

PROTECTING TAXPAYERS AND VICTIMS OF
UNEMPLOYMENT FRAUD ACT

APRIL 6, 2023.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1163]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1163) to provide incentives for States to recover fraudulently paid Federal and State unemployment compensation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Taxpayers and Victims of Unemployment Fraud Act”.

SEC. 2. RECOVERING FEDERAL FRAUDULENT COVID UNEMPLOYMENT COMPENSATION PAYMENTS.

(a) ALLOWING STATES TO RETAIN PERCENTAGE OF OVERPAYMENTS FOR PROGRAM INTEGRITY.—

(1) PANDEMIC UNEMPLOYMENT ASSISTANCE.—Section 2102(d) of the CARES Act (15 U.S.C. 9021(d)) is amended by amending paragraph (4) to read as follows:

“(4) FRAUD AND OVERPAYMENTS.—Section 2107(e) shall apply with respect to pandemic unemployment assistance under this section by substituting ‘pandemic unemployment assistance’ for ‘pandemic emergency unemployment compensation’ each place it appears in such section 2107(e).”

(2) FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION.—Section 2104(f)(3) of such Act (15 U.S.C. 9023(f)(3)) is amended—

(A) in subparagraph (A)—

(i) by striking “3-year” and inserting “10-year”; and

(ii) by inserting “, except that a State may retain a percentage of any amounts recovered as described in subparagraph (C)” before the period at the end; and

(B) by adding at the end the following:

“(C) RETENTION OF PERCENTAGE OF RECOVERED FUNDS.—The State agency may retain 25 percent of any amount recovered from overpayments of Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation that were determined to be made due to fraud. Amounts so retained by the State agency shall be used for any of following:

“(i) Modernizing unemployment compensation systems and information technology to improve identity verification and validation of applicants.

“(ii) Reimbursement of administrative costs incurred by the State to identify and pursue recovery of fraudulent overpayments.

“(iii) Hiring fraud investigators and prosecutors.

“(iv) Other program integrity activities as determined by the State.”;

(3) PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 2107(e)(3) of such Act (15 U.S.C. 9025(e)(3)) is amended—

(A) in subparagraph (A)—

(i) by striking “3-year” and inserting “10-year”; and

(ii) by inserting “, except that a State may retain a percentage of any amounts recovered as described in subparagraph (C)” before the period at the end; and

(B) by adding at the end the following:

“(C) RETENTION OF PERCENTAGE OF RECOVERED FUNDS.—The State agency may retain 25 percent of any amount recovered from overpayments of pandemic emergency unemployment compensation that were determined to be made due to fraud. Amounts so retained by the State agency shall be used for any of following:

“(i) Modernizing unemployment compensation systems and information technology to improve identity verification and validation of applicants.

“(ii) Reimbursement of administrative costs incurred by the State to identify and pursue recovery of fraudulent overpayments.

“(iii) Hiring fraud investigators and prosecutors.

“(iv) Other program integrity activities as determined by the State.”.

(4) EXTENDED UNEMPLOYMENT COMPENSATION.—A State to which section 4105 of the Families First Coronavirus Response Act (26 U.S.C. 3304 note) applied may retain 25 percent of any amount recovered from overpayments of sharable extended compensation and sharable regular compensation (as such terms are defined in section 204 of the Federal-State Extended Unemployment Compensation Act of 1970) paid for weeks of unemployment described in such section 4105 that were determined to be made due to fraud. Amounts so retained by the State agency shall be used for any of the purposes described in section 2107(e)(3)(C) of the CARES Act (15 U.S.C. 9025(e)(3)(C)).

(5) FIRST WEEK OF REGULAR COMPENSATION.—A State that was a party to an agreement under section 4105 of the CARES Act (15 U.S.C. 9024) may retain 25 percent of any amount recovered from overpayments of regular compensation paid to individuals by the State for their first week of regular unemployment for which the State received full Federal funding under such agreement in any case in which such overpayments were determined to be made due to fraud. Amounts so retained by the State agency shall be used for any of the purposes described in section 2107(e)(3)(C) of the CARES Act (15 U.S.C. 9025(e)(3)(C)).

(b) TREATMENT UNDER WITHDRAWAL STANDARD AND IMMEDIATE DEPOSIT REQUIREMENTS.—Any amount retained by a State pursuant to paragraph (4) or (5) of subsection (a) or under section 2102(d)(4), section 2104(f)(3)(C), or 2107(e)(3)(C) of the CARES Act, and used for the purposes described therein, shall not be considered to violate the withdrawal standard and immediate deposit requirements of paragraph (4) or (5) of section 303(a) of the Social Security Act (42 U.S.C. 503(a)) or paragraph (3) or (4) of section 3304(a) of the Internal Revenue Code of 1986.

(c) LIMITATION ON RETENTION AUTHORITY.—The authority of a State to retain any amount pursuant to paragraph (4) or (5) of subsection (a) and under section 2102(d)(4), section 2104(f)(3)(C), and 2107(e)(3)(C) of the CARES Act shall apply only—

(1) with respect to an amount recovered on or after the date of enactment of this Act; and

(2) during the 10-year period beginning on the date on which such amount was received by an individual not entitled to such amount.

SEC. 3. PERMISSIBLE USES OF UNEMPLOYMENT FUND FOR PROGRAM ADMINISTRATION.

(a) WITHDRAWAL STANDARD IN THE INTERNAL REVENUE CODE.—Section 3304(a)(4) of the Internal Revenue Code of 1986 is amended—

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

(2) by inserting after subparagraph (G) the following new subparagraphs:

“(H) provided the certifications made by the State as described in section 4 of the Protecting Taxpayers and Victims of Unemployment Fraud Act are in effect at the time of approval of the State law under this subsection, an amount, not to exceed 5 percent, of any overpayment of compensation recovered by the State (other than an overpayment made as the result of agency error) may, immediately following the State’s receipt of such recovered amount, be deposited in a State fund from which money may be withdrawn for—

“(i) the payment of costs of deterring, detecting, and preventing improper payments;

“(ii) purposes relating to the proper classification of employees and the provisions of State law implementing section 303(k) of the Social Security Act;

“(iii) the payment to the Secretary of the Treasury to the credit of the account of the State in the Unemployment Trust Fund;

“(iv) modernizing the State’s unemployment insurance technology infrastructure; or

“(v) otherwise assisting the State in improving the timely and accurate administration of the State’s unemployment compensation law; and

“(I) provided the certifications made by the State as described in section 4 of the Protecting Taxpayers and Victims of Unemployment Fraud Act are in effect at the time of approval of the State law under this subsection, an amount, not to exceed 5 percent, of any payments of contributions, or pay-

ments in lieu of contributions, that are collected as a result of an investigation and assessment by the State agency may, immediately following receipt of such payments, be deposited in a State fund from which moneys may be withdrawn for the purposes specified in subparagraph (H);”.

(b) DEFINITION OF UNEMPLOYMENT FUND.—Section 3306(f) of the Internal Revenue Code of 1986 is amended by striking “and for refunds of sums” and all that follows and inserting “, except as otherwise provided in section 3304(a)(4), section 303(a)(5) of the Social Security Act, or any other provision of Federal unemployment compensation law.”.

(c) WITHDRAWAL STANDARD IN SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by striking “and for refunds of sums” and all that follows and inserting “except as otherwise provided in this section, section 3304(a)(4) of the Internal Revenue Code of 1986, or any other provisions of Federal unemployment compensation law; and”.

(d) IMMEDIATE DEPOSIT REQUIREMENTS IN THE INTERNAL REVENUE CODE.—Section 3304(a)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

“(3) all money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act (42 U.S.C. 1104), except for—

- “(A) refunds of sums improperly paid into such fund;
- “(B) refunds paid in accordance with the provisions of section 3305(b);
- and
- “(C) amounts deposited in a State fund in accordance with subparagraph (H) or (I) of paragraph (4);”.

(e) IMMEDIATE DEPOSIT REQUIREMENT IN SOCIAL SECURITY ACT REQUIREMENT.—Section 303(a)(4) of the Social Security Act (42 U.S.C. 503(a)(4)) is amended by striking the parenthetical and inserting “(except as otherwise provided in this section, section 3304(a)(3) of the Internal Revenue Code of 1986, or any other provisions of Federal unemployment compensation law)”.

