pandemic UI benefits bolstered small businesses and communities.**

The expansion of unemployment insurance benefits under the CARES Act sent \$666.5 billion in federal funds to workers and families experiencing unemployment as of August 2022.<sup>7</sup> These well-targeted federal dollars were pumped into slumping state and local economies, where they boosted consumer spending and supported local businesses, preventing business losses and further layoffs.

Unemployment insurance is particularly effective at getting money into the hands of consumers who need it and will spend it quickly, supporting businesses in their communities and stabilizing states' economies. To understand the magnitude of this support, consider the recent study of real-time anonymous banking data in states that prematurely cut off the federal pandemic unemployment programs in 2021: Researchers found that for every \$1 of reduced benefits, household spending fell by 52 cents, depriving local businesses of needed revenue, not to mention depriving workers and their families of needed rent, food, and other essentials.<sup>8</sup>

Research also suggests that expanded unemployment benefits like those provided during the pandemic can enhance businesses' ability to find workers with the skills they need. By enabling workers to search for jobs that suit their skills and support their standard of living—rather than taking the first job offered—expanded UI improves the functioning of the labor market overall.<sup>9</sup>

**Pandemic UI benefits promoted the nation's economic recovery.**

As part of its recent oversight reporting on pandemic unemployment insurance, the Government Accountability Office (GAO) conducted an extensive literature review. After analyzing 30 recent empirical studies, the GAO concluded that expanded UI programs during both the COVID-19 pandemic and other adverse economic times “created overall economic stability” and prevented harmful outcomes from worsening.<sup>10</sup>

The GAO review of research also concluded that pandemic UI benefits had limited to no effect on workers' incentives to return to work.<sup>11</sup> For example, a study by Yale University economists Lucas Finamor and Dana Scott analyzed earnings data for hourly wage restaurant and food industry workers during the pandemic and found no evidence of a relationship between expanded UI benefits and reduced employment.<sup>12</sup>

Another recent study, conducted by economists at Harvard University, Columbia University, and the University of Massachusetts Amherst, compared the employment patterns of unemployed workers in states that curtailed expanded UI benefits before the federal programs expired to workers with the same unemployment duration in states that continued paying these benefits.<sup>13</sup> The study concluded that states cutting expanded UI benefits early did not affect workers' willingness to work.

Finally, a study by economists at the University of Chicago and the JP Morgan Chase Institute concluded that “unemployment supplements are not the key driver of the job-finding rate through April 2021 and that U.S. policy was therefore successful in insuring income losses from unemployment with minimal impacts on employment.”<sup>14</sup>

While pandemic UI benefits had little to no effect on finding employment, researchers note that several other factors did contribute to workers not immediately returning to work during the pandemic, including fear of becoming ill with COVID-19 or spreading the disease, loss of childcare, and supply-chain problems disrupting the labor market.<sup>15</sup>

**By expanding UI eligibility, duration, and adequacy, pandemic UI benefits enhanced equity—yet challenges remain.**

The temporary federal pandemic programs dramatically expanded the reach, duration, and adequacy of UI benefits. Because Black and Latino workers were among those hit hardest by pandemic layoffs,<sup>16</sup> have lower household wealth as a result of decades of exclusion from wealth-building opportunities,<sup>17</sup> and disproportionately live in states with the lowest regular UI benefits and the most exclusionary eligibility rules,<sup>18</sup> the federal expansion of UI had the greatest positive impact on Black and Latino families' financial security.<sup>19</sup>

Using data from the Survey of Consumer Finances, researchers found that only 10 to 14 percent of Black and Latino families had enough savings to cover six months of expenses if

they were unemployed in 2020; fewer than half of Black and Latino families could cover expenses using their savings and regular UI benefits.<sup>20</sup> But with the CARES Act expansions of UI and child tax credits, 94 percent of Black families, and 92 percent of Latino families could cover six months of expenses while seeking work. As a result, expanding unemployment insurance during the pandemic significantly enhanced racial equity.

At the same time, UI powerfully assisted white families as well: Just 61 percent of white families could cover six months of expenses using savings and regular UI benefits, and 95 percent could cover six months of expenses with the support of CARES Act programs. The household finances of families of other races and ethnicities were not analyzed in this study.

#### **Expanding eligibility made UI more equitable.**

Pandemic Unemployment Assistance (PUA) made the UI system more equitable by temporarily expanding eligibility to many groups of workers often excluded from UI by state and federal law, including low-paid workers, who are disproportionately women and workers of color;<sup>21</sup> workers in app-based jobs, who are frequently misclassified by employers as independent contractors and are disproportionately Black and Latino;<sup>22</sup> and part-time workers, who are disproportionately women, people of color, older workers, and people with disabilities.<sup>23</sup>

In addition, expanded UI eligibility under PUA was most likely to benefit workers in states with large Black populations, where over the years, policymakers have imposed more stringent restrictions on eligibility for unemployment insurance.<sup>24</sup> For example, analysis of UI in Georgia found that while Black workers were significantly less likely to get regular, state-provided UI benefits than white workers, they represented a disproportionate share of workers in the state receiving federal PUA benefits.<sup>25</sup>

By broadening UI eligibility across the nation, and moving towards equalizing coverage across states, PUA brought much-needed UI support to low-paid workers, women, and workers of color who are otherwise frequently excluded from the system by overly restrictive state laws. Congress should enact permanent UI reform that builds on this powerful example.

#### **Increasing the duration of benefits made UI more equitable.**

Pandemic Emergency Unemployment Compensation (PEUC) made UI more equitable by providing up to 53 weeks of additional benefits to workers who exhausted their regular UI benefits without finding jobs. PEUC was an especially important extension for workers who confront systemic discrimination in the labor market due to their race or ethnicity, gender or gender expression, age, sexual orientation, or other factors that may prolong the search for suitable work.

As a result of systemic racism, Black men, in particular, experience longer periods of unemployment than white workers and are more likely to exhaust state unemployment benefits. In 2021, Black men were unemployed for 31.7 weeks on average, compared to 28.4 weeks for white men.<sup>26</sup>

PEUC was also vital for workers in states that have cut the duration of regular UI benefits to less than the 26-week standard. While 26 weeks of regular UI benefits used to be the norm

nationwide, beginning in 2011 several states reduced the maximum length of time workers could claim benefits—an effort to cut costs on the backs of unemployed workers during and after the Great Recession.<sup>27</sup> As of August 2022, 10 states paid regular UI benefits for less than 26 weeks and three more (Iowa, Kentucky, and Oklahoma) passed laws reducing benefit duration that will go into effect in the coming year.<sup>28</sup>

PEUC ensured that workers who have a more difficult time finding employment, for many reasons including employment discrimination, as well as workers in states with very short UI benefit durations, would receive UI support for more weeks if they needed it. A permanent federal standard for UI benefit duration and reforming the Extended Benefits program intended to help workers during periods of higher unemployment would ensure that these equity gains are restored.

#### **Raising the dollar amount of benefits made UI more equitable.**

Federal Pandemic Unemployment Compensation (FPUC) provided a federal supplement of \$600 per week to unemployment benefits, later scaled back to \$300 a week. FPUC particularly helped low-paid workers in states that typically pay low UI benefits.

States base UI benefit amounts on a worker's previous pay, so women and workers of color, who are over-represented in low-paying jobs due to occupational segregation caused by structural racism and sexism, tend to receive lower benefits.<sup>29</sup> Tipped workers, who are also disproportionately women and people of color, are further disadvantaged when they have low-paying shifts or when employers fail to report full tip amounts.<sup>30</sup> Low-paid workers already struggle to afford necessities, so inadequate unemployment benefits that replace less than half of their prior pay worsen their economic hardship. FPUC ensured weekly benefit amounts were adequate enough to support workers and their families while they searched for work.

FPUC made the greatest difference for workers in states that pay low UI benefits. Southern states, which have the greatest proportion of Black workers, and jurisdictions with a high proportion of Latino workers tend to pay the nation's lowest regular UI benefit amounts.<sup>31</sup> At the same time, low benefits create greater hardship for Black workers and other workers of color because they typically have fewer other financial resources to draw on during unemployment compared to white workers. As discussed above, racial wealth disparities are a result of systematic exclusion from wealth-building opportunities over generations.<sup>32</sup>

FPUC temporarily remedied the harsh reality that average weekly unemployment benefits of \$180.67 a week (Louisiana) or \$201.22 a week (Mississippi) are far too little for jobseekers to live on.<sup>33</sup> Recognizing FPUC's success in making UI more equitable, Congress should set benefit amount standards so that jobless workers have the support they need as they seek new employment no matter what state they live in.

#### **Disparities persisted for workers accessing pandemic UI benefits.**

Despite the substantial advances toward equity in pandemic UI compared to regular UI benefits, troubling racial and ethnic disparities in accessing UI persisted during the pandemic and must be addressed. For example, according to the Census's Household Pulse Survey, a higher percentage of white workers who applied for UI benefits (80.2 percent)

than Black UI applicants (73.0 percent) reported receiving UI benefits (including regular UI and PUA) at some time during the pandemic.<sup>34</sup>

The Just Recovery Survey, conducted by the National Employment Law Project and partner organizations, found even greater disparities: Among workers who applied for either regular UI or PUA between March and October 2020, an estimated 34 percent of Black applicants and 26 percent of Latino applicants were denied, a substantially higher share than the 14 percent of white applicants who were denied.<sup>35</sup> The survey also found that women were more likely than men to have UI claims denied (24 percent vs. 16 percent).

In addition, when the GAO closely examined PUA claimant data in four states (Louisiana, New York, North Dakota, and Wisconsin)<sup>36</sup> they found substantial disparities. In North Dakota and Wisconsin through April 2021, the percentage of Black PUA applicants who had received benefits was about half the percentage of white applicants.<sup>37</sup> In Wisconsin, the percentages of Latino and American Indian/Alaskan Native PUA applicants who had received benefits were also substantially lower than for white applicants.<sup>38</sup> The GAO found no significant racial or ethnic disparities in UI access in New York, although advocates have documented shortcomings in making pandemic UI accessible to workers who have limited English proficiency.<sup>39</sup>

The causes of these persistent disparities in programs that nevertheless succeeded in making the UI system fairer and more equitable for workers must be investigated and addressed. The next section of my testimony will discuss how barriers to accessing UI—many of which disproportionately block workers of color and immigrant workers—were dramatically worsened by the pandemic. Eliminating these barriers through improved UI administrative funding and staffing and modernized technology centered on worker- and equity-focused design could do a great deal to reduce disparities in access.

### **The COVID-19 Pandemic Worsened Long-Standing Deficiencies in UI Access**

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Economic shutdowns at the beginning of the COVID-19 pandemic threw millions of people out of work and produced an unprecedented volume of unemployment claims. In a single week in March 2020, claims shot up 1,000 percent.<sup>40</sup> Newly laid-off workers confronted jammed phone lines, crashing websites, and long delays to access benefits, contributing to financial hardship for unemployed workers and their families. Overwhelmed state unemployment agencies struggled to handle not only the deluge of new claims but also the intricacies of standing up new federal unemployment programs with constantly evolving standards.

Working with antiquated technology systems, deficient staffing and resources, and outdated administrative practices, state agencies were ill-equipped to respond to the need. The challenges of the pandemic exposed an unemployment insurance infrastructure that NELP has repeatedly warned was in a dangerous state of disrepair.<sup>41</sup> Long before COVID struck, many states were already failing to determine workers' eligibility, pay benefits, or decide administrative appeals in timely manner,<sup>42</sup> leaving recently laid-off workers to navigate extensive backlogs and delays.

Simply put, the nation had not invested the resources needed to pay historically high levels of new claims in a timely manner. As the GAO points out, between 2010 and 2019, annual funding available for state UI administration declined 21 percent, from approximately \$3.2 billion to approximately \$2.5 billion.<sup>43</sup>

The \$2 billion in funding that Congress provided as part of the American Rescue Plan Act for the U.S. Department of Labor (DOL) to assist states in improving the functioning of their UI systems was a critical first step in reversing the chronic underfunding of UI operations. As I will discuss further, DOL has made excellent use of these funds to support updating technology systems, promoting equitable access to UI, assuring the prompt payment of benefits, and detecting and preventing fraud, among other goals. Yet a one-time infusion of funds is not sufficient to support ongoing needs: A reliable, sufficient source of federal administrative funding is necessary to ensure equitable access to UI during both “normal” economic times and periods of crisis.

**Workers of color and immigrant workers face additional obstacles to access.**

The nation’s deficient unemployment insurance infrastructure harms all workers seeking assistance, but workers of color and immigrant workers confront extra barriers. For example, although civil rights laws require translation into commonly spoken languages, many states fail to provide essential unemployment insurance notices, forms, and applications in the languages understood by workers in their states, making it difficult for workers with limited English proficiency to apply for benefits, comply with ongoing eligibility requirements, or contest disputed cases.<sup>44</sup>

At the same time, needlessly complex and confusing websites, forms, and notices can perplex even proficient English speakers. Most states’ forms and communications are not in plain language and are written well above the recommended fifth grade reading level.<sup>45</sup> Use of clear and accessible language is vital to ensuring equitable access to UI for all workers.

State unemployment websites that are not optimized for use on mobile devices are an additional barrier to workers claiming benefits. Black and Latino workers are particularly likely to rely on smartphones for internet access, with a quarter of Latino adults connecting to the internet only through their mobile phones in 2021.<sup>46</sup>

With a mandate to use American Rescue Plan Act funds to promote equitable access to UI, DOL is implementing several initiatives to help states address these barriers. For example, DOL is in the midst of issuing \$260 million in equity grants to states, targeting a range of underserved populations and funding needs such as translation services, data analysis to better understand equity disparities, and a shift to plain language communication.<sup>47</sup> As of September 1, 2022, 25 states and the District of Columbia have been awarded equity grants.<sup>48</sup>

In addition, DOL has assembled multi-disciplinary tiger teams, made up of experts with diverse skills, including “fraud specialists, equity and customer service experience specialists, UI program specialists, behavioral insight specialists, business intelligence analysts, computer systems engineers/architects and project managers,” which have

deployed to 26 states so far to assess the state's needs and provide resources and solutions to improve equitable access to UI benefits and tackle fraud.<sup>49</sup>

Another particularly promising DOL initiative is the launch of new claimant experience pilot programs in New Jersey and Arkansas, which are informing efforts to build out technological solutions that address sources of inequity.<sup>50</sup> In addition, DOL has awarded \$18 million in competitive grants to 7 states to implement UI navigator programs, working with community partners in each state to conduct outreach and offer training and resources in communities that have disproportionately lacked access to the UI system.<sup>51</sup>

**Worker-centered modernization of UI technology is a key step in addressing barriers to access.**

The antiquated technology still used by most state unemployment insurance agencies was a major obstacle for workers trying to access UI benefits before, during, and after the pandemic unemployment spike. The GAO reports that as of December 2021, 32 states/territories were still using legacy information technology (IT) systems—many of them developed in the 1970s and 80s—to support their UI benefits system, tax system, or both.<sup>52</sup>

As the GAO has documented, obsolete IT systems contributed to inefficiency, slower processing of payments, and difficulty finding staff and contractors able to program, operate, and maintain the older technology.<sup>53</sup> States with legacy IT systems had greater difficulty setting up the federal pandemic UI programs, processing workers' UI claims efficiently, and detecting and addressing improper payments (discussed further below).

Yet simply updating technology is not enough: NELP has long argued that states must put workers at the center of UI modernization efforts, prioritizing customer-centered design and user experience (UX) testing rather than simply automating processes.<sup>54</sup> Without a focus on workers, particularly those most marginalized, states may end up replicating or even exacerbating many of the same problems and inequities created by legacy IT systems. For example, when Florida modernized their unemployment computer systems, the state created new barriers for workers, delayed payments, and increased false accusations of fraud.<sup>55</sup>

NELP is encouraged by the work of DOL in beginning to address these substantial challenges. With funding from the American Rescue Plan Act, DOL set up an effective new Office of UI Modernization to provide strategic leadership as the department works with state agencies to modernize their unemployment insurance systems. In addition to providing grants to states, DOL is working to develop open, modular technology solutions that states can adopt as part of ongoing modernization and improvement efforts. Yet, as noted above, effective modernization efforts will require substantial and ongoing investments, which Congress has not yet provided.

**Improved staffing and administrative practices are also vital to improving UI access.**

In addition to updating outmoded technology, the pandemic highlighted the need for state agencies to improve staffing levels and administrative practices to provide better access and services to unemployed workers. The GAO documents the significant challenges agencies

faced handling the high volume of UI claims during the pandemic, including insufficient call center staff, staff turnover, insufficient time to train new staff, and staff difficulty using automated systems.<sup>56</sup> The GAO also highlights administrative challenges for state UI agencies in providing effective customer service to UI claimants, even outside of economic downturns.

As states struggled to handle the volume of unemployment claims, the CARES Act provided state agencies with emergency flexibility to hire outside contractors, temporarily waiving federal merit-based hiring requirements. Although intended to handle the historic increase in claims, the hiring of inexperienced and insufficiently trained contract staff likely contributed to increased errors in determining workers' eligibility for UI benefits, delayed payments, increased fraudulent activity, and created greater obstacles for workers seeking benefits.<sup>57</sup> In fact, research finds that the exclusive use of state merit staff to both conduct UI eligibility reviews and provide more extensive employment services supports effective, efficient, and equitable service.<sup>58</sup>

There is no substitute for adequate staffing at state UI agencies or the federal DOL that supports their work. As the GAO notes, "providing for staffing levels at the state and federal levels that are adequate to meet demand for UI during all phases of the economic cycle is critical to ensuring effective service delivery."<sup>59</sup> It is up to Congress to ensure this critical ongoing need is adequately funded.

### **Underfunded, Under-Staffed, Unprepared State UI Systems Created a Target for Organized Crime**

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Many of the same shortcomings that undermine equitable access to UI benefits also made the UI system an appealing target for organized crime during the pandemic. Chronically underfunded and under-staffed state UI systems operating with antiquated technology were tasked with carrying out a major new set of federal programs with little advance preparation, providing multiple points of vulnerability for criminal enterprises to exploit.

The spike in fraudulent UI claims during the pandemic was primarily the result of criminal enterprises engaging in identity theft fraud, not of individual workers making improper claims.<sup>60</sup> As Department of Labor officials have explained, sophisticated organized crime rings that had previously stolen the identities of U.S. workers during private sector failures such as the Equifax data breach of 2017 seized upon the pandemic as a time to use those stolen identities to obtain UI benefits.<sup>61</sup>

Generally, fraudulent claims in regular state UI programs are relatively uncommon.<sup>62</sup> State agencies have developed several checks in the regular UI benefit system to identify and stop payment on potentially fraudulent claims.<sup>63</sup> As the temporary federal pandemic programs had to be built virtually overnight, state agencies were not able to design the same type of systems to protect against identify theft fraud in these programs. By reforming the UI system and establishing permanent programs that automatically turn on during economic downturns, Congress can ensure these programs adequately protect against criminal enterprises attempting to use stolen identities to obtain benefits.

