

RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF LABOR TO PROVIDE TO THE HOUSE OF REPRESENTATIVES CERTAIN DOCUMENTS IN THE SECRETARY'S POSSESSION RELATING TO UNEMPLOYMENT INSURANCE FRAUD DURING THE COVID-19 PANDEMIC

SEPTEMBER 28, 2022.—Referred to the House Calendar and ordered to be printed

Mr. NEAL, from the Committee on Ways and Means,  
 submitted the following

**ADVERSE REPORT**

together with

**DISSENTING VIEWS**

[To accompany H. Res. 1288]

The Committee on Ways and Means, to whom was referred the resolution (H. Res. 1288) of inquiry directing the Secretary of Labor to provide to the House of Representatives certain documents in the Secretary's possession relating to Unemployment Insurance fraud during the COVID-19 pandemic, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

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## I. SUMMARY AND BACKGROUND

### A. PURPOSE AND SUMMARY

H. Res. 1288 requests that the Secretary of Labor provide to the House of Representatives certain documents in the Secretary’s possession relating to Unemployment Insurance (UI) fraud during the COVID–19 pandemic.

### B. BACKGROUND AND NEED FOR LEGISLATION

H. Res. 1288 was introduced by Representative Jackie Walorski on July 26, 2022. H. Res. 1288 is a resolution of inquiry which is a means used by the House to obtain certain factual information from the Executive Branch. Under clause 7 of rule XIII, a resolution of inquiry is subject to a motion to discharge from committee if the resolution is not reported by the committee to which it was referred within 14 legislative days of its introduction. Accordingly, the Committee on Ways and Means scheduled a markup of H. Res. 1288 within the 14-day period.

The Committee reported the resolution adversely because it would not advance ongoing successful efforts by the Department of Labor, the Office of the Inspector General, and the Department of Justice to recover fraudulent payments. This resolution would also divert resources away from efforts to prevent future fraud by forcing a search for documents that may not have been preserved by the prior administration, are held solely by law enforcement agencies or state agencies, or are part of ongoing criminal investigations.

The vast majority of the emergency unemployment benefits that Congress provided during the pandemic went to American workers, keeping 5 million Americans out of poverty,<sup>1</sup> stabilizing demand,<sup>2</sup> increasing GDP,<sup>3</sup> and supporting the fastest jobs recovery in 40 years.<sup>4</sup> However, a combination of antiquated technology and inadequate staffing in state unemployment offices,<sup>5</sup> huge need for unemployment benefits,<sup>6</sup> and slow and sometimes shifting guidance from the Trump Administration Department of Labor (DOL)<sup>7</sup> cre-

<sup>1</sup> Frances Chen & Em Shrider, *Did Unemployment Insurance Lower Official Poverty Rates in 2020?*, U.S. CENSUS BUREAU (Sept. 14, 2021), <https://www.census.gov/library/stories/2021/09/did-unemployment-insurance-lower-official-poverty-rates-in-2020.html>.

<sup>2</sup> *Consumption Effects of Unemployment Insurance during the Covid–19 Pandemic*, JPMORGAN CHASE & CO. (July 2020), <https://www.jpmorganchase.com/institute/research/labor-markets/unemployment-insurance-covid19-pandemic>.

<sup>3</sup> *The Effects of Pandemic-Related Legislation on Output*, CONG. BUDGET OFFICE (Sept. 2020), <https://www.cbo.gov/publication/56597>.

<sup>4</sup> Caleb Silver, *The U.S. Labor Market Recovery in Charts*, INVESTOPEDIA (Sept. 2022), <https://www.investopedia.com/the-u-s-labor-market-recovery-in-charts-6541384>.

<sup>5</sup> U.S. GOV’T. ACCOUNTABILITY OFF., GAO–22–105162, UNEMPLOYMENT INSURANCE: TRANSFORMATION NEEDED TO ADDRESS PROGRAM DESIGN, INFRASTRUCTURE, AND INTEGRITY RISKS (June 7, 2022).

<sup>6</sup> Employment & Training Admin., *Unemployment Insurance Data*, U.S. DEPT. OF LABOR, <https://oui.doleta.gov/unemploy/DataDashboard.asp> (select “Benefits and Claims” then select “UI Weekly Continued Claims—All Programs” to download data) (last visited Sept. 22, 2022).