(f) APPLICATION TO FEDERAL PAYMENTS.—When administering any Federal program providing compensation (as defined in section 3306 of the Internal Revenue Code of 1986), the State shall use the authority provided under subparagraphs (H) and (I) of section 3304(a)(4) of such Code in the same manner as such authority is used with respect to improper payments made under the State unemployment compensation law. With respect to improper Federal payments recovered consistent with the authority under subparagraphs (H) and (I) of such section, the State shall immediately deposit the same percentage of the recovered payments into the same State fund as provided in the State law implementing that section.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments or payments or contributions (or payments in lieu of contributions) that are collected as a result of an investigation and assessment by the State agency after the end of the 2-year period beginning on the date of the enactment of this Act, except that nothing in this section shall be interpreted to prevent a State from amending its law before the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 4. PREVENTING UNEMPLOYMENT COMPENSATION FRAUD THROUGH DATA MATCHING.

(a) IN GENERAL.—As a condition for the eligibility of a State to implement the exceptions to the withdrawal standard described in subparagraphs (H) and (I) of section 3304(a)(4) of the Internal Revenue Code, the State shall certify each of the following:

(1) INTEGRITY DATA HUB.—The State uses the system designated by the Secretary of Labor (or another system at the discretion of the State) for cross-matching claimants of unemployment compensation to prevent and detect fraud and improper payments.

(2) USE OF FRAUD PREVENTION AND DETECTION SYSTEMS.—The State has established procedures to do the following:

(A) NATIONAL DIRECTORY OF NEW HIRES.—Use the National Directory of New Hires established under section 453(i) of the Social Security Act—

(i) to compare information in such Directory against information about individuals claiming unemployment compensation to identify any such individuals who may have become employed;

(ii) to take timely action to verify whether the individuals identified pursuant to clause (i) are employed; and

(iii) upon verification pursuant to clause (ii), to take appropriate action to suspend or modify unemployment compensation payments, and to initiate recovery of any improper payments that have been made.

(B) STATE INFORMATION DATA EXCHANGE SYSTEM.—Use the State Information Data Exchange System (or another system at the discretion of the State) to facilitate employer responses to requests for information from State workforce agencies.

(C) INCARCERATED INDIVIDUALS.—Seek information from the Commissioner of Social Security under sections 202(x)(3)(B)(iv) and 1611(e)(1)(I)(iii) of the Social Security Act, or from such other sources as the State agency determines appropriate, to obtain the information necessary to carry out the provisions of a State law under which an individual who is confined in a jail, prison, or other penal institution or correctional facility is ineligible for unemployment compensation on account of such individuals inability to satisfy the requirement under section 303(a)(12) of such Act.

(D) DECEASED INDIVIDUALS.—Compare information of individuals claiming unemployment compensation against the information regarding deceased individuals furnished to or maintained by the Commissioner of Social Security under section 205(r) of the Social Security Act.

(b) UNEMPLOYMENT COMPENSATION.—For the purposes of this section, any reference to unemployment compensation shall be considered to refer to compensation as defined in section 3306 of the Internal Revenue Code of 1986.

SEC. 5. EXTENSION OF EMERGENCY STATE STAFFING FLEXIBILITY.

If a State modifies its unemployment compensation law and policies with respect to personnel standards on a merit basis on an emergency temporary basis as determined by the Secretary, including for detection, pursuit, and recovery of fraudulent overpayments under Federal pandemic unemployment compensation programs authorized under the CARES Act (15 U.S.C. 9021 et seq.), subject to the succeeding sentence, such modifications shall be disregarded for the purposes of applying section 303 of the Social Security Act (42 U.S.C. 503) and section 3304 of the Internal Revenue Code of 1986 to such State law. Such modifications may continue through December 31, 2030.

SEC. 6. FRAUD ENFORCEMENT HARMONIZATION.

Notwithstanding any other provision of law, any criminal charge or civil enforcement action alleging that an individual engaged in fraud with respect to compensation (as defined in section 3306 of the Internal Revenue Code of 1986) shall be filed not later than 10 years after the offense was committed.

SEC. 7. BUDGET OFFSET.

Section 2118 of the CARES Act (15 U.S.C. 9034) is repealed.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” as ordered reported by the Committee on Ways and Means on February 28, 2023, recovers potentially billions of dollars in stolen pandemic unemployment benefits. The legislation provides states with incentives to investigate and recover lost funds, improves program integrity to prevent future fraud, and extends the statute of limitations for prosecuting fraud.

B. BACKGROUND AND NEED FOR LEGISLATION

Unemployment Insurance (UI) is a joint state-federal partnership created under the Social Security Act of 1935 (P.L. 74–271). In most states, the program provides up to 26 weeks of partial wage replacement to workers who become unemployed through no fault of their own and meet state-established eligibility rules while they seek work. Federal laws and regulations provide funding for the administration of state programs and broad guidelines on benefit coverage, financing, eligibility, and benefit determination; however, each state operates their own UI program. States fund UI benefits through payroll taxes on employers under the authority of State Unemployment Tax Acts. Federal funding for state administration

of UI programs is supported by payroll taxes on employers under the authority of the Federal Unemployment Tax Act. These taxes are deposited in accounts within the Unemployment Trust Fund (UTF).

The U.S. Department of Labor (DOL) provides oversight of state programs and any temporary federal UI benefits or expansions of benefits during a recession or emergencies. Federal law includes an automatic expansion of regular state UI benefits with the Extended Benefit (EB) program established by the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373). States that meet certain economic conditions can trigger EB “on” and may provide up to an additional 13 or 20 weeks of benefits once regular state benefits are exhausted, depending on worker eligibility, state law, and additional federal eligibility requirements. The EB program is funded 50 percent by the federal government and 50 percent by the states.

Congress massively expanded UI benefits during the COVID-19 pandemic as businesses shut down in response to the public health emergency and millions of Americans lost their jobs. On March 18, 2020, Congress passed the Families First Coronavirus Response Act (FFCRA) (P.L. 116-127) to provide states with support to address surging unemployment claims through staffing flexibility, 100 percent federal financing of EB, \$1 billion in emergency administrative funding, and other temporary UI measures. This was followed by the creation of several new federally funded UI programs on March 27, 2020, in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136). These programs included: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), Federal Pandemic Unemployment Compensation (FPUC), and included emergency relief for government entities and non-profits. The Consolidated Appropriations Act of 2021 (P.L. 116-260), extended the authorization of these programs and created the Mixed Earner Unemployment Compensation (MEUC) program. The American Rescue Plan Act (ARPA) of 2021 (P.L. 117-2) further extended these programs through September 6, 2021.¹

- FPUC: Provided an additional \$600/week from March 2020 through July 31, 2020; then \$300/week from January 2021 through September 4, 2021.
- PEUC: Provided an extra 13 weeks of benefits after state benefits and EB ended. State benefits typically cover 26 weeks.
- PUA: Provided benefits to gig workers, freelancers, and other self-employed individuals not covered by regular state UI systems.
- 100 percent federally funded EB: Provided an extra 13 or 30 weeks, depending on worker eligibility, state law, and economic conditions in the state, after state benefits expired.
- MEUC: Provided an additional \$100/week in benefits to mixed earner self-employed and W 2 workers.

Federal and state spending on unemployment benefits totaled \$878 billion over a period of less than two years.² This includes ap-

¹For more detailed information see: “Unemployment Insurance (UI) Benefits: Permanent-Law Programs and the COVID-19 Pandemic Response,” Congressional Research Service; January 31, 2022, R46687.