It is important to put identity fraud claims within UI in context: Identity theft is a problem for the entire public and private sector and is far from unique to unemployment insurance. In 2021, the Federal Trade Commission received 395,948 reports of ID theft related to public benefits, including UI. This number is dwarfed by more than one million cases of ID theft related to private business, such as credit card fraud or identity theft relating to bank loans.<sup>64</sup>

**Investments in staffing and worker-centered modernization would improve UI security.**

The UI system can and should be made more secure. Criminal enterprises exploited a number of weaknesses in state UI systems. The GAO notes that one major cause of increased identity fraud was the insufficient number of state UI staff and the fact that staff were severely undertrained. As I described above, when state agencies added staff to deal with the pandemic surge in claims, many cut short training programs, resulting not only in delayed or improperly denied claims for workers but also in a reduced ability to detect and respond to identity fraud.

For example, Louisiana officials informed the GAO that the typical training period for UI staff is 6 months, and they had to condense this into one week.<sup>65</sup> In Arizona, training claims adjudicators had taken up to eight weeks, but during the pandemic only five weeks of training were provided.<sup>66</sup> Florida also shortened staff trainings and hired outside contractors to train other contractors.<sup>67</sup>

The GAO further explains that increased identity fraud also resulted from criminal enterprises taking advantage of outdated IT systems with insufficient security.<sup>68</sup>

Using funds from the American Rescue Plan Act, DOL has made substantial investments in strengthening state systems to detect and prevent future identity fraud. DOL tiger teams, equity grants, and IT modernization assistance all combine a focus on improving access to UI for eligible workers with resources and expertise to combat fraudulent activity.

Nevertheless, a stable and reliable increase in federal funding for UI administration and worker-centered technology modernization is needed to address security challenges. The haste with which pandemic UI programs were set up is yet another risk factor: preparing in advance for a surge in unemployment during the next inevitable recession would enable states to set up programs at a more deliberate pace with improved security.

**Efforts to prevent or recover improper payments must not hinder workers' access to UI benefits.**

State UI agencies have an obligation to pay claims in a timely manner based on the best information available at the time, and to provide workers claiming benefits with due process when the state has questions about their eligibility or identity.<sup>69</sup> Efforts to prevent fraud must not be permitted to further impede workers' ability to access UI benefits for which they are eligible. NELP's research finds that state agencies' focus on preventing eligibility fraud already contributes to improper denial of UI applications, delays in paying claims, and difficult and time-consuming processes to apply for and access benefits.<sup>70</sup> To be sure, program integrity is important, but that not only means taking measures to root out

eligibility fraud, but also making all efforts to pay benefits in a timely manner whenever they are due.

Congress must help ensure states appropriately balance equitable access to benefits for eligible workers and preventing and detecting improper payments and fraud. As DOL recently reminded states “[p]rogram integrity involves both ensuring that entitled workers are not underpaid nor overpaid, and preventing payments to those who are not entitled to benefits.”<sup>71</sup> Over the past decade, state program integrity measures have focused almost exclusively on detecting and preventing eligibility fraud – which DOL distinguishes from cases of stolen identity (“identity fraud”) and defines as “occurring when benefits or services are acquired as a result of false information with the intent to receive benefits for which an individual or individuals would not otherwise be qualified.”<sup>72</sup>

This singular focus led many state agencies to put substantial resources into scrutinizing workers’ eligibility, many times at the cost of ensuring entitled workers received timely payment, leaving states unprepared for the spike in identity fraud during the pandemic and exacerbating access issues for workers when there was the influx of claims.<sup>73</sup> Congress must support ongoing efforts at DOL to rebalance the focus state agencies put on equity and program integrity: This includes passing the recently introduced Guaranteeing Unemployment Assistance and Reducing Deception Act by Congressman Horsford (H.R. 8661) that would mandate that DOL set new performance standards in key access areas.

It’s also important that UI agencies not use identity verification technology that creates new barriers for workers legitimately trying to claim benefits. NELP joins Members of Congress in expressing “serious concerns about the efficacy, privacy, and security” of facial recognition technology from the company ID.me now being used by a majority of states to screen unemployment applicants.<sup>74</sup>

ID.me’s cumbersome verification process reportedly contributed to substantial delays in workers’ receiving UI benefits in California,<sup>75</sup> Florida,<sup>76</sup> and other states.<sup>77</sup> In addition, the company’s requirement that workers applying for benefits use smartphone cameras may have excluded workers without access to personal smartphones. We are particularly concerned that facial recognition systems routinely misidentify people of color—particularly Black and Native American people—far more frequently than white people.<sup>78</sup>

It is welcome news that the Internal Revenue Service announced their own transition away from the requirement that taxpayers use third-party facial recognition services for the purposes of identity verification.<sup>79</sup> State unemployment insurance systems must do the same.

Overzealous efforts by state agencies to recover UI benefits that were overpaid to workers through no fault of their own also threaten to become a barrier to access for UI in the future. As state agencies rushed to administer new and unfamiliar programs with deficient staffing and technology, and workers unfamiliar with UI rushed to apply for benefits, mistakes inevitably occurred. Yet forcing workers to pay back benefits that were paid out through no fault of their own is now causing hardship for workers and their families.<sup>80</sup> NELP and other advocates are concerned that the negative experience could strongly discourage workers from seeking UI benefits in the future even if their families badly need the support.

## Conclusion and recommendations

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The expansion and enhancement of unemployment insurance during the pandemic provided a critical lifeline to workers, families, communities, and the nation's economy. By temporarily addressing the UI system's huge gaps in areas of eligibility, duration, and adequacy of benefits, pandemic UI programs powerfully illustrated a path toward building a more equitable system that truly serves unemployed workers. At the same time, the pandemic underscored the system's deficient infrastructure: underfunded, understaffed state agencies using antiquated technology were completely overwhelmed by the surge of pandemic claims—resulting in long waits and improper denials, creating hardship for workers, and leaving the system vulnerable to organized crime.

Workers deserve access to UI whether the entire economy has shut down or just the workplace where they used to be employed. But there is particular urgency to fix UI before the next recession takes hold. Congress must learn from experience and build on the success of pandemic unemployment benefits while also securing the system's failing infrastructure.

Members of this committee are paying special attention to UI administration, including DOL's work supporting states' efforts to modernize UI technology, improve administrative practices, promote equitable access to UI, assure the prompt payment of benefits, and detect and prevent fraud, among other goals. Through the strategic leadership of the new Office of UI Modernization, the creation and deployment of expert tiger teams to the states, the development of open, modular technology solutions, and a range of grant programs to support states in expanding equity and access and combatting fraud, DOL is working innovatively to improve administration of the UI program. Yet this work cannot succeed without additional legislation and resources.

Congress as a whole must act to:

- **Ensure that the nation's regular UI system equitably supports unemployed workers across the country.** Building on the success of pandemic UI in expanding UI—effectively reducing poverty and hardship among unemployed workers and supporting local businesses and economies—Congress must enact permanent reform that establishes minimum federal standards for UI eligibility, benefit duration, and benefit adequacy that all state unemployment systems must meet.
- **Ensure equitable access to UI.** Congress must mandate that state agencies provide meaningful language access and access for people with disabilities, mandate plain language, ensure state unemployment websites are accessible to mobile phone users and have an alternative means of claim filing for workers who are unable to use the online claim filing system.
- **Strengthen UI infrastructure at the federal and state levels.** Learning from the vulnerabilities of UI infrastructure exposed by the pandemic, Congress must allocate substantially more administrative funding to state unemployment agencies in order for them to have adequate resources to deliver benefits in a timely and accurate manner during all phases of the economic cycle, and to help workers navigate the UI system when

they have questions or face barriers in the application process. This includes updating the current administrative funding structure by reforming the Resource Justification Model used to determine a state's administrative budget and increasing the federal taxable wage base for UI. Stable, long-term funding for UI modernization and administration will enable states to both improve UI access and prevent identity fraud.

- **Reform and modernize the federal Extended Benefits program.** Before the next recession, Congress must reform and modernize the federal Extended Benefits program so that additional weeks of federally funded UI benefits automatically trigger on and remain available during economic downturns.
- **Establish additional emergency UI programs that automatically trigger on during periods of high unemployment.** To prepare for the next recession, Congress must also set up permanent federally funded programs that automatically expand access to benefits (like the successful Pandemic Unemployment Assistance program), provide an additional federal supplement to state UI benefits, and fully fund the Short-Time Compensation (work sharing) programs during times of high unemployment. This will ensure that when the next recession hits, state agencies will not be overwhelmed trying to set up new programs overnight, workers will be able to receive much-needed benefits as soon as possible, and the risks of fraud associated with administering a new program will be minimized.

The GAO's first-ever designation of the UI system as "high-risk" should be a wakeup call to transform unemployment insurance and build a more equitable and effective system that will truly support jobless workers across the country as they seek new employment.

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Chairman DESAULNIER. Thank you, Ms. Dixon. I will now recognize Mr. Weidinger for 5 minutes you are recognized.

**THE STATEMENT OF MR. MATT WEIDINGER, SENIOR FELLOW,  
AMERICAN ENTERPRISE INSTITUTE**

Mr. WEIDINGER. Thank you, Mr. Chairman. Chairman DeSaulnier, Ranking Member Allen, Chairman Scott, members of the subcommittee, thank you for inviting me to testify before the subcommittee this morning. My name is Matt Weidinger, and I am a Senior Fellow at the American Enterprise Institute.

I previously worked for two decades for the House Ways and Means Committee, including for a number of years as the staff director of the subcommittee, having the jurisdiction over the Nation's unemployment insurance system.

I will make three points basically summarizing my written testimony. First, Congress on a bipartisan basis, and with good intentions, legislated a massive benefits response to the pandemic, which actually increased the administrative strains on the system.

Second, those strains made the system more vulnerable to enormous fraud that we have witnessed. Third, Congress has since taken steps that help minimize that abuse, and those and other measures should be built into the continued response to this crisis and future recessions.

First off, starting in March 2020, Congress responded to the unfolding pandemic with unprecedented Federal benefit expansions which several members have discussed, including \$600.00 per week supplements, and an entirely new program benefiting millions of individuals never before eligible for unemployment checks.

State and Federal claims quickly rose to a record 33 million in June 2020. In all, over the entire span of the Federal programs 1.6 billion weeks of unemployment checks were paid, and while temporary, Federal programs were in operation that cost Federal taxpayers, just Federal taxpayers, 700 billion dollars.

For someone collecting just average weekly UI benefits, State and Federal benefits could reach a total of \$46,000.00, that highlights both the record support available to unemployed Americans, as well as the enormous target that criminals saw for fraud.

State agencies were faced with two crises at once, responding to the massive surge in demand for regular State unemployment benefits, while also standing up these new Federal programs for millions of additional recipients. My second point is those strains and the key Federal program features, contributed to the fraud inflicted on the system.

The new PUA programs proved especially problematic. It offered benefits to millions never before eligible for State UI benefits or known to State UI agencies. Program features like allowing individuals to self-certify their eligibility, and not requiring proof of prior work, or even confirmation of identification, made it highly vulnerable to abuse.

Criminals pounced on those vulnerabilities, and as a result we saw massive, and still only partially understood increase in fraud. The Department of Labor has reported that an improper payment rate of 18.7 percent. That understates likely—true likely unit spending.

First, it omits the enormous spike in both spending and likely fraud at the start of the pandemic, and second, it does not include the elevated improper payments under the PUA program, which

was the most abused by almost all accounts. Citing just the 18.7 percent rate, the Department of Labor's Inspector General testified in March that at least 163 billion dollars could have been paid improperly with a significant portion attributable to fraud.

Other experts estimate losses could reach 400 billion dollars, and arguably constituting the greatest theft of tax dollars in U.S. history. For a sense of scale, 163 billion dollars is the equivalent of all UI program spending in six typical non-recessionary years.

My third point is that while initially slow to react, Congress has taken steps to address the biggest loopholes. Bipartisan December 2020 legislation required new PUA claimants to provide proof of prior employment, and states were required to verify the identity of claimants.

Those changes were followed by rapid declines in initial claims for PUA benefits. In New York State, for example, PUA claims dropped by a stunning 92 percent after anti-fraud initiatives were implemented. Those, and other program integrity features like matching against data bases of prisoners, new hires, and those claiming benefits in other states should be standard practice.

There is much left to do. Only a tiny fraction of the misspent money has been recovered. Unfortunately, given the international criminal organizations behind many attacks, much will likely prove unrecoverable, but policymakers should also recognize that states have little incentive to recover misspent Federal funds.

Legislation to overcome that disincentive would allow states to retain 25 percent of any recoveries of misspent Federal pandemic funds, which states could then devote to modernizing their systems. That offers potential gains for rightful recipients and taxpayers alike.

The Biden Administration included 2 billion dollars for system modernization in the American Rescue Plan, some of which is devoted to improving program integrity. Congress should ask hard questions about the enduring results of those one-time efforts, while conducting a thorough evaluation of the long-term administrative financing needs of this system.

Preventing a repeat of the pandemic fraud we just witnessed will require dedicated and consistent effort from both State and Federal officials, but in the end, deserving recipients, and the taxpayers that support the system will be the greatest beneficiaries. Thank you, Mr. Chairman. I will be happy to answer questions.

[The prepared statement of Mr. Weidinger follows:]



Testimony for the Subcommittee on Health, Employment, Labor, and Pensions of the  
House Committee on Education and Labor  
Hearing on Examining the Administration of the Unemployment Insurance System

## **Lessons from the Unprecedented Fraud and Abuse of the Unemployment Benefits System during the Pandemic**

**MATT WEIDINGER**  
Senior Fellow

September 21, 2022

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**Lessons from the Unprecedented Fraud and Abuse of the  
Unemployment Benefits System during the Pandemic**

Matt Weidinger, Senior Fellow  
American Enterprise Institute

Chairman DeSaulnier, Ranking Member Allen, and other members of the Subcommittee on Health, Employment, Labor, and Pensions, thank you for inviting me to testify at this morning's hearing examining the administration of the Unemployment Insurance system. My name is Matt Weidinger, and I am a senior fellow and Rowe Scholar in poverty studies at the American Enterprise Institute. I previously served on the staff of the House Committee on Ways and Means, including for 15 years as the staff director of its subcommittee with jurisdiction over the nation's unemployment benefits system.

***Background on the unemployment benefits system***

The nation's Unemployment Insurance (UI) program was created in 1935 in response to the Great Depression. It remains a shared partnership between the federal government and the states – which generally determine eligibility for, the amount of, and the duration of weekly UI benefit checks.<sup>1</sup> The federal role includes providing states funds to administer benefits, as well as in recent decades legislating temporary federal programs offering extended benefits for those who exhaust up to 26 weeks of state UI checks. A permanent federal/state program called Extended Benefits (EB) was created in 1970; during the past two recessions that program was temporarily supported with 100 percent federal funds. States administer both state and federal unemployment benefits, and state payroll taxes paid by employers on behalf of covered workers support state benefit costs. A federal payroll tax supports the cost of permanent law federal responsibilities, including program administration and the normally 50 percent federal share of EB program expenses. Other federal costs, such as for the extraordinary benefits provided during the pandemic, have been supported with federal general revenue and added to the deficit.<sup>2</sup>

***Congress legislated an unprecedented unemployment benefit expansion in response to the pandemic***

The coronavirus pandemic and the federal government's response to it unleashed unparalleled

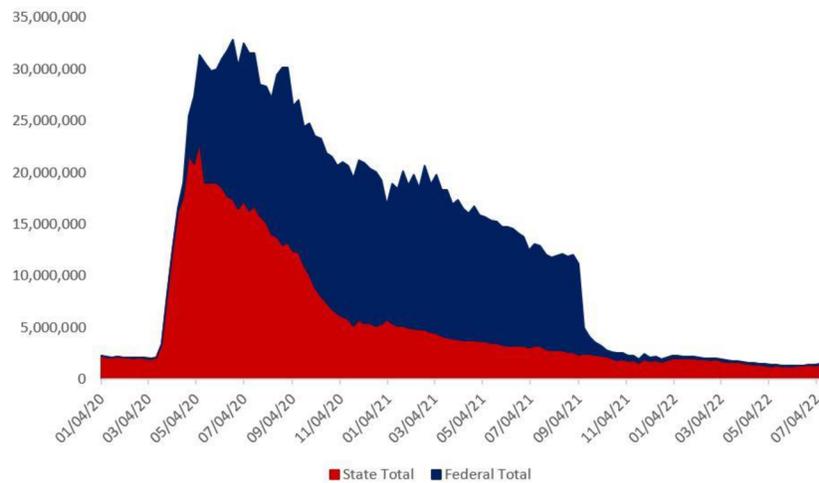
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<sup>1</sup> There are 53 "state" UI programs, including in the District of Columbia, Puerto Rico, and the US Virgin Islands.

<sup>2</sup> Congress has in the past employed federal payroll tax hikes to finance extraordinary temporary federal benefit expansions. For example, that was the original purpose of the 0.2 percent FUTA "surtax" collected from 1977 through 2011. As I [reviewed](#) in 2020, if that practice were repeated today, "[T]oday's federal UI tax of typically \$42 per worker per year would grow to \$482—a 1,048 percent increase—and stay there for a decade. The federal UI tax rate would skyrocket from 0.6 percent to 6.6 percent." While employers nominally pay payroll taxes, most economists believe they result in lower wages for workers.

and immediate demand for unemployment benefits starting in March 2020. Major federal pandemic benefit expansions initiated in March 2020 included unprecedented \$600-per-week (and later \$300-per-week) benefit supplements,<sup>3</sup> extended benefits payable under both a new temporary federal program as well as the newly federalized EB program, and expanded eligibility covering groups never before eligible for weekly unemployment benefits.<sup>4</sup> Those policies resulted in record numbers claiming benefits, which placed extraordinary strain on the administration of the nation's unemployment benefits system. As depicted in Figure 1, the months after March 2020 saw an enormous surge in claims for state and federal benefits, which reached a record total of 33 million claims per week in June 2020. That compares with a prior record of 12 million claims during the Great Recession.<sup>5</sup>

Figure 1. State and Federal Unemployment Benefit Continuing Claims, January 2020-Present



Source: [US Department of Labor](#).

In all, nearly [1.6 billion](#) weekly state and federal unemployment benefit checks were paid out during the 18 months between when the pandemic struck and temporary federal programs

<sup>3</sup> While the \$600 federal supplement was available, [two-thirds of recipients](#) collected more in unemployment benefits than they earned while working. After the supplement dropped to \$300 per week, [nearly 40 percent](#) collected more in benefits than from working.

<sup>4</sup> A detailed review of federal benefits paid during the pandemic is available [here](#).

<sup>5</sup> Instead of providing the number of *individuals* collecting benefits (as was often reported), official data provided the total number of benefit *claims* in a week. As the Department of Labor [noted](#) at the time, "Backdated claims data may be included in these figures." Thus while total benefit claims reached over 30 million per week between May and July 2020, there were likely [fewer individuals](#) actually collecting benefits than that suggests. Large back payments resulted from the massive surge in demand for state UI benefits, which delayed first payments, along with the rollout of the new federal PUA program.

expired on Labor Day 2021. That's the equivalent of three full months of benefit checks for each of the 121 million households in the US. Averaged across the 18-month duration of temporary federal programs, that figure is also the equivalent of 21 million unemployment benefit checks paid each week. Meanwhile, the number of officially unemployed individuals was far less, averaging [around 12.2 million](#) per month during this period. The [difference](#) is attributable to backdated checks for retroactive payments, payments to individuals who "would not be working even without a pandemic," according to the University of Chicago's [Casey Mulligan](#), and fraud.