<sup>7</sup> Robert Asaro-Angelo et al., *NASWA Letter on Pandemic UI Requests*, NAT’L ASS’N OF STATE WORKFORCE AGENCIES (Jan. 7, 2022), <https://www.naswa.org/government-relations/congressional-testimony/naswa-letter-on-pandemic-ui-requests>.

ated an opportunity for criminal rings to file false worker claims and steal benefits.

Using the \$2 billion the Ways and Means Committee added to the American Rescue Plan Act (ARPA),<sup>8</sup> the Biden Administration DOL has worked with states, the Department of Justice, and the Office of the Inspector General<sup>9</sup> to identify and prosecute fraudsters. The joint efforts have recovered over \$700 million in fraudulent payments,<sup>10</sup> with more to come from ongoing investigations and prosecutions. DOL has also used ARPA funds to invest in state systems that promote equity and access but prevent fraud.<sup>11</sup>

### C. LEGISLATIVE HISTORY

#### *Background*

H. Res. 1288 was introduced on July 26, 2022 by Rep. Walorski and was referred to the Committee on Ways and Means.

#### *Committee hearings*

The committee held no hearings on H. Res. 1288.

#### *Committee action*

The Committee on Ways and Means marked up H. Res. 1288 on September 20, 2022, and ordered the bill reported adversely (with a quorum being present) by a vote of 23 yeas and 18 nays.

## II. EXPLANATION OF THE BILL

H. Res. 1288 directs the Secretary of Labor to provide to the House of Representatives copies of all communications among Department officials related to unemployment insurance funds provided for pandemic relief flowing to foreign criminals during the period beginning March 20, 2020, and ending on enactment of the resolution, if such documents are in the Secretary's possession.

## III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H. Res. 1288.

The resolution was ordered reported adversely to the House by a roll call vote of 23 yeas and 18 nays. The vote was as follows:

<sup>8</sup>H.R. REP. NO. 117-7, at 562-613 (2021), <https://www.congress.gov/117/crpt/hrpt7/CRPT-117hrpt7.pdf>.

<sup>9</sup>*National Unemployment Insurance Fraud Task Force*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force> (last visited Sept. 22, 2022).

<sup>10</sup>FY 2023 Budget Request for the Department of Labor: Hearing Before the Subcomm. on Labor, Health and Human Services, Education, and Related Agencies of the H. Comm. on Appropriations, 117th Cong. (2022) (Statement of Marty J. Walsh, Sec. of Labor).

<sup>11</sup>*US Department of Labor Awards \$195.7M in Grants to 58 States, Territories, District of Columbia to Strengthen Fraud Detection, Prevention Efforts*, U.S. DEP'T OF LABOR (Sept. 30, 2021), <https://www.dol.gov/newsroom/releases/eta/eta20210930-0>; *US Department of Labor Awards More Than \$18M in Grants to Address Disparities in Delivery of Unemployment Benefits, Services in 7 States*, U.S. DEP'T OF LABOR (June 10, 2022), <https://www.dol.gov/newsroom/releases/eta/eta20220610-0>.

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Doggett .....	X	.....	.....	Mr. Brady .....	.....	X	.....
Mr. Thompson .....	X	.....	.....	Mr. Buchanan .....	.....	X	.....
Mr. Larson .....	X	.....	.....	Mr. Smith (NE) .....	.....	X	.....
Mr. Blumenauer .....	X	.....	.....	Mr. Kelly .....	.....	X	.....
Mr. Kind .....	X	.....	.....	Mr. Smith (MO) .....	.....	X	.....
Mr. Pascrell .....	X	.....	.....	Mr. Rice .....	.....	X	.....
Mr. Davis .....	X	.....	.....	Mr. Schweikert .....	.....	X	.....
Ms. Sánchez .....	X	.....	.....	Mr. LaHood .....	.....	X	.....
Mr. Higgins .....	X	.....	.....	Dr. Wenstrup .....	.....	X	.....
Ms. Sewell .....	X	.....	.....	Mr. Arrington .....	.....	X	.....
Ms. DelBene .....	X	.....	.....	Dr. Ferguson .....	.....	X	.....
Ms. Chu .....	X	.....	.....	Mr. Estes .....	.....	X	.....
Ms. Moore .....	X	.....	.....	Mr. Smucker .....	.....	X	.....
Mr. Kildee .....	X	.....	.....	Mr. Hern .....	.....	X	.....
Mr. Boyle .....	X	.....	.....	Mrs. Miller .....	.....	X	.....
Mr. Beyer .....	.....	.....	.....	Dr. Murphy .....	.....	X	.....
Mr. Evans .....	X	.....	.....	Mr. Kustoff .....	.....	X	.....
Mr. Schneider .....	X	.....	.....	.....	.....	.....	.....
Mr. Suozzi .....	X	.....	.....	.....	.....	.....	.....
Mr. Panetta .....	X	.....	.....	.....	.....	.....	.....
Mrs. Murphy .....	X	.....	.....	.....	.....	.....	.....
Mr. Gomez .....	X	.....	.....	.....	.....	.....	.....
Mr. Horsford .....	.....	X	.....	.....	.....	.....	.....
Ms. Plaskett .....	X	.....	.....	.....	.....	.....	.....
Chairman Neal .....	X	.....	.....	.....	.....	.....	.....
Totals .....	23	.....	.....	Totals .....	.....	18	.....