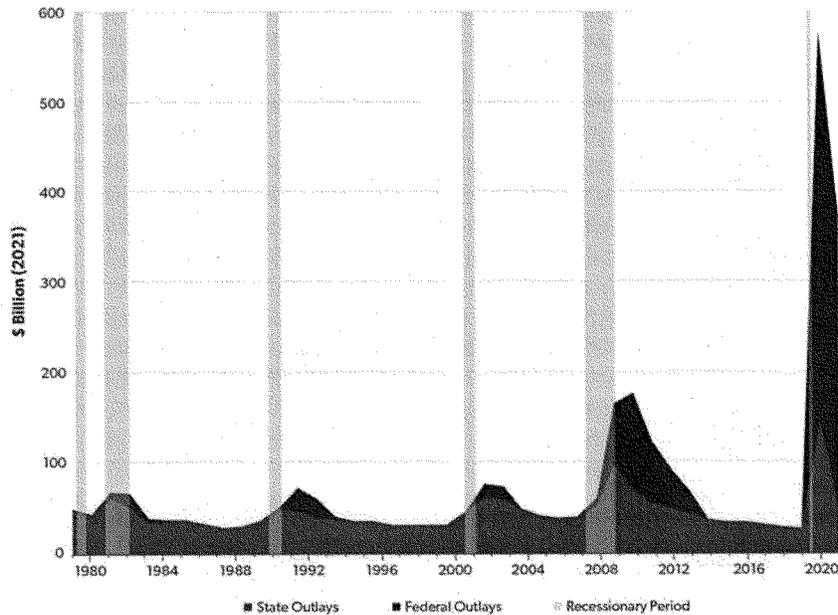
²U.S. Department of Labor; https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html.

proximately \$209 billion from state UI trust funds and \$669 billion in federal general revenue funds. The amount of unemployment spending during the pandemic was grossly out of proportion compared to past recessions. As shown in Figure 1³, combined federal unemployment spending in 2020 was three times the next-highest year—in 2010. During the 2009 recession, an additional \$25 per week was made available through a federal UI supplement. During the COVID–19 pandemic, an additional \$600 per week federal UI supplement was made available (on top of any state weekly benefit amount) for a six-month period, this was subsequently lowered to \$300 per week. Congress also provided 75 additional weeks of federally funded benefits for those who exhausted state benefits and expanded coverage to self-employed and gig workers not covered by state programs.

At the beginning of the pandemic, CARES Act unemployment programs provided critical support to unemployed workers to make sure temporary job losses didn't turn into permanent ones. In February 2020, there were 5.7 million unemployed workers in the United States and the unemployment rate was 3.5 percent. By April 2020, that jumped to over 23 million and the unemployment rate reached an all-time high of 14.7 percent. However, over time, as the economy began to reopen, it became clear that enhanced benefits discouraged Americans from returning to work, making it harder for employers to hire, and provided an easy target for fraudsters and organized criminal enterprises.

Under the not so watchful eye of Committee Democrats, pandemic unemployment fraud became the greatest theft of taxpayer dollars in American history.

³“Lessons from the Unprecedented Fraud and Abuse of the Unemployment Benefits System during the Pandemic,” Matt Weidinger, American Enterprise Institute, September 21, 2022.

Figure 1*State and Federal Unemployment Benefit Spending since 1980**Source: US Department of Labor.*

UI fraud was not a victimless crime. Unchecked fraud delayed legitimate payments and diverted funding away from unemployed workers who truly needed the benefit during the economic downturn. Many unemployed workers who applied for benefits found themselves unable to get assistance because someone else had stolen their identity and filed a fraudulent claim in their name. It also turned thousands of Americans into unwitting identity theft victims. In addition, it became increasingly clear that groups that perpetrated UI fraud posed a potential national security risk. As fraud cases work their way through the court system, we are learning more about the involvement of foreign actors and international organized crime groups persistently targeting state systems. Some of these groups used American citizens as “money mules” to launder funds through the U.S. financial system to offshore bank accounts. For example:

- In July 2021, the U.S. Attorney’s Office in Massachusetts charged two Nigerian nationals with conspiracy to commit bank and wire fraud and engaging in unlawful monetary transactions in connection with expansive online fraud schemes, including romance scams, and unemployment assistance fraud.⁴

⁴“Two Nigerian Nationals Indicted for Romance and Pandemic Unemployment Fraud Schemes,” U.S. Attorney’s Office, District of Massachusetts, July 26, 2021.

- In November 2021, the U.S. Attorney’s office in Pennsylvania brought an indictment against a Turkish citizen charged with mail fraud, wire fraud, and money laundering in connection with UI fraud.⁵

Americans hit hard by the pandemic struggled to reclaim stolen identities and get assistance, as criminal organizations and foreign fraudsters exploited a national crisis to steal hundreds of billions in benefits. Based on flags raised by the Department of Labor Inspector General (DOL–OIG) and Government Accountability Office (GAO), Committee Republicans worked diligently to shine a spotlight on the extent of pandemic UI fraud, including holding two roundtables to hear from state workforce directors, victims of identity theft, and employers to learn about the consequences of unchecked unemployment fraud.⁶ Additionally:

- In August 2021, Committee Republicans requested GAO investigate fraudulent activities in COVID–19 unemployment programs.⁷
- In May 2022, House Republican leaders on the Ways and Means, Budget, Small Business, and Judiciary Committees sent a letter to Attorney General Merrick Garland inquiring about the lack of action taken by the Director for COVID–19 Fraud Enforcement charged with leading criminal and civil enforcement efforts to combat COVID–19-related fraud.⁸
- In February 2023, under the new Republican majority, Chairman Jason Smith (R–MO) held the first full committee hearing to investigate the size, scope, and severity of pandemic unemployment fraud.

Meanwhile, during the 117th Congress, despite having ample knowledge of the egregious pandemic fraud and the countless incidents of identity theft on Americans, Congressional Democrats walked away from their oversight responsibilities and ignored repeated calls for oversight hearings, leaving criminals to profit off the backs of taxpayers.

In March 2021, and again in February 2022, Committee Republicans sent letters to then-Chairman Richard Neal (D–MA) requesting the Committee immediately schedule an oversight hearing to investigate the size, scope, and severity of criminal fraud in pandemic unemployment insurance programs in response to COVID–19.⁹ These letters received no response. These requests were ignored despite multiple early warnings and alerts from non-partisan oversight and watchdog agencies. For example, as early as May 2020, DOL–OIG issued an alert memorandum describing concerns regarding claimant self-certification in the PUA program saying, “reliance on such self-certifications rendered the PUA program

⁵ “Turkish Citizen Living in the Pittsburgh Area Indicted on Fraud Charges,” U.S. Attorney’s Office, Western District of Pennsylvania, November 30, 2021.

⁶ Committee on Ways and Means Republican roundtable, “Consequences of Unchecked Unemployment Fraud,” May 10, 2021; Committee on Ways and Means Republican roundtable “Pandemic Unemployment Fraud: \$80 Billion and Counting,” February 22, 2022.

⁷ Letter: Republican Leaders Urge GAO to Investigate Fraudulent Activity in COVID Unemployment Insurance Programs, August 31, 2021.

⁸ Letter: Republican Leaders Demand Answers on Billions of Taxpayer Dollars Stolen Due to COVID Era Fraud, May 31, 2022.

⁹ Ways and Means Republicans sent two letters to Chairman Neal requesting a hearing on reports of fraud in COVID unemployment programs on March 12, 2021, and February 22, 2022.

highly vulnerable to improper payments, including fraud.”¹⁰ In the same month, the Secret Service circulated a memo to its field offices saying an international crime ring was filing unemployment claims in different states using Social Security numbers belonging to identity theft victims, including first responders, government personnel, and school employees.¹¹ In August 2020, DOL–OIG issued another alert memorandum reporting that states were not using existing tools effectively to combat fraud and other improper payments. GAO also issued repeated warnings about the vulnerability for abuse of CARES Act unemployment insurance programs.¹²

What’s worse, Democrats made it easier to defraud taxpayers by voting to end phaseouts of emergency UI programs they had previously supported while rejecting Republican amendments to prevent fraud. During consideration of ARPA in Committee, Democrats rejected Republican amendments that would have stopped the “pay and chase” model of benefit delivery. Rep. Devin Nunes (R–CA) offered an amendment to verify identity and prior wages of applicants prior to authorizing benefits, applied retroactively. Rep. Brad Wenstrup (R–OH) offered an amendment to hold harmless taxpayers that had their identities stolen to claim UI benefits fraudulently.¹³ Most recently, in September 2022, Democrats voted against a Resolution of Inquiry demanding communications showing the DOL knowledge of UI benefits flowing to international crime syndicates.¹⁴ Figure 2 provides a timeline of early warnings and calls for action.

The Biden Administration has offered few public details about its efforts to recover potentially hundreds of billions of stolen COVID–19 relief funds and issued guidance making it easy for states to sweep fraud under the rug. In February 2022, the Biden Administration issued guidance¹⁵ to let states off the hook for due diligence and fact finding for large volumes of suspicious claims—potentially involving billions of fraudulently obtained taxpayer dollars.¹⁶ The guidance provides multiple loopholes for how “states may apply blanket waivers of recovery of overpayments.” For example, a state may accept without challenge that an individual who responded “no” to being available for work is entitled to a waiver of recovery of overpayments with no determination as to whether the individual was truthful in their response. This allows those perpetrating fraud within the UI system to continue, and leaves hundreds of thousands of unresolved claims involving stolen identities belonging to identity theft victims, including first responders, government personnel, and school employees. In his 2022 State of the

¹⁰“Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud,” DOL–OIG, Report No. 19-20-002-03-315, May 26, 2020.