For an individual consistently collecting the national average weekly unemployment benefit between April 1, 2020, and September 6, 2021, state and federal benefits could reach \$46,000.<sup>6</sup> That figure highlights both the record support made available to unemployed Americans, as well as the scale of the lucrative target for those seeking to defraud this system.

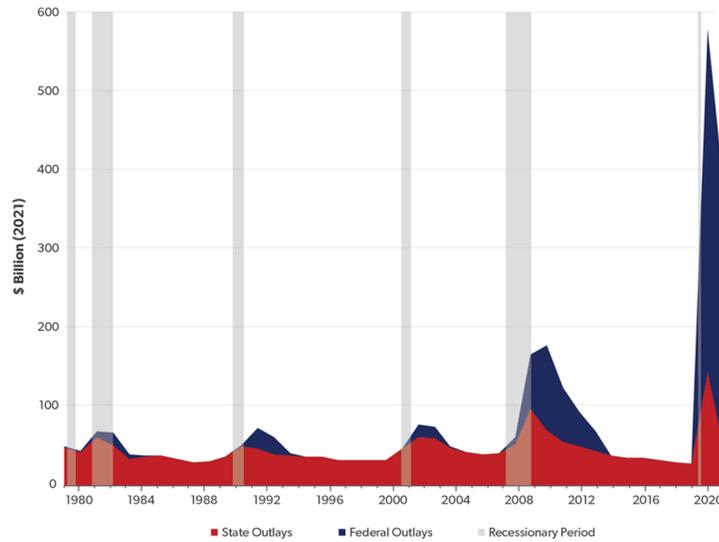
The cost to taxpayers of these extraordinary benefits was equally unprecedented, as Figure 2 displays. Overall, approximately \$900 billion in unemployment benefits was distributed between March 2020 and September 2021, including over \$700 billion in extraordinary federal benefits.<sup>7</sup>

*Figure 2. State and Federal Unemployment Benefit Spending since 1980*

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<sup>6</sup> The average weekly state UI benefit during this period was about \$325; \$46,000 is the product of \$325 in state UI and subsequent federal extended benefits over 74 weeks, plus \$600-per-week federal supplements over an initial 17 weeks followed by \$300-per-week federal supplements across another 41 weeks.

<sup>7</sup> GAO [reported](#) in June 2022 that "The Department of Labor (DOL) has reported about \$658 billion in compensation paid under the CARES Act UI programs as of April 30, 2022." The Lost Wages Assistance program, which provided \$300-per-week federal supplements during generally August and September 2020, added \$41 billion, while other significant federal costs are attributable to the EB program.



Source: [US Department of Labor](#).

### ***The scale and design of federal benefits increased the potential for fraud***

Starting in March 2020, state unemployment benefit agencies were faced with two crises at once: responding to the unprecedented surge in demand for state UI benefits due to the pandemic, while at the same time standing up and administering several massive new federal benefit programs.

The new federal Pandemic Unemployment Assistance (PUA) program proved especially problematic, starting with the fact that it offered benefits for the first time to millions of independent contractors, self-employed individuals, and others not previously eligible for UI program benefits, or known to state UI systems.

Features explicitly legislated into the design of the program also made it highly vulnerable to abuse. PUA allowed claimants to self-certify their eligibility for benefits and initially did not require proof of prior work or adequate identity verification. Those features meant PUA had none of the third-party or employer verification that state UI programs regularly depend on to ensure benefits are properly targeted. Maryland's Labor Secretary in July 2020 described how this practice left PUA open to fraudulent claims: "The PUA Program, in particular, allows individuals to self-certify that they are unemployed due to the coronavirus, eliminating the regular check-and-balance that exists under the regular state UI program, increasing the potential

for fraud.” The Department of Labor’s Inspector General later [summarized](#) that PUA’s “reliance solely on claimant self-certifications without evidence of eligibility and wages during the program’s first 9 months rendered the PUA program extremely susceptible to improper payments and fraud.”

In contrast with many state UI recipients, self-employed individuals and independent contractors also could remain on PUA without being subject to recall by employers. As a [September 2020 report](#) reviewing benefits in California described, “claimants of regular UI have been almost five times more likely to exit UI in any given week than those receiving PUA benefits.” The same [report](#) suggested that literally every self-employed person in California had applied for PUA benefits: “Since the start of the crisis, there have been 2.2 million PUA claims by individuals indicating previous self-employment. According to available estimates, there were only approximately 2.2 million self-employed individuals in CA prior to the start of the pandemic.” The reality is more likely that many saw an assertion of self-employment as an easy route to getting on and staying on PUA benefits for lengthy periods.

Other federal and state policies opened the door wider for misspending and fraud. For example, by offering federal subsidies to states that eliminated the longstanding waiting week before collecting benefits, federal policy prioritized rushing benefits out the door over ensuring the correct recipients qualified. Federal law also allowed states to waive the longstanding requirement that benefit recipients [search for work](#) as a condition of eligibility, eliminating a longstanding check on improper extended benefit collection. While that may have made sense early in the pandemic, as businesses and the economy reopened, the requirement should have been promptly restored.

States also made mistakes that contributed to fraud and misspending. One glaring example was when [California and 14 other states](#) suspended the matching of unemployment benefit caseloads against prisoner databases – which was predictably followed by prisoners fraudulently claiming large amounts of benefits.

### ***The result was record misspending and fraud***

The result was a massive—and still only partially understood—increase in fraud and misspending, in both percentage and dollar terms.

As the White House [described](#) in December 2021, “the improper payment rate in the Federal-State Unemployment Insurance (UI) program... totaled 18.71% from July 2020 to June 2021—roughly 5-8 percentage points higher than during a normal, non-pandemic 12-month period.”<sup>8</sup> That elevated rate is likely understated, perhaps significantly, for at least two reasons. First, it misses the massive spike in claims early in the pandemic, which coincided with the bulk of the weeks when \$600-per-week federal supplements provided an especially inviting target for criminals. As the White House admits, “Data was not collected during the middle of 2020 as a result of the chaotic challenges state-run UI systems faced.” Second, as the Department of Labor’s (DOL) Inspector General (IG) noted in March 2022 [testimony](#), the 18.71 percent error

<sup>8</sup> The White House quote conflates the state Unemployment Insurance program with various federal temporary unemployment benefit programs, which were responsible for most spending, and misspending, during the pandemic.

rate “does not include the PUA program” which “had control weaknesses that may have facilitated comparable or greater improper payments.” We may never know the true extent of PUA misspending. A June 2022 audit [found](#) half of PUA benefits in Illinois were stolen. Last month, another audit [found](#) the Illinois unemployment benefits agency failed to maintain accurate data for the program, meaning auditors “were unable to conduct detailed testing to determine whether the PUA claimants were entitled to benefits.”

During PUA’s operation from April 2020 through early September 2021, repeated waves of fraud swept through states administering it. Colorado officials [reported](#) in September 2020 that more than 75 percent of recent PUA claims “were determined to be fraudulent.” Driven by massive fraudulent PUA claims, in August 2020 an implausible [80 percent](#) of all 3.4 million workers in Arizona appeared to have applied for unemployment benefits. California PUA cases doubled from 3.1 million to almost 7.0 million in just two weeks in August 2020, forcing state officials to [admit](#) that “a big part of the unusual recent rise in PUA claims is linked to fraud.” In January 2021, California officials [reported](#) that, of all state and federal claims paid since the start of the pandemic, 10 percent had been confirmed as fraudulent and an additional 17 percent had been identified as “potentially fraudulent.” California separately [reported](#) that 95 percent of confirmed fraud involved the PUA program.

Applied against the record benefit spending during the pandemic, such error rates translate into staggering losses for taxpayers. As the DOL IG noted in his March 2022 [testimony](#), based on the 18.71 percent error rate, during the pandemic at least \$163 billion “could have been paid improperly, with a significant portion attributable to fraud.” Other experts estimate losses could reach [\\$400 billion](#). Senior Republicans on the House and Senate committees with jurisdiction over unemployment benefits asserted in an August 2021 [letter](#) to the head of the Government Accountability Office that “fraud in COVID unemployment programs appears to be the greatest theft of American tax dollars in our nation’s history.”

For a sense of the scale of just the known losses, the DOL IG’s conservative estimate of at least \$163 billion in misspending is the equivalent of all UI program spending nationwide in six non-recessionary years.<sup>9</sup> It also is twice all federal unemployment benefit spending during the months of the Great Recession, which lasted from December 2007 to June 2009. During fiscal years 2008 and 2009, which spanned the Great Recession plus an additional six months, extraordinary federal unemployment benefits totaled \$82 billion (adjusted for inflation to 2021 dollars).<sup>10</sup>

### *Congress was slow to react, but changes eventually helped*

The warnings of massive fraud began almost immediately after federal pandemic benefits were authorized—and indeed [before](#) they began being paid out in some states. An April 2020 DOL IG [report](#) found that, under the Disaster Unemployment Assistance (DUA) program on which the PUA program was modeled, improper payments went to over 71 percent of sampled recipients in

<sup>9</sup> State UI benefits totaled [\\$27 billion](#) in CY 2019.

<sup>10</sup> Significant federal benefits are often paid after a recession officially ends. For example, federal extended benefits after the Great Recession continued to be paid through December 2013. The entire federal unemployment benefits response, covering fiscal years 2008 through 2014, cost \$341 billion (adjusted for inflation to 2021 dollars).

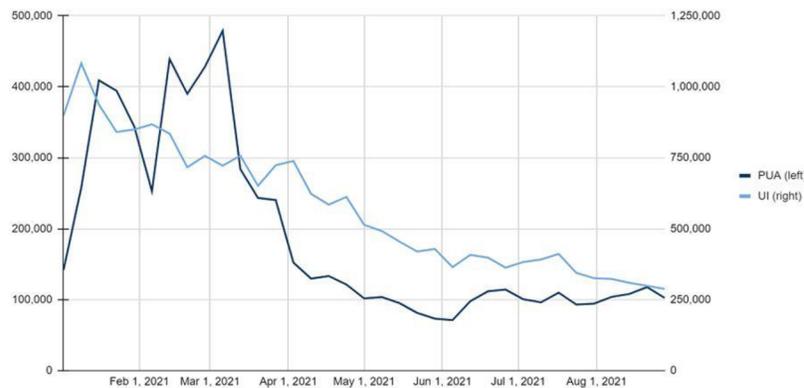
one state. Anticipating what was to come for the PUA program, the report noted that “identity thieves and organized criminal groups have found ways to exploit program weaknesses. Thus, improper payments stemming from fraudulent activity continue to pose a significant threat to the integrity of the UI program.”

States soon reported widespread criminal attacks. In May 2020, Washington state officials [reported](#) that “a Nigerian fraud ring, dubbed ‘Scattered Canary’ by security researchers... had made off with ‘hundreds of millions of dollars.’” Maine subsequently joined Washington in [freezing new applications](#) for benefits to investigate surging fraudulent claims. Seeking to reduce huge backlogs and prevent identity fraud, California [suspended new benefit applications](#) for two weeks in September 2020. [Rappers](#) crooned about ripping off state unemployment agencies, as criminals claimed benefits on behalf of at least one US [senator](#) and [multiple governors](#).

Yet despite such early and prominent warning signs, for months Congress failed to act. Senate Republicans proposed [legislation](#) in July 2020 closing some of the loopholes that left the PUA program open to abuse. But it took until December 2020, as part of bipartisan [legislation](#) extending PUA and other federal benefits, for only some of those changes to be enacted. Importantly, the new law required that, starting in February 2021, new PUA claimants must provide proof of prior employment within 21 days of starting benefits or lose eligibility. States also were required to have procedures for verifying the identity of claimants.

As displayed in Figure 3, those changes were followed by rapid declines in initial claims for PUA benefits nationwide— which fell at a faster pace than first-time claims for state UI benefits over the same period.

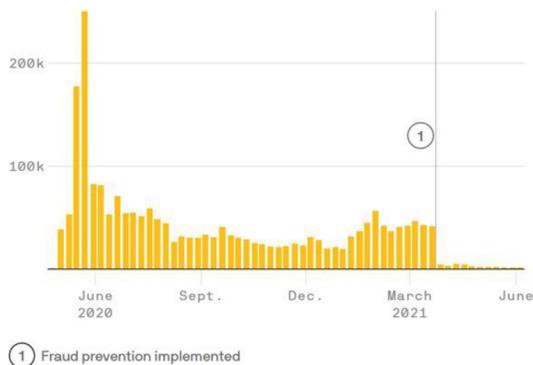
*Figure 3. Initial claims for PUA and State UI benefits, January-August 2021*



*Source: Department of Labor, [PUA](#), and [UI claims data](#). Data are not seasonally adjusted.*

In some states, the effects were even sharper. As displayed in Figure 4, in New York State, initial claims for PUA dropped by a stunning [92 percent](#) when anti-fraud initiatives were implemented.

Figure 4. New York Weekly PUA Initial Claims, April 25, 2020 to June 12, 2021



Source: Data from the Department of Labor, Chart from Axios Visuals.

#### **Additional measures are needed**

Temporary federal unemployment benefit programs expired in early September 2021, and about [half of the states](#) opted out of paying most federal benefits in June and July 2021. But despite the programs' expiration, their continuing effects make it clear that additional measures are needed.

In the near term, Congress and the Biden administration should work together with states to recover as much of the past misspending as possible. There is plenty to be done. The Washington Post [reported](#) in May that only \$4 billion had been recovered as of March 2022—or six months after temporary federal programs expired. That's roughly 2 percent of the DOL Inspector General's admittedly conservative estimate of \$163 billion in benefit misspending. Meanwhile, DOL in February 2022 offered states [guidance](#) allowing additional "blanket waivers" against recovery, which some congressional Republicans [described](#) as "allowing states to waive large numbers of suspicious claims and forgo restitution for taxpayers." As federal programs continue to recede into the past, it will become increasingly difficult to recover remaining misspent funds. Given that international criminal groups intentionally targeted the largely undefended federal benefits, some significant share of fraudulent spending is likely unrecoverable.<sup>11</sup>

<sup>11</sup> The Department of Justice and U.S. Secret Service have found that significant fraud stemmed from organized criminal networks, including those with origins in China, Ghana, Nigeria, Romania, and Russia.

Policymakers should recognize that states that administer both state and federal benefits currently have little incentive to recover what has been mostly misspent federal funds. Such recoveries require state effort and additional administrative expense, only to have any recovered funds revert to the federal government in the end. To overcome that financial disincentive, leading House and Senate Republicans proposed the [Chase COVID Unemployment Fraud Act](#), which seeks to promote both better state systems and more recovery of misspent federal funds. The [legislation](#) would allow states to retain 25 percent of any future recoveries of misspent federal pandemic funds, which states could use to modernize their systems as well as improve program integrity to prevent future abuse. That approach offers potential gains for taxpayers and rightful recipients alike.

The Biden administration included a \$2 billion modernization fund in the March 2021 American Rescue Plan, which reinforces that funding for the administration of unemployment benefits is a federal responsibility. There should be serious questions about whether \$2 billion in one-time funds will be adequate to address the administrative challenges of this system, especially given the massive fraud it just experienced. The history of large one-time infusions of federal funds suggests those expecting enduring process improvements or structural changes are likely to be disappointed. Congress should conduct appropriate oversight on this \$2 billion fund, including requiring evidence of concrete results in terms of improved service delivery and fraud prevention.

Beyond these one-time funds, more fundamental questions must be asked, including what are the long-term administrative financing needs of this system, how can those best be met, and at what price? In the end, it is the federal government's responsibility to work with states to ensure the system's administrative needs are met, including in the event of an inevitable future crisis.

Further, some Democratic lawmakers have proposed designing future benefit increases to replace a specific share of each recipient's prior wages, which state information technology systems at the start of the pandemic were incapable of doing. That, in significant part, led lawmakers to provide flat \$600-per-week supplements, which resulted in many recipients collecting more in benefits than they earned from working. Will a reformed system be able to accommodate those policy goals? If so when and at what cost? Unless Congress holds the short-term and long-term administrative funding it provides accountable for answering such questions, policymakers in a future crisis may once again be forced to provide poorly targeted benefits in the name of rushing benefits out the door, with too many deserving recipients once again waiting in line behind those bent on defrauding the system. Benefit recipients and taxpayers deserve far better.

As it considers such administrative funding questions, Congress should apply the lessons learned during the pandemic to prevent a repeat of massive losses to fraud – and just as importantly deliver appropriate customer service to deserving recipients. Those lessons include:

- *Don't allow individuals to self-certify their eligibility for benefits.* Unemployment benefit programs should require proof of prior employment *before* benefits start to flow, not just within 21 days of their onset, and certainly not without that information. That may result in minor delays in the onset of benefits for some claimants — who would likely receive several weeks of back benefits in an initial lump sum. But that delay would be well worth

it if it helps prevent a repeat of the massive losses to fraud taxpayers experienced during the pandemic.

- *Ensure claimant identities are established before benefits are paid.* Especially since mandated to implement identity verification in 2021, many states worked with third parties to both screen out blatant fraudsters on the front end and to verify identities before and while benefits were paid. This should be standard program practice in the future, and states should be required to report on their fraud detection and prevention measures to DOL.
- *Prevent benefits from exceeding prior wages.* As mentioned above, if policymakers wish to revive weekly supplements in a future recession or emergency, they should ensure the system can tailor such benefits to each individual as a share of prior wages, instead of offering flat supplements to all that result in benefits often exceeding earnings.
- *Restore work search requirements.* States were allowed to waive normal work search requirements to limit contacts in the pandemic. In the future, benefits should once again be paid only to those who perform expected work search, to assist in transitions back to work.
- *Ensure benefits are tied to past and future tax payments.* If Congress chooses to revive extraordinary benefits like PUA, it should ensure potential recipients pay experience-rated taxes into the system beforehand—as is the case under the state UI program. That would resolve many of the identity verification issues that plagued PUA, in addition to addressing some (but not all) of the return-to-work disincentives inherent in its benefits.
- *Consider additional methods to measure the proper functioning of the system.* State UI performance is effectively graded on two elements: timeliness and accuracy. Most states opt for the former over the latter. The pandemic demonstrated there are additional elements that merit consideration as evidence of a properly functioning UI system, including appropriate, scalable fraud deterrence and prevention strategies, customer-centric processes or interfaces for claimants and employers, and an ability to continuously provide adequate data reporting.
- *Fix flaws in the counting of benefit recipients.* Data reporting issues (including fraud and the [counting of back weeks of benefits](#)) confounded efforts to understand the number of people collecting key unemployment benefits early in the pandemic. As GAO [concluded](#) in November 2020, “Without an accurate accounting of the number of individuals who are relying on UI and PUA benefits in as close to real-time as possible, policy makers may be challenged to respond to the crisis at hand.”