#### IV. BUDGET EFFECTS OF THE BILL

##### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Clause 3(d) of rule XIII of the Rules of the House of Representatives is inapplicable.

##### B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable.

##### C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee advises that the Congressional Budget Office did not provide a cost estimate of the resolution.

#### V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

##### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

##### B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not au-

thorize funding, so no statement of general performance goals and objectives is required.

#### C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

#### D. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by the bill.

#### E. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the bill does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(2) of the Congressional Accountability Act.

#### F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

#### G. HEARINGS

In relation to compliance with clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the Committee states that no hearings were held on this resolution.

### **VI. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED**

In compliance with clause 3(e)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that H. Res. 1288 does not make any changes to existing law.

## VII. DISSENTING VIEWS

Committee Republicans strongly oppose the Committee's action of unfavorably reporting H. Res. 1288, Resolution of inquiry directing the Secretary of Labor to provide to the House of Representatives certain documents in the Secretary's possession relating to Unemployment Insurance Fraud during the COVID-19 pandemic.

Congressional oversight is one of the most important responsibilities of the U.S. Congress, and Resolutions of Inquiry (ROIs) are one of the methods used by the U.S. House of Representatives to obtain information from the executive branch. ROIs simply demand that the administration turn over basic information to Congress. This information is critical because it allows the Congress to ensure the executive branch's compliance with congressional intent; evaluate program performance; prevent the executive branch's encroachment on the legislative branch's powers; assess an agency's ability to manage and carry out program objectives; and acquire information from the executive branch that can inform policymaking.

Moreover, Congressional Republicans have repeatedly sought information from the Administration about the expected and actual impact of these policies. Transparency is essential because it promotes accountability and provides information for the Congress and Americans about what the federal government is doing. Despite the Biden Administration stating that President Biden would "bring transparency and truth back to the government to share the truth, even when it's hard to hear," the Administration has ignored the need for congressional oversight and completely failed on its promise. The American people deserve to know how their government works and we will hold the Biden Administration accountable for its disastrous policies.

Since the summer of 2020, repeated alerts from federal law enforcement agencies warned of targeted efforts involving organized cybercrime, foreign actors, and international crime rings using stolen identities of American citizens to obtain fraudulent unemployment benefits. The Biden Administration has no idea exactly how many tax dollars have been stolen or improperly paid. In February 2022, the White House estimated that 19 percent of total COVID-19 unemployment insurance (UI) payments were lost to fraud—offering a low estimate of over \$80 billion. By contrast, the U.S. Department of Labor's (DOL) estimate puts that number much higher and outside experts say the number could be as high as \$400 billion. Moreover, the DOL has exacerbated the amount of fraud by allowing the use of blanket waivers that would let states off the hook for due diligence and fact finding for large volumes of suspicious unemployment claims potentially involving billions of fraudulently obtained taxpayer dollars.

For nearly two years Republicans have been fighting against unchecked unemployment fraud and abuse of taxpayer dollars. For

example, Republicans have sent letters requesting information from the administration, sent letters to Committee Democrats requesting an oversight hearing, and introduced multiple pieces of legislation to stop the pay and chase model of benefits and go after criminal actors. Meanwhile, Democrats refuse to even acknowledge the problem and have failed to hold a single oversight hearing on this issue.

To continue our oversight efforts on this issue, this resolution asks for communications showing the DOL's knowledge of UI dollars flowing to international crime syndicates. Given the clear need for oversight on this issue it is disappointing that Committee Democrats have blocked the request for this information.

KEVIN BRADY,  
*Ranking Member.*  
BRAD WENSTRUP.

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