¹¹“Massive Fraud Against Unemployment Insurance Programs,” U.S. Secret Service, Information Only Alert, May 5, 2020.

¹²“COVID–19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and other Challenges Require Focused Federal Attention,” GAO–21–265, January 28, 2021.

¹³Dissenting Views on Subtitle A. Budget Reconciliation Legislative Recommendations Relating to Crisis Support for Unemployed Workers, Committee on Ways and Means, February 16, 2021.

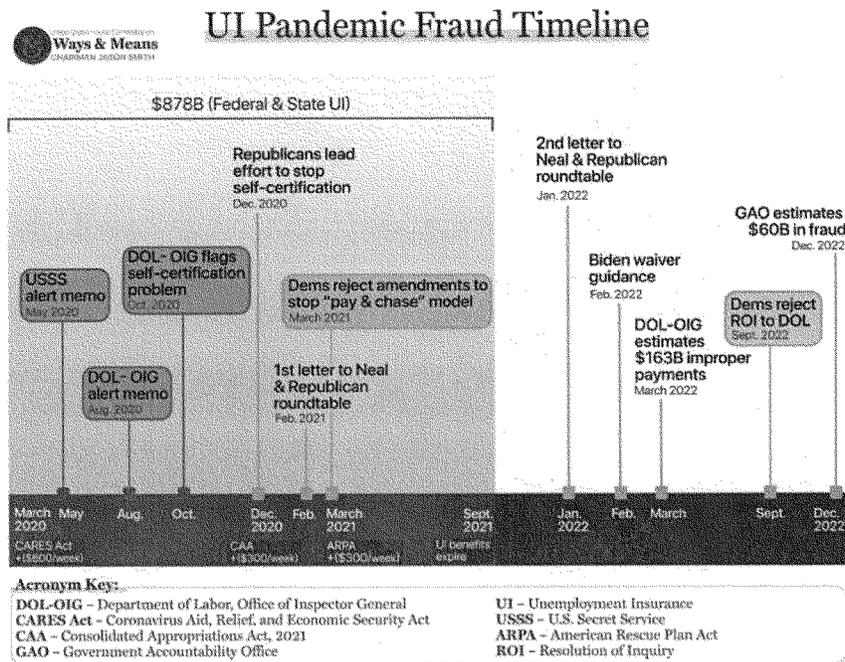
¹⁴“Democrats Vote to Blatantly Ignore Greatest Theft of American Tax Dollars in History,” Ways and Means Republicans Press Release, September 27, 2022.

¹⁵Unemployment Insurance Program Letter No. 20–21, Change 1, DOL, Employment and Training Administration, February 7, 2022.

¹⁶Ways and Means Republicans Letter to DOL Secretary Marty Walsh, February 22, 2022.

Union address, President Biden announced the creation of a “Chief Pandemic Prosecutor,” saying “the watchdogs are back” and “we’re going after the criminals who stole billions of relief money.” On March 10, 2022, the Department of Justice announced the appointment of Associate Deputy Attorney General Kevin Chambers to serve as Director for COVID–19 Fraud Enforcement. Mr. Chambers was to lead criminal and civil enforcement activities to combat COVID–19 related fraud, however, Mr. Chambers left his position in December 2022, and this critical post remains unfilled.

Figure 2



The actual amount of unemployment fraud during the pandemic is not known. According to testimony provided to the Committee by DOL–OIG, improper payments in pandemic unemployment programs have left taxpayers on the hook for at least \$191 billion, with a substantial portion due to fraud.¹⁷ Outside experts put the number much higher at \$400 billion.¹⁸ Just over \$5 billion has been recovered.

Figure 3 shows that estimates are wide ranging, with some encompassing only improper payments due to fraud, and others focused on all improper payments, including those resulting from administrative error. A December report from GAO, requested by

¹⁷“Testimony before the U.S. House of Representatives Committee on Ways and Means,” DOL–OIG, February 8, 2023.

¹⁸ID.Me. Insights Report, “Calculating the Road to Losing \$400 Billion Dollars,” January 20, 2022.

Committee Republicans, found at least \$60 billion solely in fraud.¹⁹ According to the report, “available estimates provide additional evidence of substantial levels of UI fraud and potential fraud during the pandemic, but none completely or reliably indicates the extent of fraud in UI programs.” The extent of the theft is so great that GAO has committed to build on existing evidence with its own independent modeling to calculate a more precise estimate.

The White House estimated a 22.2 percent improper payment rate in the federal-state UI program in fiscal year 2022. This partial estimate does not include estimates of improper payments in the PUA program. DO–OIG identified PUA as the most susceptible to fraud due to its reliance on self-certification. Pre-pandemic improper payment levels for regular state UI programs were between 10–13 percent largely due to failure of individuals to comply with work search requirements, payments to individuals who returned to work, and failure of employers to provide timely information about individual’s reason for separation from employment.

Figure 3

Estimates of Improper Payments in COVID-19 Unemployment Programs	
GAO	\$60 billion (fraud)
White House	\$104 billion (improper payments)
DOL-OIG	\$191 billion (improper payments)
Outside Estimates	\$400 billion (fraud)

This Committee has a responsibility to conduct oversight, take action to prevent future fraud, and bring restitution for taxpayers in the face of such staggering amounts of fraud. UI fraud has put American families in a terrible position, and taxpayers expect Congress to go after and recover every single possible dollar that was stolen by criminals and international crime rings. This legislation is needed to recover stolen taxpayer money, help ensure fraud risks do not carry over into the regular UI program and help bring to justice those who committed these crimes.

C. LEGISLATIVE HISTORY

Background

H.R. 1163 was introduced on February 24, 2023, and was referred to the Committee on Ways and Means.

Committee hearings

On February 8, 2023, the Committee on Ways and Means held a hearing titled “The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud.” The purpose of the hearing was to investigate the size and scope of fraud in federal unemployment programs, which skyrocketed during the pandemic. The witnesses were Mr. Gene Dodaro, Comptroller General, GAO; Mr. Larry Turner, Inspector General, DOL–OIG; and Mr. Michael Horowitz, Director, Pandemic Response Accountability Committee (PRAC).

¹⁹GAO, “UNEMPLOYMENT INSURANCE: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy,” GAO–23–105523; December 2022.

Committee action

The Committee on Ways and Means marked up H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023, and ordered the bill, as amended, favorably reported (with a quorum being present) by a vote of 20 yeas and 17 nays.

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop and consider H.R. 1163: Committee on Ways and Means hearing which took place on February 8, 2023, entitled “The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud”.

II. EXPLANATION OF THE BILL

A. THE PROTECTING TAXPAYERS AND VICTIMS OF UNEMPLOYMENT FRAUD ACT

Section 1: Short title

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

This section provides the short title, “Protecting Taxpayers and Victims of Unemployment Fraud Act”.

REASON FOR CHANGE

The Committee believes the title accurately reflects the content of the bill.

EFFECTIVE DATE

Upon enactment.

Section 2. Recovering federal fraudulent COVID unemployment payments

PRESENT LAW

The CARES Act requires states to recoup overpayments from individuals that received a payment to which they were not entitled through offsets to UI benefits for up to a three-year period. The exception to this policy is PUA, which otherwise follows overpayment recovery rules at 20 CFR Part 625 applicable to the Disaster Unemployment Assistance (DUA) program administered by the Federal Emergency Management Agency. DUA does not have a time limit for benefit offset recovery.

EXPLANATION OF PROVISION

This section amends the CARES Act to allow states to retain 25 percent of any recovered fraudulent overpayments of pandemic unemployment funds from PUA, FPUC, PEUC, and MEUC. The section also applies this policy to EB and the first week of regular un-

employment compensation during the period in which such benefits were 100 percent federally funded.

The section provides that states may use recovered funds for the following purposes: modernizing unemployment systems and information technology to improve verification and validation of applicants; administrative costs incurred by the state to identify and pursue recovery of fraudulent payments; hiring fraud investigators and prosecutors; and other program integrity activities as determined by the state to deter, detect, and prevent improper payments.

This section also extends the period to recoup overpayments through benefit offsets from three to 10 years for FPUC, PEUC, and MEUC, and adds a benefit offset period of 10 years to PUA.