The DOL Inspector General has also [recommended](#) a series of common-sense data matching requirements, which should be standard practice for states. These include cross-matching UI claims against prisoner databases, the National Directory of New Hires, and other states’

caseloads to better ensure benefits are paid correctly. The Inspector General also proposes allowing state agencies to retain 5 percent of UI overpayment recoveries for program integrity purposes.

*Concluding thoughts*

The coronavirus pandemic presented extraordinary economic and health challenges for all Americans. Congress' unemployment benefits response sought to alleviate financial hardship for tens of millions who found themselves suddenly unemployed. An extraordinary number collected benefits, which unfortunately included record numbers who defrauded these important benefits. Overwhelmed systems and key program design flaws contributed to that unprecedented abuse, which Congress must address before it crafts any future response to recession. If Congress successfully incorporates these lessons, it should significantly reduce the potential for future abuse—and better ensure that rightful recipients have timely access to benefits they deserve.

Chairman DESAULNIER. Thank you. I appreciate your testimony, and I agree with much of it, so look forward to working with you. Ms. Robinson, you are recognized for 5 minutes. Yes, the floor is yours Ms. Robinson.

**STATEMENT OF MS. VERONICA ROBINSON**

Ms. ROBINSON. Thank you. Good morning, everyone. My name is Veronica Robinson. Thank you for this opportunity to be here today to talk to you about my experience with unemployment during the time of the pandemic.

During the time of the pandemic, early February I started a new job, and by the time the end of March I was laid off of that job due to the pandemic. I tried to apply for regular unemployment because I had just started that job and it was not any time in, I was not able to put into unemployment, so I was able to find out by Facebook Live, about Philadelphia Legal Assistance hosted by Ms. Julia, giving information on how to apply for a PUA program, which I had no knowledge about at that time. I tuned into that Facebook Live with her and gained a lot of knowledge and for the information. I applied to Legal Aid, Philadelphia Legal Aid Assistance for help. That was Julia. She was able to help me a great deal during this time of all the challenges that I faced, which were quite a bit.

I filed for the PUA program, but I had to do it on my cell phone, which is a very difficult task to get done. The format is for a bigger screen, like a laptop or computer, and I just had my cell phone. There were a lot of things, the way things were worded that were sometimes would trip you up, and misleading. The format itself is hard to, you know, achieve that on a cell phone.

It was difficult, but eventually I got through with the help of Ms. Julia's help from Philadelphia Legal Assistance. The application was submitted, and she had someone from the PUA program to get me caught up because by that time I had fell behind with my weeks.

Then the fall of 2020 happened. I had some fraud issues that were on my account when I was going over some transactions, which I normally would keep track of my spending and everything. I saw something that did not look right, so I called the U.S. Bank Card and talked to a customer service person, which informed me that there was some fraudulent transactions on my accounts that happened outside the U.S.

They asked me whether I had been outside the U.S., did I know anyone, and I do not, and I have never been outside the U.S. They informed me that they would do an investigation but ensured me that I would get my \$2,000.00 back once the investigation was completed. It would take about at least a month or so.

During that time they had to deactivate my card. They said they were sending a new card. I waited for that card, but it did not show up. I contacted Ms. Julia, and she looked into it and got the card sent to me. I was able to get back into my account to be able to access the money that I still had there, but it did put a strain on me because, you know, you still need to get things on a weekly basis.

Eventually they got done with the investigation and returned my \$2,000.00 to me. By that time, I had fell behind because I was not able to continue on with the weekly benefits. Ms. Julia got the lady from the PUA program to get back in touch with me and set them back up again. That was a great deal of help.

By the spring of 2021, I believe, I was doing my weekly 1 week and there were this weird question that came up asking about my citizenship all of a sudden. I could not understand why, but they would not give me an option to say I was a citizen. It kept giving some other weird options.

I contacted Ms. Julia, and she looked into it and said there was a glitch, some sort of glitch in the program that it was affecting other people just as well as it was affecting me. Another issue that came up with the PUA program, so I faced many challenges during that time, you know, not being able to get to my funds, fraud, and just the format itself, the way things are set up with unemployment.

They really—I think it would be beneficial if they tried to make it more simpler, not only the process, but the wording of the questions and things that they ask. I am really thankful for the PUA at that time. It was a life-saving source of income for me because I was not able to work. No one was really, you know, very few people and only those that had certain jobs at that time.

I look forward to trying to, you know, help with anything that I can to make the system better, and I thank you for this opportunity today to be a part of this process.

[The prepared statement of Ms. Robinson follows:]

**Examining the Administration of the Unemployment Insurance System**

Testimony by Veronica Robinson  
Health, Education, Labor, and Pensions Subcommittee  
*September 21, 2022*

Chairman DeSaulnier, Ranking Member Allen, and Members of the Committee, thank you for inviting me to share my experience with the unemployment system during the pandemic.

My name is Veronica Robinson and I was born, raised, and still live in Philadelphia. I'm a mother of two wonderful sons, I come from two wonderful parents. I'm a loving, caring person that wants to do anything I can to make this world a better place.

The Pandemic Unemployment Assistance (PUA) program was a blessing. If it did not exist, I would have been left struggling to make ends meet during the COVID-19 pandemic. There would have been no other income support for me since I was not eligible for regular unemployment. The PUA program allowed me to pay for basic necessities, including things I needed for the apartment I had just moved to, my monthly utilities, and my cell phone bill. Having that income made my life less stressful during a time when I was very overwhelmed.

But accessing my PUA benefits was not easy. The problems that came up on my PUA claim were issues that I could not fix by myself, even though I tried. There was no way to get in contact with someone at unemployment (one of Pennsylvania's Unemployment Compensation Service Centers) to help since the phone lines were always busy. The only person who was able to help resolve the issues with my claim was my unemployment attorney from Philadelphia Legal Assistance, Julia Simon-Mishel. She was a Godsend.

I have had many jobs over the course of my life, including working as a teacher's assistant for the Philadelphia School District for 10 years and as a home health aide for my brother for 5 years. After being out of work for a bit, I was hired by the Southeastern Pennsylvania Transit Authority (SEPTA) as an ambassador in February 2020. In this position, I helped riders learn how to use the new SEPTA Key Card system. But then in March 2020, I was laid off because of the COVID-19 pandemic.

This was a very overwhelming time for me. Not only did I lose my job in the middle of a pandemic, but I had just been approved to move into a new apartment building, which I applied to because of issues with mold in my old apartment. I needed to buy essentials for the new apartment, but did not have the income to do so. Plus, my brother was placed in a nursing home and as his advocate, I had to make sure he remained healthy as COVID-19 spread through nursing homes across the country. When I filed for regular unemployment after I was laid off, I

never got a response, or any benefits. This added to my stress. I had to figure out how I was going to make ends meet with the last paycheck I received from my job with SEPTA and from the small amount in retirement I get from the Philadelphia School District (\$203 per month).

Fortunately, in April 2020, I watched a Facebook Live hosted by Ms. Julia, where she talked about the PUA program. I contacted Ms. Julia and told her about my situation. She figured out I was not eligible for regular unemployment because I hadn't worked enough recently. But then she told me that I should be eligible for PUA because I lost work due to the pandemic.

I applied for PUA in April 2020 using my cell phone, which was tedious. To make sure I could read all the questions and was filling out information in the right place, I had to keep pinching my phone screen to zoom in and out and scroll up and down through the application. This caused the application to be really confusing, stressful, and frustrating to fill out. It took me several tries over several days just to enter all the required information. Then there was an issue in my application where it said I had worked for a company that I had never worked for. I tried to figure out how to correct this on the application but I could not get it to change. Because I could not get past that page on the application, I was not able to file my claim. At this point, it was impossible to get a hold of someone from the Service Center on the phone. Without help from unemployment staff, the only other person I could get through to was Ms. Julia. Ms. Julia was able to directly contact unemployment and have someone manually fix my application so it had the right employers on it. After this, I was finally able to start filing weekly certifications and received payments on my US Bank debit card.

But then one day, in the fall of 2020, I was looking through my recent transactions (something I did to make sure I was always accounting for the purchases I made on my US Bank card) and noticed something was off. It seemed like my transactions did not add up correctly and that \$2000 had been taken off my card. I called US Bank and they told me that there was a fraudulent transaction on my card. Someone from outside of the United States had stolen \$2000 off of my card. They told me they would cancel my old card and mail me a new one. But then I continued to receive notices of charges to the card! After a month I had still not received a new card, and I stopped filing for benefits because I was scared the money would just go to the fraudster. Having this long break in benefits was rough for me and my family. I struggled to buy groceries, could not buy my SEPTA pass, and fell behind on my utility bills. Eventually, I thought to call Ms. Julia, and I told her about the fraud and that I was waiting on the replacement card. She was able to contact unemployment and US Bank and demanded they replace the \$2000 and immediately send me a new card. After that I finally received the new card and fortunately, the bank gave me the \$2000 back.

I filed my PUA certifications until the spring of 2021, when my PUA claim suddenly started asking me about my citizenship status. I tried to mark in the system that I was a citizen, but it

would not let me. It kept saying I was a permanent resident! I could not get past this question in my claim and therefore could not file my weekly certifications. I stopped receiving payments, which put me in a hard place where I had to keep track of every dollar I spent. I contacted Ms. Julia again to see if she could help. Ms. Julia told me this was a system problem that had affected a lot of people, and that I had not done anything wrong. She was able to again contact unemployment and finally get the issue fixed. Thank God my benefits started again.

I filed for benefits until the PUA program ended in September 2021. They were a blessing during the pandemic when the world was very scary and work was scarce. Since then, I've been working with a career advisor at CareerLink to find jobs, but have not found anything that has worked out quite yet.

PUA was lifesaving for me, but there are improvements that need to be made to the unemployment system. It would have been helpful to have some way to get unemployment staff to assist me in filling out the PUA application. This kind of help could have been from a person on the phone or it could be a chat box that you could type questions about the application into as you were filling it out. It would also help if the unemployment applications were simpler, where I could focus on one question at a time rather than trying to see a long list on my small phone screen. Most importantly, I and everyone in my community who use the unemployment system desperately need people from unemployment that we can talk to on the phone when we have questions or problems.

Thank you for the opportunity to share my experience with the unemployment system with you.

Chairman DESAULNIER. Thank you, Ms. Robinson. We really appreciate your testimony, and your personal experience is invaluable to Congress to hear about. Members, under Committee Rule 9(a), we will now question witnesses under the 5-minute rule. I will be recognizing subcommittee members in seniority order. Again, to ensure that member's 5-minute rule is adhered to, staff will be keeping track of time. Please be attentive to the time. Wrap up when your time is over, and remute your microphone.

I now recognize myself for 5 minutes and will start with Mr. Costa. Thank you, Mr. Costa, for your comments and your work in this field. I look forward to working with you and the ranking member to see if we can make this system sustainable for the next time we need to ramp up.

In California, having spent a lot of time on criminal justice reform, the largest inmate population in the country, because we are the largest State, but also because of three strikes laws. The legislative analyst told us, and the Supreme Court ordered us to take a quarter of our prisoners and get them out of the prisons they were in, many of whom I have visited.

One of the key things that I am worried about is how prisoners in the California Corrections Department were able to access and be examples of fraud. How can we help states like California to identify and prevent fraud and also do it in a cost-effective way. During the recession with Governor Schwarzenegger, our LA Office told us that we were spending too much money on fraud prevention, given what the scale was.

Getting this right is important, and I think we can do this in a bipartisan way. Could you tell us what you could recommend to avoid this fraud in the future, particularly for this population?

Mr. COSTA. Thank you, Mr. Chairman. Yes, so the prisoners were able to access the program because of insufficient controls in the state's system, so there was not enough data matching, and the system did not have the capacity to do the data matching they needed to do, which was not unique to California.

There were a number of states that struggled with having systems that were up to date enough that they could handle some of the data matching to detect improper payments and fraud. The Department of Labor did work out an agreement last October with Social Security Administration to get access to prisoner records, so that they can do better data matching, and make that accessible to the states.

As I alluded to before, a number of states simply do not have the IT systems in place that can manage some of these data matchings. It is important that the states get the funding and the support, and they contribute themselves to improve those systems. The Federal Government is generally supportive of the administrative side of the State systems, while the states actually implement and deliver benefits.

Chairman DESAULNIER. Mr. Costa, I really appreciate that. Did you look at minimum caseloads? During the recession, bill I am very proud of authoring and passed into law we required mortgage services to have an income case clause so we can manage the service providers better, and it really helped us with the recession in that instance with private service providers.

Could we do the same thing for states? Have evidence-based resources, what the minimum caseloads should be for efficiency for workers in the UI system?

Mr. COSTA. We did not look specifically at that sir, but we did hear repeatedly that there were not enough workers, so we saw you know tremendous increases in the workload for State workers who were managing the UI systems and handling those cases. In many states they had to bring in workers from other parts of the State government, or even the military to help manage claims.

In most cases those folks needed training, and the training—the systems are complex, and unique to each State, and so that training can take weeks or sometimes months. While we were in the pandemic, we didn't have that kind of time, and so I think we saw a lot of mistakes were being made, and a lot of challenges for people who were trying to access their benefits.

Chairman DESAULNIER. I appreciate it, Mr. Costa. One of our challenges with the UI in California is we have a progressive revenue stream. A lot of our revenue comes from capital gains on successful, wealthy individuals, and that ebbs and flows in an inverse proportion to the economy.

Governor Brown and Governor Newsom appropriately put more money in resources, but still is not sufficient. Ms. Dixon, in my view, I would like to ask you to describe appropriate balance between preventing fraud and making the system have integrity and ensuring that the claimants can receive timely benefits. Got a lot

of stories about this like Ms. Robinson, trying to access, getting frustrated and giving up. Could you respond to that?

Ms. DIXON. Sure. We definitely have seen an increase in focus on eligibility fraud, and the Department of Labor discriminates between eligibility fraud and identity fraud—identity theft fraud. The fraud that we saw in the pandemic was primarily identify theft fraud. In the regular program it is relatively uncommon.

One of the things that Congress could do is stand up these programs in advance, so that there is not this rush to do quick programming, because in the regular program the time has been taken to put in place things that prevent fraud. We need to be careful not to overcorrect for this by putting in place things like facial recognition, identification that really do thwart workers, and you know we know that facial recognition is not as accurate for black or Native American workers.

Really making sure that we balance, making sure that we get benefits paid in a timely manner.

Chairman DESAULNIER. Thank you, Ms. Robinson. I appreciate all the responses to my questions. My time is up. Before yielding to the ranking member, I would like to submit for the record a statement from Ms. Julia Simon Michael, a supervising attorney with Philadelphia Legal Assistance who helped Ms. Robinson with her PUI benefits. Her statement connects Ms. Robinson's experience to the broader issues within the system and the unemployment insurance system.

[The information of Chairman DeSaulnier follows:]



September 21, 2022

## Examining the Administration of the Unemployment Insurance System

Hearing before the U.S. House of Representatives  
Committee on Education and Labor  
Subcommittee on Health, Employment, Labor, and Pensions

Submitted Testimony of  
**Julia Simon-Mishel**  
*Supervising Attorney*

**Philadelphia Legal Assistance**  
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Good morning, Chairman DeSaulnier, Ranking Member Allen, and Members of the Subcommittee. Thank you for inviting me to submit supplemental testimony for today's hearing.

My name is Julia Simon-Mishel and I am the Supervising Attorney of the Unemployment Compensation Unit at Philadelphia Legal Assistance ("PLA"). We have been assisting workers with unemployment cases since 1996, and our unit has represented over 3000 low-wage workers seeking unemployment benefits since the COVID-19 crisis began. I previously served on Pennsylvania's Benefit Modernization Advisory Committee, and currently serve by appointment on the Pennsylvania Unemployment Compensation Advisory Council. I also focus on national unemployment policy issues as the co-chair of the National Academy of Social Insurance's Unemployment Insurance Task Force, and was a principal investigator on an intensive study of state efforts to modernize their unemployment benefit systems.<sup>1</sup> I was proud to represent Ms. Veronica Robinson and am pleased that she has the opportunity to share her unemployment experience with you today.

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<sup>1</sup> See The Century Foundation, National Employment Law Project, Philadelphia Legal Assistance, *Centering Workers: How to Modernize Unemployment Insurance Technology* (<https://tcf.org/content/report/centering-workers-how-to-modernize-unemployment-insurance-technology>) (Oct. 5, 2020).



### I. Access to Unemployment Benefits During the Pandemic

Our unemployment system can be difficult for workers to navigate in the best of times. Initial applications can be long and cumbersome, especially when accessed on a smartphone. In many states all unemployment communication is still done by mail, and even in newer systems the important notices and decisions can be difficult to access behind an online account. Documentation and information provided to workers often involves legal jargon that can be difficult to understand. Appeal systems that were originally intended to be navigated without lawyers have become increasingly complicated, and while industries have developed to represent employers, most workers are left unrepresented. The biggest complaint we heard throughout the pandemic, and continue to hear, is that workers can never reach an agency representative by phone. Similar struggles were reported by the media from states across the country. Workers need human assistance with their initial applications, with issues that arise during their claims, and with questions about how to use new technology.

The COVID-19 crisis hit at a time of record low unemployment for Pennsylvania, much like the rest of the country. That meant that the administrative funding provided by Congress, the main source of funding for state unemployment agencies, was substantially lower than it had been during the Great Recession. In fact, administrative funding for state unemployment agencies decreased so significantly over the last decade that at least 36 states, including Pennsylvania, must rely on supplemental state funding just to run the program in normal times.<sup>2</sup>

Unemployment benefits have become more difficult to access both because of technology and administration issues, but also because the laws across the country have become more stringent and benefits less generous. Fortunately, Pennsylvania, relative to many other states, has strong protections for workers in its Unemployment Compensation Law, and still provides up to 26 weeks of benefits under its regular program. Even so, many workers, like Ms. Robinson, would never have received benefits during the pandemic without Pandemic Unemployment Assistance (PUA) due to arcane financial eligibility rules for regular unemployment, which exclude many recent re-entrants to the labor market, part-time workers, and seasonal workers from benefits.<sup>3</sup> Over the years I have had

<sup>2</sup> See National Association of State Workforce Agencies, *State Supplemental Funding Survey* ([https://www.naswa.org/system/files/document/fy\\_2016\\_supplemental\\_report.pdf](https://www.naswa.org/system/files/document/fy_2016_supplemental_report.pdf)); see also Office of Unemployment Insurance, Department of Labor, *Financing Table 2-16* (<https://oui.doleta.gov/unemploy/pdf/uilawcompar/2018/financing.pdf>).

<sup>3</sup> At the beginning of the pandemic, thousands of frustrated Pennsylvania claimants filed unsuccessful benefit appeals because the wages from their most recent employer did not appear on their financial determinations. As we heard from countless clients, “the employer I filed for was not even included!” That is because in late March 2020, anyone who applied for unemployment insurance would not have seen their wages from the previous six months appear on their financial determinations. That is because the base year (time period of wages that determines eligibility) for a March 2020 claim was October 2018 to September 2019. Therefore, even claimants who began a new job in July 2019 and had been working for nine months would not have qualified for Pennsylvania unemployment insurance in March 2020. One



to painfully inform clients who had lost a job through no fault of their own after six or seven months that they would not be able to collect unemployment because the state simply would not consider their recent earnings - even when in places like Pennsylvania, both the worker and the employer made contributions to the Unemployment Trust Fund.