REASON FOR CHANGE

Under current law, states have little incentive to pursue costly investigations and prosecutions that do not pay out to states. States otherwise must spend state funds to recover federal dollars that must be returned to the UTF account at Treasury, with no reimbursement of administrative costs incurred to recover such funds. In addition, many states are in the process of re-evaluating their UI technology and making systems enhancements to strengthen program integrity. Ensuring states invest in systems to prevent further instances of fraud is the best way this Committee can protect taxpayers and future UI recipients. These provisions provide a potential source of funding for those efforts. Finally, many states have laws in place to recover unemployment benefit overpayments through offsetting benefit policies. In recognition of the size and scope of pandemic UI fraud, and the time it takes to investigate and prosecute cases, the provision extends this period to 10 years.

EFFECTIVE DATE

The section becomes effective on or after the date of enactment and no later than 10 years from the date the amount was fraudulently received by an individual.

Section 3. Permissible uses of unemployment fund for program administration

PRESENT LAW

There is no provision in current law for states to retain a percentage of recovered UI overpayments. Under current law, states must re-deposit any recovered overpayments of regular state unemployment funds directly into their state trust fund account in compliance with the withdrawal standard and immediate deposit requirements in Section 3304(a) of Title 26 of the Internal Revenue Code and Section 303(a) of the Social Security Act.

EXPLANATION OF PROVISION

This section allows states to retain five percent of funds recovered from overpayments made (that are not the result of agency error) for use in the administration of the state's regular unemployment compensation program. Currently, states must deposit recovered overpayments into their state unemployment trust fund.

The section provides that states may use funds for the following purposes: costs of deterring, detecting, and preventing improper payments; purposes relating to the proper classification of employees and application of state unemployment experience tax ratings; payments on a state loan from the UTF; modernizing the state's unemployment compensation technology infrastructure; and otherwise assisting the state in improving the timely and accurate administration of the state's unemployment compensation law.

This policy is contingent on a state certifying they meet UI data integrity conditions outlined in Section 4.

REASON FOR CHANGE

This provision provides an incentive for states to pursue recovery of regular state UI overpayments as a source of additional funding for the administration of the UI program and for strengthening program integrity to prevent future fraud and improper payments.

EFFECTIVE DATE

The provisions in this section shall apply to overpayments that are collected as a result of an investigation and assessment by the state agency after the two-year period beginning on the date of enactment, except that nothing shall prevent a state from amending its law before the end of the two-year period beginning on the date of enactment.

Section 4. Preventing unemployment compensation fraud through data matching

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

As a condition to retain five percent of overpayments described in Section 3, this section requires a state to certify that they meet the following data matching integrity conditions:

- The state uses the Integrity Data Hub (IDH), a fraud alert center designated by DOL, or another system at the discretion of the state, to crossmatch unemployment claimants to prevent and detect fraud.
- The state has established procedures for:
 - Use the National Directory of New Hires (NDNH).
 - Use the State Information Data Exchange System (SIDES).
 - Prevent payment of unemployment benefits to incarcerated individuals.
 - Prevent payment of unemployment benefits to deceased individuals.

REASON FOR CHANGE

Ensuring states implement and certify systems to conduct data-matching of claimants before benefits are disbursed is vital to stop the “pay and chase” model of benefit delivery and ensure this level of fraud never happens again. The IDH helps states to identify people claiming benefits in multiple states and other emergent fraud

schemes. The NDNH allows the state to verify when someone receiving unemployment becomes employed and to take timely action to ensure benefits are discontinued. The SIDES facilitates employer responses to state requests to verify an individual’s previous employment. These provisions provide states with the resources needed to improve their systems for data matching, prevent fraud, and deliver benefits faster and more efficiently.

EFFECTIVE DATE

Upon enactment.

Section 5. Extension of emergency state staffing flexibility

CURRENT LAW

Section 303(a)(1) of the Social Security Act provides that state law must include a provision for “[s]uch methods of administration relating to the establishment and maintenance of personnel standards on a merit basis.” The responsibility for the establishment of these standards was transferred to the Office of Personnel Administration by the Intergovernmental Personnel Act of 1970 (Pub. L. 91–648). Standards for a merit system of personnel administration are codified at 5 C.F.R. 900.603.

Section 2106 of the CARES Act amends Section 4102(b) of the Emergency Unemployment Insurance Stabilization and Access Act of 2020, set out in Division D of the FFCRA (Pub. L. 116–127), to allow states to exercise emergency temporary flexibility of “personnel standards on a merit basis” through December 31, 2020, to respond to the spread of COVID–19. Such flexibility was limited to “engaging of temporary staff, rehiring of retirees or former employees on a non-competitive basis, and other temporary actions to quickly process applications and claims.” The Consolidated Appropriations Act, 2021, including the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) at Division N, Title II, Subtitle A, was signed into law by the President on December 27, 2020. The Continued Assistance Act extended this temporary staffing flexibility to March 14, 2021. ARPA subsequently extended this flexibility through September 6, 2021.

EXPLANATION OF PROVISION

This section reinstates and extends flexibility for states to hire temporary staff on a non-competitive basis to identify, prosecute, and recover fraudulent unemployment compensation benefits through December 31, 2030.

REASON FOR CHANGE

States have used emergency flexibility to hire contractors to take on more critical roles over the course of the pandemic, from the initial surge of providing simple relief to more complicated fact finding. According to the Center for Accountability, Modernization, and Innovation, during the pandemic, 41 states used the staffing flexibility provided by the CARES Act,²⁰ and state workforce agencies have repeatedly asked Congress to extend the states’ authority to

²⁰“Unemployment Insurance, Staffing Flexibility,” Center for Accountability, Modernization, and Innovation (CAMI), updated May 2021.

use contractors. In addition, the National Association of State Workforce Agencies endorses staffing flexibility. This provision ensures that states have maximum flexibility to utilize non-merit staff through December 31, 2030. The staffing flexibilities provided in the bipartisan CARES Act were vital for states to meet the sudden and drastic staffing needs to process UI benefits. Extending this flexibility is equally as vital to ensure states can staff up and have the manpower to go after these criminals that have defrauded the American people.

EFFECTIVE DATE

Upon enactment.

Section 6. Fraud enforcement harmonization

Current Law Current law includes a five-year statute of limitations for criminal charges or civil enforcement actions related to bank or wire fraud and is codified at 18 U.S.C. 3282.

EXPLANATION OF PROVISION

Extends the statute of limitations for criminal charges or civil enforcement action alleging that an individual engaged in fraud from five to 10 years after the offense was committed.

REASON FOR CHANGE

Initial UI payments under the CARES Act started going out in early 2020, nearly three years ago. This section extends the statute of limitations so criminals cannot get away with their crimes just because the clock runs out. This provision is similar to two laws enacted in 2022 to extend the statute of limitations for prosecuting criminals in relation to fraudulent overpayments in the Paycheck Protection Program (PPP)²¹ and the Economic Injury Disaster Loan (EIDL)²² programs, and was a recommendation made by PRAC in testimony provided to the Committee on Ways and Means.

Section 7. Budget offset

CURRENT LAW

Section 2118 of the CARES Act, as amended by ARPA, provided DOL \$2 billion in funding “to detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits with respect to unemployment compensation programs.”

EXPLANATION OF PROVISION

This provision repeals Section 2118 of the CARES Act, as amended by ARPA.

REASON FOR CHANGE

This provision has the practical effect of rescinding approximately \$400 million in unobligated funds remaining from the allocation provided in Section 2118. DOL has yet to provide a full accounting of this funding and failed to respond to a letter from Com-

²¹The “PPP and Bank Fraud Enforcement Harmonization Act of 2022,” (P.L. 117–166).

²²The “COVID–19 EIDL Fraud Statute of Limitations Act of 2022,” (P.L. 117–327).

mittee Republicans sent in May 2021 inquiring about the lack of focus on recovering fraud.²³ Available information shows DOL has used only approximately \$365 million, or 18 percent, of the \$2 billion provided for fraud identification and recovery.

EFFECTIVE DATE

Upon enactment.

III. VOTES OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Higgins to the amendment in the nature of a substitute to H.R. 1163, which would strike Section 7, was not agreed to by a roll call vote of 17 yeas to 22 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney				Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyn		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Larson to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from workers aged 60 or older receiving Social Security benefits, was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

²³ Letter: “Brady, Crapo to Labor Secretary Walsh: Stop Unemployment Fraud Now: Top Republican leaders urge greater protection of hardworking taxpayer dollars,” May 10, 2021.

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett			
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Dyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Ms. Sánchez to the amendment in the nature of a substitute to H.R. 1163, which would strike Section 5, was not agreed to by a roll call vote of 17 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Dyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Ms. DelBene to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from workers who had at least one dependent under age 19 in 2020 or 2021, was not agreed to by a roll call vote of 17 yeas to 22 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller				Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyn		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Panetta to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from Medicare beneficiaries, was not agreed to by a roll call vote of 17 yeas to 22 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller				Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duynes		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Ms. Chu to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from workers with income below the national median income, was not agreed to by a roll call vote of 17 yeas to 22 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly				Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup		X		Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern		X		Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff		X		Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach							
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duynes		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Ms. Sewell to the amendment in the nature of a substitute to H.R. 1163, which would pro-

hibit states from recovering non-fraudulent UI overpayments from workers enrolled in Medicaid, was not agreed to by a roll call vote of 17 yeas to 21 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup				Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern		X		Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff				Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach							
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyn		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Evans to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments if such overpayment was due to an error by a contractor, was not agreed to by a roll call vote of 16 yeas to 21 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup				Mr. Davis			
Mr. Arrington		X		Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell			
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern		X		Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff				Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach							

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyn		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Ms. Moore to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from individuals in a household that included a foster child in 2020 or 2021, was not agreed to by a roll call vote of 16 yeas to 21 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup				Mr. Davis			
Mr. Arrington				Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell			
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern		X		Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff				Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyn		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Schneider to the amendment in the nature of a substitute to H.R. 1163, which would add bank verification to the list of required program integrity tools to be used by states, was not agreed to by a roll call vote of 15 yeas to 20 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup				Mr. Davis			
Mr. Arrington				Ms. Sanchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell			
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff				Mr. Beyer			
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Dyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act,” on February 28, 2023.

The vote on the amendment offered by Mr. Panetta to the amendment in the nature of a substitute to H.R. 1163, which would prohibit states from recovering non-fraudulent UI overpayments from farmers, was not agreed to by a roll call vote of 17 yeas to 20 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer	X		
Mr. LaHood		X		Mr. Pascrell	X		
Dr. Wenstrup				Mr. Davis			
Mr. Arrington				Ms. Sánchez	X		
Dr. Ferguson		X		Mr. Higgins	X		
Mr. Estes		X		Ms. Sewell	X		
Mr. Smucker		X		Ms. DelBene	X		
Mr. Hern				Ms. Chu	X		
Mrs. Miller		X		Ms. Moore	X		
Dr. Murphy		X		Mr. Kildee	X		
Mr. Kustoff				Mr. Beyer	X		
Mr. Fitzpatrick		X		Mr. Evans	X		
Mr. Steube				Mr. Schneider	X		
Ms. Tenney		X		Mr. Panetta	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Dyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Com-

mittee on Ways and Means during the markup consideration of H.R. 1163, the “Protecting Taxpayers and Victims of Unemployment Fraud Act” on February 28, 2023.

H.R. 1163 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 20 yeas to 17 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood	X	.....	.....	Mr. Pascrell .....	.....	X	.....
Dr. Wenstrup .....	.....	.....	.....	Mr. Davis .....	.....	.....	.....
Mr. Arrington .....	.....	.....	.....	Ms. Sánchez .....	.....	X	.....
Dr. Ferguson	X	.....	.....	Mr. Higgins .....	.....	X	.....
Mr. Estes	X	.....	.....	Ms. Sewell .....	.....	X	.....
Mr. Smucker	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Hern .....	.....	.....	.....	Ms. Chu .....	.....	X	.....
Mrs. Miller	X	.....	.....	Ms. Moore .....	.....	X	.....
Dr. Murphy	X	.....	.....	Mr. Kildee .....	.....	X	.....
Mr. Kustoff .....	.....	.....	.....	Mr. Beyer .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Steube .....	.....	.....	.....	Mr. Schneider .....	.....	X	.....
Ms. Tenney	X	.....	.....	Mr. Panetta .....	.....	X	.....
Mrs. Fischbach	X	.....	.....		
Mr. Moore	X	.....	.....		
Mrs. Steel	X	.....	.....		
Ms. Van Duynes	X	.....	.....		
Mr. Feenstra	X	.....	.....		
Ms. Malliotakis	X	.....	.....		
Mr. Carey	X	.....	.....		

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1163, as reported. The Committee received the estimate prepared by the Congressional Budget Office (CBO), which is included below.

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

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the revenue increasing tax provisions involve no new tax expenditures.

V. 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, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

At a Glance			
H.R. 1163, Protecting Taxpayers and Victims of Unemployment Fraud Act			
As ordered reported by the House Committee on Ways and Means on February 28, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	-394	-293
Revenues	0	12	80
Increase or Decrease (-) in the Deficit	0	-406	-373
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would

- Allow states to spend a portion of recovered overpayments of unemployment insurance (UI)
 - Change the number of years that states could recover overpaid amounts by reducing benefits
 - Repeal funding for program integrity activities in the Department of Labor (DOL)
 - Require states to conduct data matching using specific tools to verify UI claimants' identity and eligibility
 - Lengthen the statute of limitations for federal criminal fraud charges related to unemployment compensation
- Estimated budgetary effects would mainly stem from
- Allowing states to spend a portion of recovered overpayments
 - Repealing funding for program integrity activities

Areas of significant uncertainty include

- Projecting recoverable amounts of benefits overpaid by pandemic-related unemployment programs
- Anticipating how DOL would interpret provisions that repeal existing funding for program integrity actions and that would allow states to spend a portion of recovered overpayments

Bill summary: H.R. 1163 would allow states to pay for program integrity activities with funds they recover from overpayment of unemployment insurance (UI) benefits, including fraud. The bill also would change the period during which states can reduce unemployment benefits in order to recover overpayments. Additionally, the bill would change the handling of fraud for the Pandemic Unemployment Assistance (PUA) program, require states to match claimant information and eligibility using specific tools, and generally extend the statute of limitations to bring federal criminal charges for fraudulently collected unemployment benefits from 5 years to 10 years.

Finally, the bill would repeal section 2118 of the Coronavirus Aid, Relief, and Economic Security Act, as added by the American Rescue Plan Act of 2021 (ARPA), which provided \$2 billion in fund-

ing for the Department of Labor (DOL) to prevent fraud and improve equitable access and timely payment of benefits for regular and pandemic-related UI programs.

Estimated Federal cost: The estimated budgetary effect of H.R. 1163 is shown in Table 1. The costs of the legislation fall within budget function 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1163

	By fiscal year, millions of dollars—													
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023– 2028	2023– 2033	
	Increases or Decreases (–) in Direct Spending													
Estimated Budget Authority ..	–400	–13	–18	5	15	17	17	18	21	22	22	–394	–294	
Estimated Outlays	0	–223	–161	–43	16	17	18	18	21	22	22	–394	–293	
	Increases in Revenues													
Estimated Revenues	0	0	*	1	4	7	11	13	14	15	15	12	80	
	Net Increase or Decrease (–) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit	0	–223	–161	–44	12	10	7	5	7	7	7	–406	–373	

* = between zero and \$500,000.

Basis of estimate: CBO assumes that the bill will be enacted around the beginning of August 2023. Estimated outlays are based on historical patterns for existing and similar activities.

Background: The permanent UI system is a joint federal-and-state program that provides temporary weekly benefits (consisting of regular benefits and, in economic downturns, extended benefits) to qualified workers who are unemployed through no fault of their own. Funding for the program is drawn from payroll taxes imposed on employers by the states and by the federal government. Within the limits set by the federal government, states set eligibility criteria and benefit amounts, and states provide the funding for all regular UI and half of extended UI benefits. The federal government funds states' administrative activities and the other half of extended UI benefits. Both the benefits paid by states and the revenues from state employer payroll taxes are recorded in the Unemployment Trust Fund (UTF) on the federal budget. CBO treats recoveries of fraudulent and other overpayments as offsetting receipts (or reductions in direct spending) that are credited to the states' UTF for state-funded benefits or to the Treasury for federally funded benefits.

Over time, CBO expects that states will maintain a balance in their UTF accounts, so that changes in benefits paid will be offset by changes in revenues collected. For example, when CBO estimates spending from state accounts would increase (for activities such as spending recovered overpayments on program integrity), we also estimate that deposits of state payroll taxes in those accounts over the following years also would increase. Those increases in revenues lag the increased spending by a few years. On net, CBO expects that changes in revenue would not completely offset changes in spending, because paying additional taxes for unemployment insurance would reduce the base of income taxes and other payroll taxes. That is, gross collections would be partially offset by a loss of other receipts.