For the first time in my career, the existence of the PUA program allowed me to inform almost every client, all of whom had lost work due to the pandemic, that there was an unemployment program that would provide benefits for them. The relief in my clients' voices was palpable. Even though they understood the process of actually getting paid may take a long time, having access to the PUA system meant for many of them that they would have their first access to an important safety net. This is also borne out by the claims numbers during the pandemic: as of March 2021, 40% of workers claiming unemployment benefits were receiving aid through the PUA program.<sup>4</sup> That is approximately 7.5 million workers who would have been excluded from regular UI programs and left without benefits if not for PUA. While many aspects of the program and its administration can be improved upon, it's important to remember: it worked. And we need more programs like it going forward.

## II. Improving Access by Centering Workers in New UI Technology

Well designed technology updates in UI systems could greatly improve access for all workers, and facilitate the implementation of time-specific programs like PUA. While technology will never replace the need for human interaction in the UI system, it can smooth out many of the process issues experienced by claimants and address many of the questions and concerns that otherwise lead to phone calls.

However, most new UI technology systems, generally implemented and then controlled by private vendors, have failed to center users - workers and employers - in their design. The states that have not modernized are working off of old computer systems that are difficult to update. These technology challenges were more visible during the pandemic. For every ten workers who were able to file for expanded unemployment insurance made available during the pandemic, three to four additional workers tried to apply but could not get through UI systems to make a claim, and two additional people did not try because it was too difficult.<sup>5</sup> Unfortunately, state unemployment

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solution, the "alternative base period (ABP)," is used by 38 other jurisdictions to allow workers to rely on more recent wages. However, under current federal law, the U.S. Department of Labor does not have the power to require states to use an ABP.

<sup>4</sup> See <https://oui.doleta.gov/press/2021/040121.pdf>

<sup>5</sup> Ben Zipperer and Elise Gould, "Unemployment filing failures," *Economic Policy Institute*, April 28, 2020, <https://www.epi.org/blog/unemployment-filing-failures-new-survey-confirms-that-millions-of-jobless-were-unable-to-file-an-unemployment-insurance-claim/>.



agencies and technology vendors have consistently failed to create workable benefit systems that correctly implement policy and are easily accessible to users. As old technology begins to crumble, states have moved to modernize their unemployment systems to create efficiencies, save government resources, protect user data, and utilize new technologies not previously available. But these systems will not be successful if they do not center workers in their design and implementation.

UI systems that are poorly planned and lack critical user testing limit claimants' ability to access benefits, and sometimes cut them off from benefits entirely. Implementations have been rushed, leading to modernized systems with new barriers for claimants such as delays in claim review, payment, delivery of decision letters, and long call wait-times. Florida cut off all points of access to its system for anyone not using the online tools, creating significant barriers for workers with language access, computer literacy, or broadband access issues. Systems that incorporated automated decision-making processes generated tens of thousands of incorrect fraud determinations that put workers into massive debt, drove them to bankruptcy, and cut off future access to unemployment benefits.<sup>6</sup>

A central challenge in developing UI technology that can be used by every jurisdiction is the wide variation of UI law and procedure across state laws. While many vendors on the market offer pre-designed systems, the customization necessary for each state complicates implementation and maintenance. Federal legislation that creates more equity and consistency across state UI programs would also have a positive effect on the development of new technology products.

What we do know: technology should not make vital benefit programs less accessible, it should make them *more* accessible. Upgraded unemployment systems should include at the very least:

- Plain language on dynamic initial applications and weekly certifications that are available in the most common languages of the jurisdiction. The system should automatically save incomplete applications and certifications and provide a warning before timing out;
- A claimant portal where workers can see information on their claim, including a simple status tracker. Claimant representatives should have their own access to this portal as well. If any issues are flagged on the claim, the portal should inform workers what to expect and what steps they must take;
- 24/7 availability of initial applications, weekly certifications, and appeal filing;
- Text messaging capability;

<sup>6</sup> Paul Egan, "Judge blasts state agency as court OKs faulty computer system lawsuit," *Detroit Free Press*, January 3, 2019, <https://www.freep.com/story/news/local/michigan/2019/01/03/unemployment-insurance-agency-michigan/2474723002/>; Steve Gray and Casey Farrington, "Opinion: Undoing the harm of MiDAS' fraud designations," *The Detroit News*, October 16, 2018, <https://www.detroitnews.com/story/opinion/2018/10/16/opinion-undoing-harm-midas-fraud-designations/1649803002/>.



- Mobile-optimization;
- Mobile document uploading;
- Access to important notices and decisions online, where vital information is provided in multiple languages, or the very least, in text that can be easily translated using online services (not PDFs);
- Live chat and messaging tools to reach agency staff; and
- Calendars with important deadlines and filing reminders.

While these tools are important, the overall design of the system and the business practices that support it will ultimately determine how successfully new technology increases access. That is why it is vital that users and stakeholders - workers, legal services, community organizations, labor unions, front-line agency staff, employers, third party administrators, and language and disability access experts - are involved in the planning, design, and implementation of new projects. Customer-centered design and user experience (UX) testing are widely accepted best practices in the private sector, and should be a core and required part of any UI modernization effort. UI agencies must be required to seek feedback at the earliest possible point in these projects and be prepared to make changes to the product and the business practices that reflect the needs of the system's users.

Even with improved technology, UI agencies must continue to maintain other methods of filing - including initial applications and weekly certifications by telephone - to ensure that all claimants can access the system. Furthermore, as we shift claimants towards using government technology, agencies must also now develop internal IT help experts who claimants and employers should be able to reach by phone or chat when they encounter questions or issues with technology.

### **III. Preventing Identity Fraud While Maintaining Claimant Access<sup>7</sup>**

During the COVID-19 pandemic, federal and state agencies reacted swiftly to provide vital benefits to those affected by the pandemic. While much attention has focused on efforts by criminal syndicates to fraudulently claim or intercept those benefits, the government correctly and quickly paid billions in benefits to real people in need. While some unemployment pandemic programs were at a higher risk of fraud, as necessary to provide quick and widespread access to life-saving benefits, the same risk levels do not apply to ongoing benefit programs. Yet, states continue to implement difficult identity verification tools in their regular UI programs. At this time, identity verification has mostly been achieved through outsourcing to for-profit IT vendors. Unfortunately, the increased

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<sup>7</sup> These recommendations were informed from discussions with legal aid advocates, technologists, privacy advocates, unemployment insurance advocates, and unions. The full set of recommendations, and endorsements, are attached as Exhibit A to this testimony.



focus on digital identity verification has limited legitimate individuals' access to critical government benefits, all in the name of fraud prevention.

The federal government must invest in a range of identity verification solutions, both digital and non-digital, to ensure timely and equitable access to unemployment benefits. More resources should be directed towards the development of these solutions, in order to minimize the use of private vendors who do not share the same transparency and constitutional requirements as the government. Identity verification solutions should be centralized in a manner that follows the “no wrong door” approach: since individuals are often applying for different benefit programs, verification for one should permit access to all. Similarly, centralized application processes, such as a one-stop application for all unemployment insurance systems, lessen the opportunities available to criminal syndicates.

Any effort to address identity fraud in the unemployment system must use the following guiding principles:

- The risk of fraud must be appropriately balanced with the need for accessibility, equity, and the timely payment of benefits;
- ID verification should be applied using a risk-based approach, rather than to all individuals seeking access to a government program or service;
- Digital identity verification cannot be a one size fits all model; there must be accessible alternatives, including in-person verification;
- Identity verification cannot create new barriers for traditionally underserved populations, or add to the “time tax” faced by low-income individuals seeking government benefits or information;
- Identity verification should never block access to benefit applications, only payment;
- Wherever feasible, agencies should find ways to allow people to “reuse” the identity verification process they already went through to get credentials, such as driver's licenses and state ID cards, rather than requiring them to go through a duplicative and intrusive new process;
- The federal government must invest in and develop both digital and non-digital identity verification solutions instead of outsourcing this government function to private vendors; but where private vendors are used in the interim, government agencies must apply and enforce strict guardrails to ensure privacy, equity, accessibility, and transparency; and
- Victims of identity theft need a roadmap forward and timely support from agencies to address the consequences of identity theft, and to ensure access to their own benefits or accounts.



#### **IV. Conclusion**

Our social safety net systems can only achieve their intended purposes if eligible individuals can actually access their benefits quickly in their time of need. Now is the time to make necessary changes to our unemployment insurance system that will ensure equitable and timely access to benefits across all states. This Committee's attention and care to these issues is appreciated, and I hope you will continue to engage workers like Ms. Robinson, and the legal services organizations that have been in the trenches with workers, as you develop proposals for improving access to unemployment benefits.

**Exhibit A**

**Recommendations for the Executive Order on Preventing Identity Fraud in Public Benefits and Implementation of Equitable Protocols for Identify Verification**Overview

Increasingly, digital identity verification systems are utilized at the federal and state levels to screen individuals attempting to access public benefits and programs. Recently, the use of these systems has accelerated by agencies responding to fraud during the COVID-19 pandemic. While many pandemic programs were at a higher risk of fraud, as necessary to provide quick and widespread access to life-saving benefits and grants, the same risk levels do not apply to ongoing benefit programs. In response, identity verification has mostly been achieved through outsourcing to for-profit IT vendors. Unfortunately, the increased focus on digital identity verification has limited legitimate individuals' access to critical government benefits, all in the name of fraud prevention. This note outlines suggestions for crafting the upcoming executive order by first framing the purpose and policy for the executive order, and then offering overarching recommendations for ensuring equitable access. These recommendations are informed from discussions with legal aid advocates, technologists, privacy advocates, unemployment insurance advocates, and unions.

**I. Purpose and Policy**

During the COVID-19 pandemic, federal and state agencies reacted swiftly to provide vital benefits to those affected by the pandemic. While much attention has focused on efforts by criminal syndicates to fraudulently claim or intercept those benefits, the government correctly and quickly paid billions in benefits to real people in need.

In response to the massive increase in benefit utilization, additional federal requirements for identity proofing based on NIST's Digital Identity Guidelines (NIST SP 800-63-3), and pandemic benefit fraud, federal and state agencies implemented new identity verification protocols for individuals attempting to access unemployment benefits, veteran's benefits, Social Security benefits, the Child Tax Credit, and other programs. With unemployment benefits in particular, which are administered by 53 different systems, the varying identity verification measures have created needless barriers for legitimate claimants. Identity verification protocols also made it harder for people to access their personal government information in mySSA and IRS accounts. The vast majority of agencies implemented digital identity verification, and did so through contracts with private vendors.

We are very heartened that this Administration has already centered the need to advance equity, including through the provision of more effective customer service in two previous Executive Orders. Those frameworks must now be applied to identity verification, which has become a

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gatekeeping practice that stands to undermine access to the social safety net, especially for historically underserved communities.

In drafting the executive order on preventing fraud in public benefits, we ask the administration to consider the following guiding principles:

- The risk of fraud must be appropriately balanced with the need for accessibility, equity, and the timely payment of benefits,
- ID verification should be applied using a risk-based approach, rather than to all individuals seeking access to a government program or service,
- Digital identity verification cannot be a one size fits all model, there must be accessible alternatives,
- Identity verification cannot create new barriers for traditionally underserved populations, or add to the “time tax” faced by low-income individuals seeking government benefits or information,
- Identity verification should never block access to benefit applications, only payment,
- Wherever feasible, agencies should find ways to allow people to “reuse” the identity verification process they already went through to get credentials, such as driver’s licenses and state ID cards, rather than requiring them to go through a duplicative and intrusive new process,
- The federal government must invest in and develop both digital and non-digital identity verification solutions instead of outsourcing this government function to private vendors; but where private vendors are used in the interim, government agencies must apply and enforce strict guardrails to ensure privacy, equity, accessibility, and transparency, and
- Victims of identity theft need a roadmap forward and timely support from agencies to address the consequences of identity theft, and to ensure access to their own benefits or accounts.

The policy proposals in Section II apply broadly to government benefit programs, government contracts with private vendors, and remedies for victims of identity theft.

## II. Overarching Recommendations for Ensuring Equitable Access to Government Benefits and Services

The government must prioritize access, equity, and timeliness when implementing new security protocols in response to the risk of criminal fraud.

### **A. Identity Verification Should Not Be Uniformly Required for All Individuals**

Identity verification, especially digital identity verification, has been implemented in government programs as a gatekeeper for all individuals seeking access to benefits, or critical information held by the government. Identity verification should not be a blanket requirement for anyone who needs to interact with government systems or apply for benefits.

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When individuals are prohibited from applying for benefits because they cannot verify their identity, they are de facto denied benefits without any notice or opportunity to appeal, in violation of federal due process rights. Individuals seeking benefits from the government are often in a place of crisis, or experiencing various levels of trauma, and additional barriers to benefits may cause individuals to drop out of the benefit process. Even if those individuals do eventually get an application filed, the delay causes increased administrative work for the agency to ensure the individual gets any back-benefits owed.

- Narrow the scope of *who* must verify their identity
  - There should be no blanket requirement of identity verification, instead, a risk based approach using analytics should identify individuals who must verify their identity.
  - While fraud detection and analytics has been an imperfect science that has often had a disparate impact on historically underserved populations, now is the time to develop accurate and non-discriminatory fraud detection flags.
  - The administration should work with civil rights and academic experts to identify equitable uses of fraud analytics, and then pilot those analytics with significant oversight and data collection.
    - Fraud flags should be “smart” and constantly tested and refined so as to (1) stay one step ahead of the criminal syndicates and (2) not broadly flag individuals through excessive false positives.
- Narrow the scope of *when* an individual must verify their identity.
  - Limit identity verification requirements to interactions with government benefit programs that result in payment or changes to payment method
  - *Account Creation or Login*
    - Individuals may need access to these accounts so that they can upload or provide further information to the government about eligibility (including, potentially, identity verification).
    - Many individuals accessing public programs are experiencing financial instability that leads to issues like mobile or home phone shut-offs. They need to be able to quickly access online accounts to update contact information.
    - Identity verification should not be required for individuals seeking to review read-only information about their benefit status.

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○ *Initial Application for Benefits*

- Any wholesale requirement for identity verification prior to the receipt of benefits should be discouraged in favor of timely receipt of benefit applications and then payment of those benefits. The default should be timely payment, with notice to individuals of a potential cut-off, and required verification processes, later on in the process if the claim is flagged.
- If the balance of interests requires verification before any payment is made, individuals should still *never* be required to verify their identity prior to submitting an application for benefits. Instead, individuals should immediately be directed to various methods of verifying their identity upon completion of their applications.
- Government agencies should follow the lead of U.S. DOL, which has issued guidance instructing state unemployment agencies that they must let claimants file initial applications and can only require verification either:
  - “After an application is received by the state, but before the application is entered into the state’s benefit system (e.g., the state presents ID verification questions and only allows the claim to be processed when the applicant is able to correctly answer the ID verification questions);” or
  - “After a claim is filed, but before payment is issued (e.g., the state identifies potential ID verification issues during the claim filing process, but accepts the claim and requests the claimant provide proof of ID before payments are made).”
- Blocking application submissions also deprives agencies and law enforcement of data that could be used to identify trends among fraudulent syndicates.

○ *Changing Payment Method*

- Address changes should not require identity verification **unless** they would result in the mailing of a check or debit card to the updated address.
- Many individuals in crisis may need to suddenly leave their homes and struggle to provide documentation with their new address, especially if they are residing in temporary housing or with a family member or friend.

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○ *Benefit Cut-offs*

- Disruptions of benefits can cause irreparable harm on low-income individuals, especially those from underserved populations. Any individual currently receiving a federal benefit must be given the opportunity to verify their identity *before* a benefit cut-off occurs. If an individual is then unable to verify their identity, an appealable determination must be issued when benefits are stopped.

**B. Investing in Accessible and Equitable Identity Verification Solutions**

The federal government must invest in a range of identity verification solutions, both digital and non-digital, to ensure timely and equitable access to government programs and benefits. More resources should be directed towards the development of these solutions, in order to minimize the use of private vendors who do not share the same transparency and constitutional requirements as the government. Identity verification solutions should be centralized in a manner that follows the “no wrong door” approach: since individuals are often applying for different benefit programs, verification for one should permit access to all. Similarly, centralized application processes, such as a one-stop application for all unemployment insurance systems, lessens the opportunities available to criminal syndicates.

Government solutions should not require an individual to submit biometric data and should have strong protections in place to protect collected data from law enforcement entities outside of the criminal identity fraud space. Many government agencies have defaulted to NIST Identity Assurance Level 2 in response to pandemic fraud. However, IAL 2 should not be required for most benefit programs, as the risk level going forward in these programs does not rise to the level of IAL 2. Additional action is needed by NIST to identify an appropriate standard below IAL2. To the extent that IAL2, or a newer standard, permits or supports fully automated proofing, NIST should explore non-biometric based approaches.

Additionally, the government should consider clearing suspicious cases by identifying touch points within benefit programs that correspond with the actions of real users as opposed to criminal syndicates. For example:

- Attempts by individuals to communicate with the government about benefit access by telephone,
- Attendance at in-person appointments or administrative proceedings,
- Uploading of personal identification documents into an online portal, or faxing or mailing such documents to a government office, or
- Representation by legal or social services organizations.

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### **C. Non-Digital Identity Verification Processes Must Be Available to Ensure Equity**

Digital identity verification solutions work for many individuals. However, they create insurmountable barriers for others, especially members of historically underserved communities. These digital tools also add considerably to the “time tax” paid by many low-income Americans. Government agencies and officials have been confirming identities at physical government offices for decades, there is no need to increase the complexity of this process. Investments should be made in tools that allow people to “reuse” the identity verification process they already went through to get credentials such as driver’s licenses and state ID cards, rather than requiring them to go through a duplicative and intrusive new process. Similarly, individuals should be able to establish their identity through a telephone or in-person appeals process. We should be leaning into these tried and true methods and providing people with multiple options for verifying identity, rather than further eliminating them in favor of digital verification. In-person verification is a necessary option for many individuals, but it should also never be *required* due to the barriers certain populations face in accessing in-person services.

In-person verification:

- Must be staffed by government merit staff,
- Must be an option for all individuals,
- Must be widely available in accessible locations (such as USPS offices or job centers) and be accessible by public transportation where it exists,
- Staff must have access to interpretation services to assist LEP individuals, and
- Must provide documentation to individuals clearly stating whether their identity has been verified, and what next steps they must take.

Ideally, the same in-person identity verification could be relied upon by multiple agencies, with either a credential issued to the individual at the time of verification, or by one-way data sharing from the in-person verification site to government agencies.

A pilot program for community based organizations that can perform identity confirmation should also be considered, similar to the work of Certified Acceptance Agents with the IRS.