Laws enacted in 2020 and 2021 temporarily extended benefits to additional people, increased benefit amounts, and extended the du-

ration of benefits. Those temporary programs, including PUA, Pandemic Emergency Unemployment Compensation (PEUC), Federal Pandemic Unemployment Compensation (FPUC), and Mixed Earners Unemployment Compensation (MEUC), which terminated on September 6, 2021, were fully funded by the federal government. Additionally, the federal government temporarily funded all of extended UI benefits (instead of half), and the first week of regular UI benefits.

The states identify overpayments when they determine that beneficiaries have received a payment, or a portion of a payment, to which they are not entitled. Some overpayments are identified as fraud; the definition of fraud for the regular UI program varies from state to state but generally requires that an individual has knowingly concealed facts to obtain or increase benefits. Under current law, recoveries of regular and state-funded extended unemployment benefits are deposited into a state's UTF account.

Direct spending: Various provisions in H.R. 1163 would affect direct spending in different ways. On net, CBO estimates that enacting the bill would decrease direct spending by \$293 million over the 2023–2033 period, as shown in Table 2.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 1163

	By fiscal year, millions of dollars—													
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023– 2028	2023– 2033	
Increases or Decreases (–) in Direct Spending Outlays														
Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits:														
Estimated Outlays	0	4	11	17	18	19	19	19	20	21	22	69	170	
Allow States to Spend Recovered Overpayments of Pandemic Unemployment Benefits:														
Estimated Outlays	0	6	9	4	2	1	1	*	*	*	0	22	23	
Change the Handling of Fraud Under the PUA Program:														
Estimated Outlays	0	2	3	0	0	0	0	0	0	0	0	5	5	
Repeal Program Integrity Funding Under ARPA:														
Estimated Outlays	0	–200	–150	–50	0	0	0	0	0	0	0	–400	–400	
Change Benefit Offset Periods:														
Estimated Outlays	0	–35	–34	–14	–4	–3	–2	–1	1	1	*	–90	–91	
Total Changes:														
Estimated Outlays	0	–223	–161	–43	16	17	18	18	21	22	22	–394	–293	

* = between zero and \$500,000; ARPA = American Rescue Plan Act of 2021; PUA = Pandemic Unemployment Assistance; UI = unemployment insurance.

Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits. H.R. 1163 would permanently allow states to spend 5 percent of whatever overpayments of regular and extended UI benefits they recover on program integrity activities. CBO expects that DOL also would allow states to spend the portion of recovered regular UI and extended benefits that were exclusively funded by the federal government during the pandemic, and this estimate incorporates that assumption.

CBO expects that states that spend recovered amounts would need to increase employment taxes to maintain a positive balance in their UTF accounts. Not all states would spend those amounts because of the need to raise payroll taxes if they did, but CBO cannot generally determine which states would or would not spend those funds. Given that uncertainty, we estimate that about half of the states would spend recovered amounts from regular and extended UI overpayments. On that basis, CBO estimates that enacting this provision would increase direct spending by \$170 million over the 2023–2033 period. That increase in spending would be partially offset by an increase in revenues, discussed below.

Allow States to Spend Recovered Overpayments of Pandemic Unemployment Benefits. H.R. 1163 would allow states to retain and spend 25 percent of recovered overpayments that were identified as fraudulent under pandemic-related programs, along with amounts recovered from overpayment of regular UI and extended benefits that were federally funded during the pandemic. Those funds would be used for program integrity activities. Under current law, recoveries of federally funded benefits are ultimately credited back to the federal government and are not deposited into the states' UTF accounts. Therefore, CBO expects that allowing states to retain and spend recovered amounts that they otherwise could not use would result in all states undertaking these activities. States would only be allowed to retain amounts recovered after the bill is enacted and within 10 years of the date an overpayment was made.

Data from DOL shows that by the end of fiscal year 2022, states had identified roughly \$3 billion in fraudulent overpayments for FPUC, PUA, and PEUC. States have recovered about \$130 million so far. Using that information and the recovery of similar overpayments of temporary unemployment benefits paid from 2008 through 2013, CBO estimates that roughly \$100 million will be recovered between 2024 and 2031 and that states would keep (and spend) about \$23 million (or 25 percent) of the amounts recovered over the 2023–2033 period. Because that \$23 million would have been retained by the federal government, enacting this provision would increase direct spending.

Change the Handling of Fraud Under the PUA Program. The bill would change the way fraud is handled for purposes of the PUA program. Rather than requiring states to handle fraud in the manner used for the Disaster Unemployment Assistance program, which is uniform across all states, H.R. 1163 would require states to use the procedures for identifying fraud and disqualifying claimants in accordance with state laws for regular unemployment compensation.

CBO cannot determine whether the change would allow states to identify additional cases of people who collected benefits fraudulently in the past. CBO expects that states would require additional administrative funding to change their methods for identifying and processing potentially fraudulent payments. Under current law, DOL has the authority to fund those activities for pandemic-related programs using existing authorities and appropriations. Using information from DOL, CBO estimates that the department would provide \$5 million in additional funding to states to administer the PUA program, increasing direct spending by the same amount over the 2023–2033 period.

Repeal Program Integrity Funding Under ARPA. The bill would repeal the section of ARPA that provided funding for program integrity activities for unemployment insurance. Using information from DOL, CBO estimates that \$400 million of the funds provided for that purpose will remain unobligated by the beginning of August, the assumed enactment date. On that basis, CBO estimates that repealing that section of law would decrease direct spending by \$400 million over the 2023–2033 period.

Change Benefit Offset Periods. Under current law, states must recover overpayments of FPUC, MEUC, and PEUC benefits by reducing recipients' benefits over the subsequent three-year period. The PUA program does not limit the number of years over which states can reduce benefits to recover overpayments.

H.R. 1163 would change the length of time during which states can recover overpayments of those pandemic unemployment benefits to 10 years following the overpayment. Based on the recovery history for regular UI benefits, CBO estimates that enacting the provision would decrease direct spending by \$91 million over the 2023–2033 period.

Require States to Undertake Certain Program Integrity Initiatives. The bill would require states to use certain data-matching and analytical tools to assess the validity of UI claimant information. CBO expects that the requirement would not significantly affect the amount of benefits paid or recovered because states already use most of those data sets or their equivalent to verify claimants' identity and eligibility.

Spending of Criminal Penalties. H.R. 1163 would increase collections of criminal penalties by an insignificant amount; those collections would be credited to the Crime Victims Fund and spent without further appropriation. The penalties are discussed in the next section. CBO estimates that direct spending from that fund would increase by an insignificant amount over the 2026–2031 period.

Revenues: Several provisions of H.R. 1163 would affect revenues. On net, CBO estimates that enacting the bill would increase revenues by \$80 million over the 2023–2033 period.

Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits. The bill would permit states to retain and spend a portion of recovered overpayments, which would, on net, decrease balances in the states' UTF accounts. As a result, CBO expects that states would increase their employer payroll taxes. CBO estimates that enacting this provision would increase revenues by \$80 million over the 2023–2033 period.

Extend the Statute of Limitations for Federal Criminal Fraud Charges. Section 6 would extend the statute of limitations for federal criminal fraud charges related to unemployment compensation from 5 years to 10 years. That change would not affect state laws or rules governing the recovery of overpayments. CBO estimates that the extension would increase revenues from criminal penalties by an insignificant amount after 2026. (Those penalties are credited to the Crime Victims Fund and spent without further appropriation.)

DOL's Office of Inspector General estimates that there have been more than 500 convictions for criminal fraud related to UI benefits since March 2020. Neither that office nor the Department of Justice will generally be able to initiate fraud cases related to pan-

demic-related UI compensation after 2025 because of the current five-year statute of limitations.

Extending that period to 10 years would allow federal investigators and prosecutors more time to pursue cases that could result in additional successful prosecutions after 2025. Those prosecutions, in turn, could result in the collection of additional criminal penalties (and subsequent spending from the Crime Victims Fund) or the recovery of additional benefits paid fraudulently (those recoveries are classified as offsets to mandatory spending.)

The additional amounts that may be collected by the government within the next decade, on net, are highly uncertain and, in CBO's estimation, would likely be small. Most federal convictions for fraud do not include the assessment of fines, and monetary penalties or amounts intended for restitution may not ultimately be collected. Moreover, the government's enforcement resources are limited and the additional time required to investigate and prosecute UI fraud cases that otherwise would be beyond the statute of limitations may come at the expense of other enforcement actions, which could result in the government's forgoing restitution payments or collections of criminal or civil penalties or damages.