### **D. Partitioning Identity Verification from Benefit Eligibility**

Individuals who are required to go through digital identity verification, or who have required additional assistance with identity verification, often experience additional eligibility issues once they have been flagged. Even when government merit staff have the best of intentions, subconscious biases come into play when staff is aware that an individual could not easily prove their identity, or had suspicious markers attributed to their claim. This affects whether the staff will credit the individual’s statements in an eligibility determination, or may cause staff to apply a harsher standard or evaluation to that individual than someone who did not have identity issues.

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Similarly, when identity issues are addressed by fraud investigators at an agency, those same investigators will then on their own, in the “continued pursuit of fraud,” often further evaluate the eligibility of the individual and demand proof of eligibility not required of other applicants. These situations raise considerable equity concerns and further undermine access to benefits for individuals from underserved populations, and greatly increase the length of time they must wait for benefits due to delays from eligibility reviews and resulting appeal processes.

When an individual requires assistance with identity verification from an agency, the merit staff should not be a member of any fraud specific division. Further, once addressed, any potential fraud flags on the claim, or data related to identity confirmation, should be hidden from the view of agency staff, administrative law judges, and appeal review boards, as to not further harm the individual.

#### **E. Vendor Accountability and Transparency**

There are currently many private vendors providing digital identity verification services to federal and state agencies. When monitoring this short-term solution, the government must focus on harm reduction. It is imperative that accessibility, privacy, and due process guardrails be placed on private vendors in this space. If an individual is forced to provide personal information and data to a private vendor in order to access government-held information or benefits, then the government must ensure that the vendor adheres to the following requirements:

##### Accessibility and Equity

- Must be mobile responsive,
- Must have live technical support, or human-centered escalation path, with minimal wait times, for individuals struggling to use the product,
- Must be held to the equivalent of the Title VI standard, provide product in the most commonly used languages, and offer live support interpretation for less widely used languages,
- Must be accessible to individuals with disabilities in all phases of identity verification, and,
- All elements of the product and steps of vendor’s process, both individually and together, must be audited in real-world conditions by an independent party; found to be accurate, accessible, and to not have a disparate impact on the basis of race, gender, or other protected characteristics; and must make audits publicly available.

##### Privacy

- No retention of biometric data following the verification of an individual’s identity,
- Deletion after 30 days of any documents submitted as part of the verification process,
- Prohibition on the sharing or sale of any data collected,
- Prohibition of using data for any purpose other than that for which it was collected,

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- Due to the immutable nature of the data collected, biometric data collection poses unique and elevated privacy risks which must be disclosed at the initiation of the verification process, and individuals should not be required to submit to facial recognition technology or other biometric collection to verify their identity. Vendors must offer a meaningful alternative path for verification.
- Collected biometric data used for comparison to an individual's government documents may not be uploaded to or compared to data from other individuals in vendor, government, or third party databases.

#### Due Process

- If an individual attempts and does not pass identity verification, the vendor must immediately share that information with the government agency, which then must issue an appealable notice to the individual.

If an agency is using a private vendor, the agency must take necessary steps to ensure that the vendor fulfills these requirements, including conducting due diligence at the front end – during the procurement process – of a vendor's ability to meet these requirements, and its record on each of these requirements. Agencies are responsible for establishing and enforcing strict use limitation, data minimization, and retention policies. Agencies should also obtain and assess independent audits of the vendor's systems. Moreover, the agency should conduct continued assessments after deployment, including conducting studies to determine whether the use of the vendor's identity verification product has a disparate impact on protected classes. If a vendor does not provide a government agency with the information necessary for the government to ensure adequate notice and an opportunity to be heard by an individual who has failed identity verification, that should constitute grounds for terminating a contract.

#### **F. Data Collection, Reporting and Monitoring**

Ensuring that digital identity verification processes are equitable and accessible will be an ongoing process. This will require significant demographic data collection, reporting, and analysis to determine whether processes need to be updated. Government agencies running fraud analytics or fraud flagging must report the data points used in analytics, the demographics of the individuals flagged, and the demographics of individuals whose identity is verified.

Private vendors must also report that data. In addition, vendors must report data that shows how many individuals attempted but did not complete verification, the demographics of the people unable to complete verification, the breakdown of reasons each did not pass verification, and the amount of time it took individuals to verify.

Federal agencies charged with oversight must conduct aggressive monitoring of state agency and private vendor ID verification processes to ensure they do not result in additional barriers for innocent individuals or have a disparate impact on Black, Indigenous and People of Color

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(BIPOC) individuals. This oversight should include metrics which state agencies and vendors are required to meet to ensure fair access.

### **G. Remedies for Victims of Identity Theft**

The resources available for the victims of identity theft are extremely limited. Victims are often required to interact with several different agencies and private actors to straighten out problems caused by identity theft. When an individual has had their identity used by a criminal syndicate to fraudulently file a claim for benefits, that individual often struggles to get benefits of their own in a timely manner.

An interagency office or ombudsman is necessary to provide timely and thorough assistance to the victims of identity theft. If an agency determines that an individual's identity was used to fraudulently file or access government benefits, notice should be issued to that individual along with contact information for interagency assistance. Agencies should establish victim services liaisons that can assist victims with re-taking control of their account or filing for their own benefits. A private-public partner should be explored that would also allow victims of identity theft to alert private companies of their stolen identity and provide streamlined services for addressing any similar fraudulent conduct in private industry.

The resources available in U.S. Attorneys' offices should be available to identity theft victims to provide the opportunity to be heard during the investigation and to receive resource assistance, including financial support, consistent with federal law and policy. When an individual has been notified they are the victim of identity theft, or when a victim has proactively contacted an agency with a concern about identity theft, they should be immediately notified of such resources.

### **III. Conclusion**

We thank the administration for taking a whole of government approach in crafting an executive order that recognizes the importance of the balance between protecting public benefits from fraud and ensuring those benefits can reach the people most in need with the fewest barriers. Close evaluation of the intersection between technology design, policy outcomes, and equity is more important than ever. We look forward to continuing the conversation.

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*Jennifer Burdick and Sharon Dietrich, Community Legal Services*

*Andrew Stettner, The Century Foundation*

*Adam Bobrow and Marcus Courtney, UI Technology Coordinating Coalition*

*Jenna Gerry and Steve Gray, National Employment Law Project*

*Elizabeth Lower-Basch, Center for Law and Social Policy (CLASP)*

*Michele Gilman, Professor of Law and Associate Dean for Faculty Research and Development, University of Baltimore School of Law*

*Dr. Joy Buolamwini, Algorithmic Justice League*

*Jason Salgado and Hannah Tanabe, Greater Boston Legal Services*

*New York Legal Assistance Group*

*Emily Paul and Harlan Yu, Upturn*

*Stacy Taylor, Propel*

Chairman DESAULNIER. I now recognize the Ranking Member for the purposes of his questioning the witnesses, Mr. Allen.

Mr. ALLEN. Thank you, Mr. Chairman. I think we have known for some time that particularly 2002, the last time we balanced our

Federal budget, we had a labor participation rate in this country of 67 percent, and it has declined substantially since then. It was actually at a low of 62.7 percent in 2018. It ticked up in 2020, about 3 points, and of course the participation rate during COVID dropped to 60 percent.

As of August of this year its back up about 2 percentage points. Mr. Weidinger, you explained in your testimony that State and Federal benefits could have reached \$46,000 for an individual collecting the national average weekly unemployment benefit between April 1, 2020, and September 6, 2021.

Did individuals receiving unemployment benefits collect more in unemployment than they earned while working, and why should policymakers be wary of implementing a UI system with benefits that exceed prior earnings, particularly when we have a declining workforce in this country and the alarm bell is going off?

Mr. WEIDINGER. Thank you, Congressman. The answer to your question is yes. Studies suggest that while the \$600.00 supplement was payable, as many as two-thirds of all recipients of unemployment benefits received more in benefits than they earned previously while working. That later dropped to \$300.00 per week for a number of weeks in late 2020, and throughout the first part of 2021.

Even at \$300.00 a week, about 40 percent of recipients continued to receive more in benefits than they earned while working. That is quite contrary to the historic nature of the UI system, which is designed to provide partial wage replacement, and that is you know, that exists for a whole number of reasons.

Including to provide incentive for individuals to go back to work, the nature of the program is provide people the wherewithal to search for new jobs after they are laid off through no fault of their own. The system has never before provided anything close to complete, or even more than complete wage replacement for individuals.

A system that does so, especially outside of the extraordinary circumstances of the pandemic, which is why the \$600.00 benefit was initially designed, really risks—it invites trouble. The problems include lengthier stays on unemployment, atrophying skills for workers, increasing mismatch when people go back to work, labor shortages, all those sorts of things.

Mr. ALLEN. Well obviously, we need to address you know the workforce shortage in this country. We have known about it declining for some time. COVID exacerbated the situation. Mr. Weidinger, on the American Rescue Plan Act, it has made about 2 billion available for DOL to fix the UI system.

What steps should DOL take to make life hard on the fraudsters, and easy for legitimate claimants? Have you looked into that, and is DOL making the reforms you think are needed?

Mr. WEIDINGER. Sure. DOL in short, I think should work with the states to prevent the things that were the biggest problems that we just witnessed. Some of those involve identity theft, they involve things like matching against obvious data bases, like prisoners, that should not be optional as was suggested by the administration's regulation in October of last year.

It should be mandatory. There is no reason that states should have the option not to match their benefit data bases against prisoner rolls.

Mr. ALLEN. Yes, how do states legally do that?

Mr. WEIDINGER. Well, California, among I think more than a dozen states actually opted to not do that.

Mr. ALLEN. Yes.

Mr. WEIDINGER. There was research I believe around 2016–2017 that found something like two-thirds of the states did that sort of matching, and the matching is not perfect, right? These data bases are not necessarily complete, but they are something. At the very least states should be matching their State data bases of benefits against State inmates.

Even the states were not doing that. In California that resulted in the Attorney Generals wrote a letter in November 2020 that suggested that a billion dollars, mostly Federal money, because that was mostly the money that was going in the system, had been lost to prisoners claiming benefits in California alone.

Other studies found that 42 million dollars of California money had been paid to inmates in other states, so you know, some of it boils down to will, much of it boils down to administrative capacity, but the long and short of this is these systems should be able to do both.

They should be able to serve deserving recipients while making sure that individuals who should not be collecting benefits are not.

Mr. ALLEN. That is, I mean it is hard, I mean you cannot make this stuff up can you? I mean and you know what we are trying to do is help those who need help, and boy did this thing get out of hand. Thank you, Mr. Weidinger, and I will yield back.

Chairman DESAULNIER. Thank you, Mr. Allen. I have been notified that one of our witnesses would like to take a short break, so I would ask committee staff, we are only going to do 5 minutes to accommodate the witness's request. I will ask committee staff for 5 minutes and we will recess just for 5 minutes to accommodate the witness.

[Recess.]

Chairman DESAULNIER. Thank you everyone. I hope our witnesses are all feeling better, and we will proceed. I will now recognize the gentleman from the great State of Connecticut, Mr. Courtney for 5 minutes. Mr. Courtney, the floor is yours.

Mr. COURTNEY. Thank you, Mr. Chairman, thank you, Mr. Allen for holding this hearing and to the witnesses. I think this is a really important event to really get best practices and learn the best lessons in terms of the experience our country just went through.

Ms. Dixon, in your testimony you described some of the ways Congress stepped up to provide more workers unemployment insurance during the pandemic. One of the provisions in the bipartisan CARES Act was to provide 100 percent Federal reimbursement for shared work arrangements.

A shared work, or a work share program allows workers to receive partial unemployment benefits when their employer has reduced their hours, essentially allows the employer to keep workers, and the workers also to keep connected to their jobs, even when they cannot continue to pay or receive full-time wages.

In Connecticut, which is one of the 26 states that has shared work. For those employers who know about it, and workers who know about it, it is a very popular program. Unfortunately, there is about 1 percent participation because of lack of awareness, and because the system is all manual. It takes 30 days to process getting involved in this.

I guess you know in terms of you know one of the lessons from what we just went through, and one of the hopefully initiatives from U.S. DOL is to really boost awareness, and also speed up you know the ability of firms to use this arrangement, which again is kind of common place in Europe. I was wondering if you could sort of talk about that a little bit.

Ms. DIXON. Sure. Thank you for the question. This program is really an untapped resource. There is no reason why it cannot be available for all 50 states, and widely used when there is an economic downturn. We know that when people lose their jobs most of those are permanent, and they become disconnected, so there are so many benefits to this program.

One of the things that I am aware of is that Department of Labor is working to automate the process to make it easier for employers to take advantage of that program, and that should help with the uptake, in addition to all of the ways in which Congress has tried to incentivize this for employers to take advantage of it.

Mr. COURTNEY. Well, thank you. I mean anecdotally—I mean what I have heard, you know, on the ground was just that the re-employment rate was much faster and higher when people were you know in a shared work program, and hopefully you know we will take that lesson to heart moving forward.

You know there has been some discussion about the American Rescue Plan funding that is again, trying to help U.S. or Departments of Labor to sort of size up and speed up their process in terms of fraud and prevention detection. Connecticut is one of the states that participated in the Tiger Teams Initiative, which is one of the ARP funded programs, which again was about really trying to boost detection of fraud.

I just have a quick statement from the administrator of the program, which again was funded through the American Rescue Plan. The initiative established the Connecticut Department of Labor's integrity warehouse and data flow to prevent and detect bad actor unemployment activities.

This invaluable technology project allowed CTDOL to identify 30,000 bad actor claims within 6 weeks of going live and prevented unemployment insurance payments to criminals. As CTDOL and its customers benefit from this initiative, we will be preparing for additional Tiger Team concepts and expansions without a doubt, a very positive experience, and one that provides an amazing return on investment.

Again, Mr. Costa, you referred to again, some of the initiatives in ARP, and this obviously is feedback along with many others, which we have heard good results from. Is that again the type of practice that we want to see kind of become sustainable and long-term?

Mr. COSTA. Yes, we were very heartened to see the work of the Tiger Teams, they are going out to I think eventually all the states,

but they are addressing a number of issues, both on the technology side as well as the equity side and customer service side, so looking at a whole host of problems that many states encountered during the pandemic, and even before the pandemic.

I think it is a positive step. There is more to be done. I think this is going to be a long-term process. One of our concerns is that the Department of Labor's Modernization Office is supposed to be temporary in nature, and we think it probably needs to be a more permanent, at least you know we are going to have problems for a long time. It is going to take a long time to address these issues.

Mr. COURTNEY. No, and I think that is the purpose of this hearing is to really find ways to keep you know the best practices moving forward. However, I mean now at least with Tiger Teams, there is sort of a knowledge reservoir that is building up. Again, I think that is going to provide a sustainability of its own.

Mr. COSTA. We hope so as well. One of our recommendations was that the Department look at lessons learned, both on the customer service side to help states with that, but also to plan for a future crisis, so that we do not start from ground zero of the next crisis, and hopefully those Tiger Teams can help lay some groundwork to set that up.

Mr. COURTNEY. Great. Thank you. I yield back, Mr. Chairman.

Chairman DESAULNIER. Thank you, Mr. Courtney. I now recognize the distinguished Ranking Member from North Carolina, Ms. Foxx.

Ms. FOXX. Thank you, very much, Mr. Chairman. Mr. Weidinger, the Washington Post reported that a mere 4 billion of the estimated 163 billion in misspent unemployment benefits have been recovered as of March 2022. This is less than 2.5 percent of benefits that were misspent.

Meanwhile, in February 2022, the Biden DOL issued guidance allowing states to apply blanket waivers to forego recovery of overpayments. Given the staggering amount of misspent taxpayer dollars, is this DOL guidance appropriate, or responsible?

Mr. WEIDINGER. There are significant concerns that the waivers are overly broad and will result in significant fraud being forgiven. If you actually read this Department of Labor guidance, it goes to State errors.

When states paid benefits to individuals despite their telling the State that they were not searching for work. When the states overpaid somebody despite the individual providing them information that suggested they should have been paid too little.

That is part of the broader discussion here, that the administrative side of this system is not capable of handling some of the most elemental ways of determining eligibility for benefits, and so embedded in especially many of those PUA benefit payments and waivers of recovery of misspent PUA dollars, are all these concerns, that the wrong individuals got benefits.

If you waive the recovery, you could be waiving recovery for individuals who defrauded the system to get on in the first place, so I think that is the nature of the concern about the waivers. There is a broader concern behind all of this, and that is under the way the system operates today states really have very little financial in-

centive to go after this pandemic, especially Federal misspending in the first place.

If they do, they are going to spend State administrative time and resources, hire investigators and all that. If they recover Federal dollars, they will pass those immediately on to the Federal Government.

There are proposals that have been introduced in Congress that change that dynamic that say of the Federal pandemic misspent money, if states recover some of it, they get to keep some of that to improve their own systems, and that obviously has promise for both benefit recipients and also taxpayers in terms of promoting more recovery of the misspent money.

Ms. FOXX. Thank you, Mr. Weidinger. In December 2021, the White House stated the improper payment rate in a Federal State unemployment insurance program totaling 18.71 percent from July 2020 to June 2021. This is roughly five to 8 percentage points higher than during a normal 12-month period.

Is this White House estimate accurate, or is it understated, and why?

Mr. WEIDINGER. It is accurate as far as it goes, but it misses a whole lot, and the White House statement actually admits exactly that. It omits several things.

First, it starts in July 2020. The months before that saw the peak in terms of claims and benefits being paid out, and those months included most of the months that the \$600.00 supplement was added, creating the biggest target for criminals to try to defraud the system, so that is problem No. 1, it omits that.

Problem No. 2 is maybe even a bigger problem. It omits the elevated improper payment rate under the pandemic unemployment assistance program, the program that was the most subject to fraud.

If you talk with contractors who came after the fact to try to help the states improve their identity verification and improve making sure that that system was paying the right people the right amount of benefits, they regularly say 50, 60, 70 percent of PUA benefits were misspent.

If you are missing that difference between 18.7 percent averaged overall, and whatever the PUA missed spending rate is, the 18.7 percent is going to be significantly low. That is one of the reasons why many people look at the system and say well the Department of Labor's Inspector General said 163 billion dollars based on the 18.7 percent improper payment rate is what we know.

The Department of Labor Inspector General was quick to add it is at least that given these factors that the 18.7 is likely a low ball compared to what we will ultimately find, and why many people think that it could end up costing 400 billion dollars in misspending over the pandemic.

Ms. FOXX. One more quick question. Some advocate for moving to a one size fits all unemployment insurance administered by the Federal Government, however the system has been run by the states forever. How does maintaining a system where states lead in decisionmaking administration of the UI system help American workers and the economy?

Mr. WEIDINGER. It is a terrific question. I will not be able to give it proper justice. One of the things is states target benefits to their local labor market, and the nature of individuals who are working there, and try to match those up, so people are able to return to work relatively quickly.

One thing that has not been talked about very much today is the cost of all this. If the Federal Government comes behind and forces states to pay ever higher benefits for longer for more people, states will be forced to raise payroll taxes on employers.

Some estimates suggest that payroll taxes could quadruple if some of the forced benefit increases that have been contemplated by some of these proposals were imposed on states, especially red states I would argue, are likely to face the worst of that because those tend to be the places where benefits and taxes tend to be lower.

The Federal Government comes behind and says everybody must raise benefits and ultimately taxes to this level. The states that proceed from the lowest level will be forced to make the biggest increases, and workers ultimately will lose wages because that is where the effective higher payroll taxes ultimately are felt.

Ms. FOXX. Thank you very much. I yield back, Mr. Chairman.

Chairman DESAULNIER. Thank you, Congresswoman Foxx. I now recognize the distinguished member from Georgia, Congresswoman McBath.

Mrs. MCBATH. Thank you, Chairman DeSaulnier. Thank you so much for hosting this hearing and thank you to all of our witnesses this morning for your testimony, and for taking time out of your busy schedules to be with us, and I also have read your testimonies.

This is a very critically important issue for working people. Unemployment insurance is a promise that has been made to the American people, and it is a promise that we need to keep. It is a promise that when you lose your job through no fault of your own, that you have something to fall back on as you get back up on your feet.

We know how difficult that has been in particular, as we have been coming through COVID-19. You will have enough to fill your car with gas, to make that next interview, or take your family to the skating rink on kid's skate night, you know, a free night. Those are some of just the normal things that people are looking for to be able to preserve that normal family life while they continue to search for a new job and new employment.

Enough to make sure that they are shielding their kids from knowing that mom and dad actually are struggling to figure out just how they are going to make ends meet, how they are going to pay their rent, or how they are going to be able to make a payment on their mortgage as that day comes to fruition.

As we have discussed in this hearing today, Congress stepped in to support and supplement State UI programs in response to the massive layoffs that we had during COVID-19 and increased economic hardship across the country for so many families.

These programs were enacted by Congress to run through September 4th of 2021, to support working families through the height of the pandemic. However, it has been up to the individual states

to choose whether or not they were going to continue to participate, and how long they would do so.

In my home State of Georgia, I am sad to say that the Government and Labor Commissioner, they made a decision to refuse Federal dollars that had already been allocated for these working families in Georgia, and then prematurely stopped participating in all the Federal unemployment programs that were enacted by the CARES Act and the American Rescue Plan, including the Federal Pandemic Unemployment Compensation and Pandemic Unemployment Assistance Program.

My question is for Ms. Veronica Robinson. Ms. Robinson, you mentioned in your testimony that you filed for benefits until the PUA Program ended in September 2021. As I mentioned earlier Georgia, my State, ended the pandemic UI benefits early in late June 2021.

That actually left months of extended benefits on the table for working families in Georgia that they did not have access to. Can you describe that impact of not receiving the supplemental income on you and your family if Pennsylvania had ended the PUA and other Federal UI benefits early?

Ms. ROBINSON. Sure. Thank you for that question, Mrs. McBath. That would have affected me in a very negative financial way. I have already said during the pandemic I recently moved into an apartment at that time, my son and I. Having those resources, and for as long as they went, up until September 2021, was a lifesaving resource for us.

It allowed me to get the furniture that I needed, some appliances that I needed, that I did not have at the time when I moved in. Just the ongoing day-to-day basis of paying utilities, my rent, being able to buy food, and you know all the basic necessities that you need for day to day living, transportation getting to doctor's appointments, you know trying to look for work as well.

My son is not in school anymore because he is you know, he is a young adult, he is at this time, 22 that year, but still they made it possible for him as well, his own you know, he was getting to put gas in his car that he was able to attain during that time, to get a car to try to do some, you know searching for work and things like that.

Just taking care of himself as well, which helps me as well, and contributing to the household. The overall just having the resources, the funds that you needed, that you would have had if you worked on the PUA. Normally we would be working, but because of the pandemic it happened to everyone. It was allowing most people to be able to work because of the situation. It would have been very hard.

Mrs. MCBATH. Thank you so very much for your candid honesty. I appreciate it.

Chairman DESAULNIER. Thank you, Congresswoman. I now recognize Mr. Walberg from the great State of Michigan.

Mr. WALBERG. Thank you, Mr. Chairman. Thanks to the panelists for being with us today. The amount of State and Federal spending on unemployment insurance programs in response to the COVID-19 pandemic was unprecedented.

I would hope that ultimately history will show us that regardless of our good intentions, we made it worse, and hopefully we will learn that should another situation arise like this, we do not do it the same way, and ultimately shut down our world, our country, our business, our government the way we did.

During the 18 months between March 2020 and September 2021, the expanded UI program cost around 900 billion dollars. More unemployment checks were sent out in this 18-month period than were paid out across the 6-years during and following the Great Recession.

A Federal response on this scale was necessary at the onset of the pandemic to support hard-working Americans who through no fault of their own, were displaced from work primarily by what we did and what we said. Now, however, the economy is open again. We have an extremely tight labor market. Every day I hear from businesses in my district who are struggling to fill open, good paying jobs.

The focus of this hearing should also be on how to better enable workers to move back from unemployment and into the workforce. Additionally, we need to hold accountable those that abused the UI system during the pandemic. Unemployment fraud takes resources away from American workers who need assistance, and lines the pockets of fraudsters.

Mr. Weidinger, DOL's Office of Inspector General noted that during the pandemic at least 163 billion dollars as you have said, could have been paid improperly, with a significant portion attributable to fraud. How does this compare with the level of fraud during the years when there is a more minor downturn in the economy?

Second, did UI systems experience similar problems during the Great Recession?

Mr. WEIDINGER. Thank you, Congressman. Typically, UI program misspending is about 10 percent. It varies around that level. In most non-recession years that is set mostly against State benefits, which are the benefits that are paid when there is not a recession or the aftermath of a recession.

For example in 2019, UI benefit spending was 27 billion dollars, 10 percent would be something on the order of 3 billion dollars in misspending. Significantly it was very different in terms of the misspending at that point, much of what in normal years is misspending is somebody collects unemployment benefits, they go back to work, and they fail to report that to the system and overpayment results.

After the overpayment results much of that money can actually be recovered by offsetting future unemployment benefits, or income tax refunds. This, as several of the witnesses pointed out, has been a totally different experience where identity fraud, and sort of specific efforts, including by international criminal organizations to defraud the system overwhelmed the system, and resulted in some of the huge numbers that we have talked about.

It is a difference of time, in terms of what is going on now, in addition to a different of amount.

Mr. WALBERG. Okay. You mentioned in an answer to an earlier question that the actual fraud can be closer to 400 billion dollars

or more. I understand that less than 2.5 percent of these improper payments have been recovered. What needs to be done to ensure states and Department of Labor can recover these misspent claims, if that is possible?

Mr. WEIDINGER. As I discussed with the Ranking Member Foxx, there are a number of things that can be done. Unfortunately, I suspect given the nature of the fraud this time, including because much of it, the majority, some estimate as much as 70 percent might have been driven by international criminal organizations, much is not going to be able to be recovered.

However, there are things that policymakers can do. For the amounts that can be recovered, the system should be geared to encouraging states, which both pay benefits and are responsible for recovering both State and Federal misspent money, that they have financial incentives to do that.

They do not currently have that. I referenced legislation that would offer states a 25 percent bonus of any future pandemic Federal misspending that they recover. Currently, if they recover a dollar, they have to send it all back to the feds. This would allow them to keep 25 cents of that dollar of recoveries, and use it to improve their systems, and prevent future fraud.

Those are some of the kinds of things that policymakers could do, so far, they have not done that. I am afraid that a significant amount of whatever the ultimate number is 163 billion, 400 billion, is going to not going to be recovered.

Mr. WALBERG. Okay. Thank you. Mr. Chair, I yield back.

Chairman DESAULNIER. Thank you, Mr. Walberg. I now recognize another distinguished gentleman from the State of Michigan, Andy, the floor is yours, Mr. Levin.

Mr. LEVIN. Thank you so much, Chairman DeSaulnier for convening this important hearing, and in the burst of bipartisanship, I love the 25 percent idea. You know unemployment insurance is really one of the most successful government programs since its inception during the Great Depression.

It has been and continues to be a vital tool to stabilize the economy and support working families during times of economic uncertainty. Congress stepping in and creating these temporary UI programs to supplement and support the regular UI system helped save the U.S. economy from collapse during the COVID economic crisis, full stop. It was an extremely important thing that we did, and it helped untold numbers of families.

The GAO report examining the UI system is important so that we can conduct our oversight role. However, its findings need to be examined in context, so that the UI program can function better and help those in need. I agree that fraud—we cannot accept any amount of fraud, and especially in the context of the pandemic related expansions of the program.

We have got to learn the lessons that are there and improve. That problem is also related to the need for larger and better trained workforce. In State after State who service UI to the need to improve State IT systems, and the need to address racial and ethnic disparities in administering UI.

Meeting all these needs requires more investment in the UI system, and any attempts to curtail the problem would harm working

families, and harm our economy. Mr. Costa, there have been persistent criticisms about the design of the UI system. For example, because 53 different states and territories each administer their own UI programs, and therefore set their own benefit amounts, duration for benefits, and other eligibility requirements, this has caused inequality within the system.

Can you explain how the current design of the UI program, and variation across states, has contributed to both declining worker access and to disparities in benefit distribution?

Mr. COSTA. Thank you, sir. Yes. First, let me just start by saying there has been a 32 percent drop in Federal funding for UI administration between 2010 and 2019, and that you mentioned talking about the UI systems, the IT systems, that drop affects those systems and what we heard repeatedly from the states.

Speaking to the eligibility issues, the states can change eligibility requirements. States can define who constitutes a worker. They define who constitutes an employer. For example, and they also get to define who gets excluded from the system.

Students can get excluded from the system. Elected officials can get excluded from the system, but you also have other issues where people who are in contingent work in some states might be defined as workers, and other states might not.

That will reduce the access for some people to the system because they are not having employer taxes taken and being paid into the system to provide them that unemployment insurance.

We also found that there were issues with inequities around race and ethnicity, and those varied by State. We were not able to determine the cause of that. In some cases, it could have been systemic issues, systemic issues around race, or it could be that fraudsters were targeting specific ethnic or racial groups, or more likely it was both.

Mr. LEVIN. A lot of work could be done there. All right. Let me try to squeeze in one more question. Ms. Dixon, it is my understanding that you participated as one of the stakeholder panelists offering feedback to GAO on how the UI system could be transformed and improved. One of the observations from the panel noted that funding as we just heard, has been a longstanding challenge.

In fact it was—it decreased by about 32 percent, adjusting for inflation in the last decade. Can you address how the lack of robust funding for State UI administration over time has weakened the system by contributing to understaffing, the reliance on outdated technology systems, and deficiencies in the agencies' ability to deliver timely benefits to claimants, and what should Congress do about all this.

Ms. DIXON. Absolutely. Staffing is a critical issue. In the states the folks who run those offices, they wanted to get benefits to workers immediately, but they were understaffed, and had been under invested in.

These are complex programs, complex jobs, and they require training and so, making sure that they have trained staff. Training might take 6 months and having to cram all that into 1 week contributed to the overpayments and the fraud issues that we saw. We want to make sure that technology is updated and invested in.

When I did a report on technology back in 2013, at that time the UI systems were on average 25 years old.

Mr. LEVIN. Oh my.

Ms. DIXON. That was a while ago. That kind of gives you a picture of the way we have not invested consistently across time to improve these systems, and to make sure that they can keep up with the claims load and to get benefits paid on time.

Mr. LEVIN. Thank you. Mr. Chairman, my time is expired. I just would observe that no one in the private sector would allow—consider a company to have a chance to be successful if they relied on 25 or 30-year old IT systems. Thank you so much. I yield back.

Chairman DESAULNIER. Thank you. We will now recognize the gentleman from Wisconsin. Mr. Fitzgerald the floor is yours.

Mr. FITZGERALD. Thank you, Mr. Chair. Mr. Weidinger, the Department of Labor Office of Inspector General reported in March 2022 that fraud within the unemployment insurance program has resulted in 163 billion in taxpayer losses.

When you put this together with the roughly 84 billion in fraudulent idle loans, and 4.6 billion in the PPP loans, which actually received significant underwriting and oversight from the financial institutions throughout the Nation.

This whole thing looks like it is going to cost about 250 billion dollars due to poor program just oversight. I also sit on the House Small Business Committee which has oversight right now on PPP and idle, and with the SBA Inspector General testified to before the committee in January, he said that the OIG in partnership with the US Secret Service has recovered 4.2 billion in fraudulent loans in Fiscal Year 202021.

The recovery rate is obviously very weak, and I think until we found out that DOL kind of was still working on this, but had only recovered this 4 billion, you know, can you tell us, I mean what are the things do you see that could be done, or that Congress should be doing when it comes to other than completely just avoiding SBA direct loans in the future, what other things could we do to lower this fraudulent rate that we have experienced under COVID?

Mr. WEIDINGER. Well, Congressman, thanks for the question. It is much of what you are hearing about and what you read about in terms of fraud in all these programs, comes from two combined factors. The pandemic, which was an extraordinary event that disrupted all sorts of stuff, but especially within the context of the UI system.

The pandemic alone drove State unemployment benefit payments to levels that states probably could not have handled, right? That State systems were breaking down just trying to pay State benefits in the weeks after the pandemic struck.

From early March 2020 they went from roughly 2 million around the country to something like 18–19 million, just the State side of this system within a couple of months.

Then along comes Congress. As I said in my opening statement with the best of intentions, and air drops several new programs into the mix and says, hey states, in addition to everything else you are doing, run these programs providing millions of new individuals that are not known to you like in the UI side of the house,

benefits and make sure that you do it right, and make sure it is paid promptly and all that.

Some of the answer, especially going forward, should be if Congress wants to run these sorts of programs, do not plan—do not air drop them on states and expect things to work out, especially in the middle of a pandemic. The pandemic was much worse than a typical recession, but that only made things all the worse.

Then you complicate that with the underlying administrative financing issues that go back, quite frankly decades in this system, and that just makes it all worse. You all are having this hearing after the fact, asking what could we do that would have made things different.

That is sort of a dynamic involving the 2 billion dollars that the Biden Administration included in the American Rescue Plan in terms of one-time funds. To fix these things requires enduring long-term attention to make sure that states can do the things you want them to do, and pay eligible recipients in a timely fashion, and keep the people who should not be collecting benefits away from benefits.

Mr. FITZGERALD. Yes, and I would just add that what we heard from law enforcement too was these are some of the most difficult cases to actually track, and they certainly do not have the resources to put forward because quite honestly a lot of these applications were online application, a little bit of followup.

In some instances, checks showed up out of the blue in mailboxes without having any contact with the person that originally applied for the dollars related, especially in the PPP program. I appreciate your comments.

I mean I think yes, it is a message for every Member of Congress that the closer and the quicker you kind of create a program like this, when there is no oversight kind of at the local level, whether it be the State level, or working with associations within those states, you are just going to have to—you are going to continue to experience this level of fraud.

Mr. WEIDINGER. Yes, and that is also within the bounds of a system where the states really do not have much incentive to guard the door in terms of benefits going out, and certainly no incentive to try to help the feds by recovering benefits on the back end.

Mr. FITZGERALD. Very good. Thank you. I yield back Mr. Chair.

Chairman DESAULNIER. Thank you, Mr. Fitzgerald. I now recognize the gentleman from New Jersey, Mr. Norcross.

Mr. NORCROSS. Thank you, Chairman. I appreciate you holding this hearing, incredibly important. We are hearing the stories that we all experienced on a local level, and that is the challenges of the massive unemployment hitting a system that was not designed for it.

We have to remember it was about keeping people alive and making sure they had the basics. The idea of this hearing is exactly what we should be doing. What worked, what did not, how can we make it better? That drives the questions that I am going to pose.

I come from the construction industry. Construction in general tends to be the highest users of the unemployment system by the nature of the work. There are ebbs and flows you know from one

contractor to another, you are laid off. We just saw that explode during the pandemic.

Throw in self-employed, those folks who never used it before, and you just taxed a system that was not designed. I think that experience has taught us a lot, that when you dealt with State unemployment offices they were overwhelmed, you could not get ahold of people.

I know it is part of the Pandemic Recovery Act, the PRA, we put quite a bit of money aside for upgrading of the State systems. Obviously, that is well overdue.

What I also understand that there was additional moneys put aside to help navigate that system, whether it is those with language barriers or others, that somebody that is well respected within that group will help navigate the system, particularly when the State unemployment offices are not there.

We heard the stories of never seeing a recipient, and those who are exploiting the system. Ms. Dixon, I want to talk to you as somebody who has looked at systems. The idea of building trades in general, creating an entity within themselves because right now individual business agents, people from the unions, other—if they happen to know it, they help out where they can.

Creating a system of a navigator, which there are grants now going to community groups, opening that up to the unions and the building trades so that they will have a trusted individual who understands the system, not only where they are going—the unemployment system, but who is applying those folks from the trades.

Have you looked at this because in our area we had a small non-profit, literally that is all they did is help navigate that program for those frustrated individuals who are unemployed and broke. That in its own way generically just coming up from the beginning worked really well, but there were will some barriers.

Have you looked at that to see how that potentially can be an asset to the system as a whole?

Ms. DIXON. What we know from the research before the pandemic is that workers who were in a union prior to losing their job are more likely to actually apply for and receive unemployment benefits. One of the critical reasons is because labor unions are deeply rooted in their workplaces. They are deeply rooted in the community.

In this catastrophic situation where there was so much information coming at workers, they were able to help them in critical understanding filings, deciphering the process, and you know I would assume also mutual aid right, in the sense that that is what you need to do in other times.

Then I would say you know it is not lost that they also supported helping get the CARES Act passed, to provide this support for working people. Unions are critical in helping you know folks who they are connected to, get connected to these benefits.

Mr. NORCROSS. Chairman, I just suggest we might look into this because A, it helps the surge, which the idea of getting benefits that you have contributed to is exactly what it is designed for. Nobody is trying to game the system. It also helps those State unemployment offices because it is usually a member missed something, and that hands on I think it will bring those stress levels down.

I think looking beyond just community groups might be a good idea. With that I yield back.

Chairman DESAULNIER. Thank you, Mr. Norcross. Of course, we always follow your recommendations. With that I would like to recognize the distinguished member from Tennessee, Congresswoman Harshbarger for 5 minutes. The floor is yours.

Mrs. HARSHBARGER. Yes. Thank you, Mr. Chairman. I will start by asking Mr. Weidinger, traditional unemployment benefits are financed through workers and employers paying into a U.S. system through payroll taxes. I know as a small business owner for 36 years that we have paid our fair share of that.

How were these expanded, or how were the expanded pandemic related unemployment benefits financed, and the second part of the question is who ultimately pays for misspent and unrecovered unemployment benefits?

Mr. WEIDINGER. Thank you for that question. The answer is the Federal side of this system was entirely funded by general revenues. There may have been some you know residual money from Federal trust funds that in the initial days was spent on benefits.

All of the CARES Act, and the various other benefits that were legislated by Congress and extended several times, were they came from Federal general revenues, and they were basically run through the Federal trust funds.

That all was added to the deficit. Of the 700 billion dollars plus that was used to support Federal benefits, the Federal pandemic benefits between roughly March 2020, and September 2021, if 163 billion, 400 billion, something in between was misspent, that came from Federal general revenues, and Federal taxpayers are on the hook for that.

It was all added to the deficit, so you know, people may wish that away, but that money has to be supported somehow, either now or in the future.

Mrs. HARSHBARGER. Do you know how much, or do you have a total dollar figure on how much was misspent, or I mean that is—it is hard to tell. I mean I do not know if we have a number on that, a dollar amount or not. Do you?

Mr. WEIDINGER. I am sorry, a dollar amount on what? Oh, misspending?

Mrs. HARSHBARGER. On the misspending, yes. On the misspending.

Mr. WEIDINGER. Right. We have discussed that. The Department of Labor's Inspector General has conservatively estimated that 163 billion dollars of the entire amount, that is the Federal and State spending, which is a total of 900 billion dollars or so.

163 billion dollars at least was misspent, however the Inspector General qualified that by saying it is at least, and what that means is there are other sources of misspending that are not included in that figure.

As I included in my written testimony, some experts estimate that as much as 400 billion dollars was misspent with significant amounts of that attributable to fraud.

Mrs. HARSHBARGER. Good Lord. Well, another thing in your written testimony sir, you stressed that individuals should not be allowed to self-certify for eligibility for the UI benefits. Why should

unemployment benefit programs require proof of prior employment before benefits are distributed to claimants?

Mr. WEIDINGER. Well, because precisely because these are unemployment benefits. They are payable to individuals who are unemployed. That definition was expanded significantly in the Pandemic Unemployment Assistance Program to include people not who previously had a work history and paid into the system, but who could not go to work for various reasons attributable to the pandemic.

Again, those were general revenues that supported those pandemic unemployment assistance benefits, and that is very different from the nature of the regular State UI program that you started out describing, where individuals, they work for an employer, the employer pays payroll taxes into the system.

Every economist, right, left and center will say that really comes out of workers' paychecks, and that establishes a connection, an eligibility for benefits, so that when the individual is laid off through no fault of their own, they can collect benefits from the system.

PUA was an entirely different model in the sense that it was created by the Federal Government, grabbed general revenues, paid guaranteed minimum benefits to individuals regardless of their prior connection to work, and their amount of work in many cases, and did not include key features of the regular unemployment system like experience rating, and you name it.

There is a whole lot that PUA did not do that happens in the normal course of the UI system, and as my testimony recounts much of those differences explain a significant share of the openness to fraud that the PUA system displayed.

Mrs. HARSHBARGER. I guess, where do we go from here, to know that there is 163 billion, probably 400 billion, I do not know. I do not know. That is a lot of money unaccounted for fraudulently used. I know my time is about up, sir, and I appreciate your answers. Mr. Chairman, I yield back.

Chairman DESAULNIER. I appreciate that and the work you do to resolve some of the issues that you brought up. Now we will recognize the distinguished member from Michigan. We are going to go back to the Michigan delegation, Ms. Stevens, the floor is yours for 5 minutes.

Ms. STEVENS. Thank you so much, Mr. Chair and thank you again to our distinguished panelists for taking the questions today. The global COVID-19 pandemic put many of our country's most critical social safety nets to the test, illuminating the invaluable nature of our employment insurance system in preventing economic collapse, and undoubtedly exposing some of its flaws.

I am a Democrat. I am in the party of jobs. Jobs equals people. Allow me to share my gratitude to the Michigan Unemployment Insurance Agency recently getting awarded the 6.8-million-dollar grant from the Department of Labor to make it easier for workers in underserved Michigan communities to access jobless benefits.

Congratulations. We look forward to seeing your improvements and continued delivery for Michiganders. Workers who have been historically experiencing of difficulties applying for benefits were on urban areas where residents have had limited internet access, and those with language barriers will be benefited by the grant to the Michigan Unemployment Insurance Agency.

Ms. Dixon, how can the Department of Labor continue to help states remove the technological barriers that certain unemployed workers face, whether due to lack of broadband access, or inaccessibility of websites?

This was obviously very palpable to me as a Member of Congress trying to service my constituents in a host of ways during the early days of COVID-19. How are we getting in touch with individuals with certain disabilities to ensure that there is equitable access to the UI system?

Ms. DIXON. Sure. I think it is, I have to say unprecedented the amount of support that Federal Department of Labor is providing to states on these issues. I have been one of the people who have advocated for that over the years, so it is really good to see that.

It is really good to see the funding that Congress appropriated. Simply updating the technology is not enough. We have long argued that workers are put at the center of modernization efforts, so prioritizing customer centric design, and user experience testing. Not just automating the processes but making sure that workers can actually access the systems that are being developed.

We know that that is what happens in the private sector, which is why we do not have the similar issues when we are trying to access our bank accounts, and things of that nature. Really making sure that we are taking into account what workers are faced with, that we are optimizing systems for mobile phones. That we are putting in place ways to reset your password that do not require you to have to wait 2 weeks in the mail to get a password to get in.

There are fixes that we can do that are more immediate, and then there are the long-term fixes, but all of those fixes need to be focused on making sure that customers can actually use a system and get the benefits.

Ms. STEVENS. Right. Mr. Costa, in the GAO report, which was very well done by the way, so congratulations to you and your team on that about the implementation of pandemic unemployment assistance, programmatic efforts. You included findings that there were racial and ethnic disparities in the receipt of these benefits in a few states that were examined in the report.

Can you explain what it means—what this means? What does this mean for there to be racial and ethnic disparities in the reciprocity rates for benefits? Was the GAO able to determine the reason or reasons for the disparities in the states that it examined? If not, why not?

Mr. COSTA. Thank you, Congresswoman. What that means is that the percentage of people of certain ethnic groups, or racial groups that applied for loans, and actually got through the process, so we heard a little bit earlier about the difficulty of actually getting through the process to make—to submit your application.

The percentage of people who got through the process and were approved could vary wildly depending on the State you were in. In some states the similarities were similar, and other states they were wildly different.

We looked at four states in particular, and in two of those four states we saw that benefit approval rates for African Americans, American Indians, and Hispanics were sometimes half that of white claimants.

We were not able to determine the cause of that, but we did recommend that the Department of Labor look more deeply into these racial and ethnic disparities, and identify the challenges there, and see what needs to be done to address that.

Ms. STEVENS. Well, thank you. With that, Mr. Chairman I am out of time. I would also like to thank Ms. Robinson for her testimony here today as well. I yield back.

Chairman DESAULNIER. We will now recognize the gentleman from Indiana. Mr. Banks, the floor is yours.

Mr. BANKS. Thank you, Mr. Chairman. Mr. Weidinger, in your testimony elicited the unprecedented amount of benefits that were billed out during the pandemic. I am quoting, "For an individual consistently collecting the national average weekly unemployment benefit between April 1, 2020, and September 6, 2021, State and Federal benefits could reach \$46,000.00.

By comparison, the average salary in Indiana is just over \$41,000.00." How seriously do these benefits contribute to inflation and the labor shortages in key industries across the country?

Mr. WEIDINGER. Thanks for that question. Just for purposes of clarification, the \$46,000.00 was payable over 18 months. I assume your Indiana number is a 12-month total. However, the \$46,000.00, important qualifiers, it is an average.

Individuals that collected more than the average weekly State unemployment benefit, which during the pandemic was something like \$325.00, would have gotten more than \$46,000.00 had they remained eligible for that entire period of 18 months.

Plus, it is just one person for household. Many households had more than one person collecting benefits, so multiplied by two. Second, it does not include additional Federal support provided during the pandemic like three courses of stimulus checks, expansions in the child tax credit, expanded food stamp benefits, so you name it.

This is a partial view, but like you said it compares favorable is not quite the right word, but it is more than earnings from work in many, many cases. A previous member asked me about that, and there are studies that suggest that over this period something between 40 and 67 percent of individuals collected more in benefits than they earned from working.

I am not an economist, but on the inflation side, no less than former Treasury Secretary Larry Summers, Jason Furman, the former CEA Chair, talked about how especially the last course of extensions of these things. The course attributable to the American Rescue Plan after the recovery was well underway, and in many states, they were starting to get you know significant labor shortages contributed to inflation.

On the question of work, I would note that there are studies that took a look at the question of what happened after states, primarily Republican led states, but also the State of Louisiana like with a Democrat Governor, started opting out of Federal benefits in the summer of 2021.

A study by my colleague Michael Strain, as well as Harry Holtzer and Glen Hubbard found that the flow of unemployed workers into employment increased by around two-thirds following the early termination of benefits in those states.

The State of reason by Governors and State officials for why the states were opting out of benefits at that point was because it was hampering their recovery, employers were having difficulty finding work. It was contributing to inflation. All of those things.

That study suggests that by ending those benefits earlier, states were successful in increasing the flow of workers back into the workforce, which you know, as you described is something that employers often lament about paying people more in benefits, especially than they earn from work.

Mr. BANKS. Thank you for that explanation. With that I will yield back.

Chairman DESAULNIER. Thank you, Mr. Banks. Now I would like to go to Chairman Scott for 5 minutes.

Mr. SCOTT. Thank you. Thank you very much. Mr. Weidinger, you indicated that the increase in claimants was unprecedented. You also mentioned that the pandemic unemployment compensation was a problem. Can you just say a word about why it takes more time to process a pandemic unemployment insurance claim, or gig workers, self-employed, or independent contractors than someone that is already employed?

Mr. WEIDINGER. Well, so the reason is because the program—individuals who were made eligible for the program were not known to the program before. Obviously, the program did not exist before Congress created it, yet the unemployment system, the unemployment insurance program, the state-run program has been around since the 1930's.

Everyone who works in your district for an employer, most everybody participates in that program. They are in covered work, their employer sends taxes in. When the employer lays somebody off the system knows them.

It knows that the person worked for employer X, and the person paid in benefits. The system contacts the employer and says hey, did you lay this person off?

Are they eligible? If the employer answers yes, the individual gets benefits. The PUA program was entirely different. It basically made available benefits to a universe of people that were not known to the system before.

Mr. SCOTT. Just from a labor-intensive point of view you have to start off with all the information. You would have to one by one, those that are already in the system. It is just essentially a key stroke. You know how much they get, you just could go and they start getting their checks, so it is much easier to process those from before.

If you can, I do not know if there is a study being done in how we could speed up the one at a time pandemic unemployment compensations. If you can provide us that after the meeting if you have any ideas on that.

Ms. Robinson, I understand that you have received unemployment insurance before and during the pandemic. Can you tell the difference, can you tell us a little bit about the difference between the two experiences?

Ms. ROBINSON. Yes, I can, Mr. Scott. Thank you for the question. The regular unemployment that I received before the pandemic is

based on what you get biweekly. It is based on your hourly wage, it is like half of what you normally would get.

At that time, I was working a position that was \$12.00 an hour. Basically, that is half of that which is really only \$6.00 an hour, and it adds up to being not much. It still made it very difficult to you know, to meet my responsibilities. During that time, I tried to get like a little part-time job to help make ends meet, but you still have to report what you make.

Basically, it keeps me—kept me in the same position of not really having enough still. With the PUA program it gave you far more than what you were making. That allowed me to be able to meet my responsibilities a lot more you know effectively, than it did being regular unemployment because I got far more than what I would normally get.

The stimulus only added to the help. It was a life-saving resource at that time. I greatly appreciate that.

Mr. SCOTT. Thank you. Excuse me, Mr. Costa, last Thursday on September 15th, the Department of Labor's Employment Training Administration issued a notice reminding State workforce agencies that they must comply with data requests from the Department's OIG.

This is after the OIG cited a lack of direct access to UI claimant data and wage records. Can you say a word about how important it is for the states to comply with the OIG requests?

Mr. COSTA. The Inspector General needs those requests to help reclaim funds and do investigations as well as analyze the data. GAO has been supportive of the Inspector General's request to get access to that data, and I think it is important that the states comply with that sir.

Mr. SCOTT. Thank you. Did I understand your testimony to say that studies have been done, and that there was no effect on people returning to work when the benefits were cutoff, the Federal benefits were cutoff.

Mr. COSTA. We looked at 30 different studies, peer reviewed studies, empirical studies, 13 of those addressed that issue, and most of those found that there was no affect, 4 of those found that there was a moderate affect, usually targeted at specific groups of people.

Some of the lowest income groups of people in certain areas, like restaurant workers, where there might have been a mild affect. For most people, most workers there was not a noticeable effect.

Mr. SCOTT. Ms. Dixon, was that what you also found?

Ms. DIXON. That is correct. It is one of the saddest things that the narrative that was out there about working people with you know wonderful work ethics, was that they were sitting at home to collect a payment instead of going to work. It obscured the other reasons that folks did not return to work like lack of childcare, you know worry about catching COVID-19, worry about spreading COVID-19 to their families.

Real disruptions in the labor market and supply chains that contributed to you know a slow return to work.

Mr. SCOTT. Thank you. Thank you, Mr. Chairman.

Chairman DESAULNIER. Thank you, Chairman Scott. That is our last questions from committee members, other than closing com-

ments from myself and the Ranking Member. I want to remind my colleagues that pursuant to committee practice, materials for submission for the hearing record must be submitted to the committee clerk within 14 days following the last day of the hearing, so by close of business October 5th of 2022, preferably in Microsoft Word format.

The materials submitted must address the subject matter of the hearing please, and only a member of the subcommittee, or an invited witness may submit materials for inclusion in the hearing record. Documents are limited to 50 pages each.

Documents longer than 50 pages will be incorporated into the record via an internet link that you must provide to the committee clerk within the required timeframe.

Please recognize that in the future that link may no longer work. Pursuant to House rules and regulations, items for the record should be submitted to the clerk electronically by emailing submissions to [edandlabor.hearings@mail.hearings.gov](mailto:edandlabor.hearings@mail.hearings.gov).

Again, I really want to thank our witnesses, all of you, for your participation, really valuable input from all of you. I appreciate the bipartisan constructive comments that I am really hopeful that the Ranking Member and I can work on to improve the system for future economic downturns and challenges for Americans.

Members of the subcommittee may have additional questions for you, and we ask the witnesses to please respond to those questions in writing. The hearing record will be open for 14 days in order to receive their responses. I remind my colleagues that pursuant to committee practice, witness questions for the hearing record again must be submitted to the majority committee staff, or committee clerk within 7 days.

The questions submitted must address the subject matter of the hearing. I now recognize the distinguished Ranking Member for a closing statement. Mr. Allen, the floor is yours.

Mr. ALLEN. Thank you, Mr. Chairman. I too look forward to working with you to continue this discussion and solution to this issue. You know during the 18 months starting in March 2020, as we have mentioned, the UI program cost over 900 billion dollars. During that time more unemployment checks were paid out than across the 6-years during and following the Great Recession.

This enormous funding enriched fraudsters, identity thieves, and even prisoners. GAO has rightly put the UI program on its high-risk list. So far DOL's Inspector General estimates that there is 163 billion in fraud. Some experts actually suggest it is closer to 400 billion dollars in fraud.

Through the so-called American Rescue Plan the President and Democrats on a partisan basis provided incentives for workers to stay on the sidelines for another 6 months. It is clear that flaws in the UI system must be addressed. Decades old computers, staffing challenges, and new programs resulted in State UI programs often failed to serve legitimate claimants.

It is also clear that these programs are vulnerable to fraud. Less than 2.5 percent of misspent funds have even been returned to taxpayers. It is a shame that neither DOL, nor the DOL Inspector General are here to explain how ARPA's 2 billion UI fund, which

is intended to address the program's shortcomings is actually being spent.

Unemployment should only serve as a bridge in between jobs, and not be a permanent safety net to stay away from the workforce. Republicans want to ensure the mistakes made during the pandemic are not repeated, and billions more of taxpayers—to taxpayers is not lost.

Thank you, Mr. Chairman, thank you for this hearing, and I yield back.

Chairman DESAULNIER. Thank you, Mr. Allen. I want to again thank the witnesses. I now recognize myself for closing statement. Today our witnesses made clear that unemployment insurance system is a critical social safety net, and able to help supplement millions of Americans' income giving them a critical lifeline during gaps in employment, and in times of economic downturn.

This is particularly true, as we have learned, during COVID. Unfortunately, the pandemic tested all of us at the Federal level, the State level, the administration, and Congress, and consistent with the Ranking Member's comments, certainly we can come together. I really appreciate the tenor of the conversation again, of this subcommittee and our members and all the witnesses.

This is a constructive hearing that I fully expect will lead to enactment of both more of the GAO's recommendations, but many of your comments today. I really appreciate the constructive tone. I appreciate the comments by the Republican witness about saving, keeping money within the system so that we continue to improve it.

I will tell you that I am frustrated that this has happened again, and I will specifically say to the State of California where I put a lot of effort into this as a member of the State Senate, and as the Chair of the Committee of Jurisdiction during the recession.

One point I brought up about caseloads earlier, that is not to mandate it, but just to inform states about what the right level is, and I also would add one of the things we learned in California Remedy is a single point of contact.

I know we hear anecdotally of lots of people who have difficult times emotionally, trying to access and going into the system and being lost in the system.

It would be easier for us to manage, and I am sure Mr. Allen agrees with this as we both are employers in our former careers that having a single point of contact and understanding the challenges to ramp up during these difficult times. With that, I really want to thank again everybody. I look forward to constructive work product as a followup to this hearing.

I want to thank our staffs on both sides, and I look forward to again working for an action plan that we can implement with the administration with my colleagues. If there is no further business, without objection the subcommittee stands adjourned. Thank you all very much.

[Whereupon, at 12:19 p.m., the subcommittee adjourns.]

[Additional submission submitted by Ranking Member Allen follows:]

House Committee on Education and Labor  
Subcommittee on Health, Employment, Labor, and Pensions Hearing  
**“Examining the Administration of the Unemployment Insurance System”**  
Wednesday, September 21, 2022, 10:15 a.m. (Eastern Time)  
Supplemental Statement of Matt Weidinger, Senior Fellow, American Enterprise Institute

Chairman Scott, per your question about improving the administration of pandemic unemployment assistance (PUA) if such a program were revived in the future, the following would be key improvements compared with how this program functioned during the pandemic:

- *Don't allow individuals to self-certify their eligibility for benefits.* Unemployment benefit programs should also require proof of prior employment before benefits begin, not just within 21 days of their onset.
- *Ensure claimant identities are established before benefits are paid.* Especially since mandated to implement identity verification in 2021, many states worked with third parties to both screen out blatant fraud on the front end and to verify identities before and while benefits were paid. This should be standard program practice, and states should be required to report on their fraud detection and prevention measures to DOL.
- *Prevent benefits from exceeding prior wages.* Policymakers should ensure that such a program can tailor benefits to each individual as a share of prior earnings, instead of offering flat benefits to all that can exceed prior earnings.
- *Ensure benefits are tied to past and future tax payments.* If Congress were to revive extraordinary benefits like PUA, it should ensure potential recipients pay experience-rated taxes into the system beforehand—as is the case under the state unemployment insurance program. That would resolve many of the identity verification issues that plagued PUA, in addition to addressing some (but not all) of the return-to-work disincentives inherent in its benefits.