Uncertainty: The amount that states would recover from overpayments of pandemic-related unemployment benefits, either under current law or under the bill is uncertain. CBO's estimates of future recoveries are based on current data. States are still identifying overpayments and discerning whether they were obtained fraudulently, so the amount of overpayments susceptible to recovery could be larger than what is apparent today. Additional investigations would be necessary to establish that payments were the result of fraud, and then further effort to recover any of those amounts. Ultimately, recoveries from those programs are likely to be a small percentage of total suspected fraud.

The amount of recoveries from pandemic unemployment programs also is uncertain because of the nature of the benefits. Those programs' benefits were substantially larger than regular UI benefits, and they were disbursed over a short time. In addition, the PUA program provided benefits to workers who were not previously covered by the UI system and who are not covered under current law. Some of the methods that states use to recover overpayments in the regular UI program—such as reducing future benefits or reducing income tax refunds—would probably be ineffective for recovering fraudulently received benefits. Therefore, the proportion of such amounts established and recovered would be significantly lower than recoveries of regular UI benefits, but the magnitude of that difference is uncertain.

CBO expects that under the bill, DOL would allow states to spend 5 percent of recovered overpayments of regular and extended UI benefits exclusively funded by the federal government along with 25 percent of recovered fraudulent overpayments of those same benefits. Whether DOL would interpret that language the same way that we did is unclear.

Additionally, H.R. 1163 repeals some funding for program integrity and administrative activities for pandemic-related unemployment programs. Because DOL has the authority to fund similar activities for the same programs under laws that would not be re-

pealed by the bill, DOL could provide funding to partially or fully replace the amount of repealed funds.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 3.

TABLE 3.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 1163, THE PROTECTING TAXPAYERS AND VICTIMS OF UNEMPLOYMENT FRAUD ACT, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON WAYS AND MEANS ON FEBRUARY 28, 2023

	By fiscal year, millions of dollars—												
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023–2028	2023–2033
	Net Increase or Decrease (–) in the Deficit												
Pay-As-You-Go Effect	0	–223	–161	–44	12	10	7	5	7	7	7	–406	–373
Memorandum:													
Changes in Outlays	0	–223	–161	–43	16	17	18	18	21	22	22	–394	–293
Changes in Revenues	0	0	0	1	4	7	11	13	14	15	15	12	80

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 1163 would not increase net direct spending by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting H.R. 1163 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2034.

Mandates: Rescinding unobligated balances that were provided by the American Rescue Plan Act of 2021 to make grants to states and territories for program integrity activities would reduce funds used by states and territories to comply with existing duties to prevent and to investigate UI fraud and overpayments. Under the Unfunded Mandates Reform Act (UMRA), a mandate occurs only when a provision would reduce or eliminate the amount of an authorization of appropriations. Thus, rescinding funds already provided would not impose intergovernmental or private-sector mandates as defined in UMRA.

The additional authorities granted by the bill to states and territories to retain and spend a portion of UI fraud and overpayment recoveries would be beneficial and not a mandate.

Estimate prepared by: Federal costs and revenues: Meredith Decker; Mandates: Andrew Laughlin.

Estimate reviewed by: Elizabeth Cove Delisle, Chief, Income Security Cost Estimates Unit; Joshua Shakin, Chief, Revenue Estimating Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

VI. 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 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 respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize 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. 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.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

With respect to the requirement of clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, this section was not made available to the Committee in time for the filing of this report.

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

With respect to the requirement of clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, this section was not made available to the Committee in time for the filing of this report.

VIII. DISSENTING VIEWS

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 9, 2023.

DISSENTING VIEWS ON PROTECTING TAXPAYERS AND VICTIMS OF UNEMPLOYMENT FRAUD ACT, H.R. 1163

Committee Democrats are strongly committed to ensuring that criminal rings that defrauded our pandemic unemployment programs are brought to justice, and also to preventing future fraud in our regular unemployment insurance (UI) program, which is a vital support for workers and our economy. Unfortunately, this legislation was rushed to markup without consulting state administrators, staff, or workers who received UI. It would undermine current efforts to fight fraud and send surprise bills to innocent workers.

According to preliminary estimates from the Congressional Budget Office, this bill would be a net cut in federal investment in strengthening UI and preventing fraud. First, the bill would rescind the critical American Rescue Plan Act funding provided to address fraud and strengthen state UI programs before the next recession. Every House Republican voted against this critical bill, which the Government Accountability Office (GAO) has identified as funding a number of important responses to their concerns about UI program operations and fraud.

Specifically, this bill would force the Department of Labor to cut off funding to fraud-fighting Tiger Teams in 30 states, as well as denying additional states access to consultative services and funding to address structural weaknesses and prevent fraud. H.R. 1163 would also halt in progress and planned pilots of identity verification systems and a rollout of in-person identity verification in partnership with the U.S. Post Office. The cut would claw back some funding *already provided* to states to upgrade their systems and participate in anti-fraud data matching systems (the same systems this bill purports to encourage states to join) and would prevent critical grants to states to upgrade the antiquated information technology systems that all of the witnesses at our Committee hearing said were one of the biggest reasons UI was vulnerable to fraud during the pandemic.

Committee Republicans voted against our amendment to restore the critical ARPA funding and did not even allow a debate or a vote on an amendment to fully fund state unemployment office training, and staffing, a top recommendation of UI experts and our hearing witnesses, and something specifically requested by the State of Missouri. They also voted against an amendment to include cross-matching systems targeted at the fastest-growing types of UI fraud and allow the DOL to ensure their use in all states.

The bill purports to replace the substantial funding cut by allowing states to keep a portion of recovered fraudulent payments, a slow and relatively unpredictable funding source largely out of state control. According to the Department of Labor Inspector General, the primary prosecutor of UI fraud, this provision would create a *disincentive* for states to refer UI fraud cases for prosecution, and instead encourage them to *not prosecute* and instead administratively recover the funds so that they could plug funding gaps.

The bill also opens up new fraud pathways by allowing states to contract out work currently done by carefully vetted and highly trained state staff. A similar policy temporarily implemented during the pandemic led to a flood of benefit and payment errors by contractors, including one situation where the contractor had to pay a \$5 million settlement to workers in three states whose personally identifiable information was shared with fraudsters, and others where states outsourced to call centers in other states and other countries and did not run background checks on workers dealing with confidential information. One overseas contractor made payments to individuals in China, Russia, and Nigeria. Committee Republicans voted against our amendment to strike the contracting out provision.

Finally, we are deeply concerned about the provisions in the bill which would send workers surprise bills for incorrect payments during the pandemic for as long as 10 years after the payment was made and encourages states to use funds to hire “investigators and prosecutors,” even though pandemic UI fraud is a federal crime properly investigated and prosecuted by the Inspector General and the Department of Justice. The workers who would receive Republican demand letters are people who lost their jobs during the pandemic, followed all of the rules and provided honest information when they applied for and received UI benefits, and went back to work when it was safe. They have no idea that the state made a mistake in their payments, and they spent the money that they received in good faith to pay for basic necessities like food, shelter, and medical expenses.

The case-by-case individual waiver option for states Republicans pointed to would be wholly inadequate to protect these workers. It would first require the state to demand that the worker repay the overpayment and warn them that penalties or interest would accrue if they did not. The worker could then file an individual application for a waiver of repayment, but not all workers will understand the waiver process or be willing to risk a lengthy appeals process, especially since H.R. 1163 would allow demand letters long after they had discarded any documentation they needed for the application. And if workers did file for waivers, state administrators have said that processing them would take millions of hours of worker time, diverting resources from preventing fraud and paying benefits accurately, and also delaying their response to panicked workers.

Democrats offered amendments to protect seniors, Medicare and Medicaid recipients, parents, low-wage workers, victims of contractor errors, foster families, and farmers from demand letters and surprise bills, but our amendments were rejected. We stand ready to work with anyone to ensure that criminal rings that targeted UI

are brought to justice and to prevent them from stealing from taxpayers in the future. Unfortunately, this bill is a big step backward from that goal.

RICHARD E. NEAL,
Ranking Member.

RANKING MEMBER RICHARD NEAL, OPENING STATEMENT,
WAYS AND MEANS COMMITTEE MARKUP OF H.R. 1163,
Tuesday, March 28, 2023.

Democrats strongly agree that those who took advantage of the COVID crisis to commit fraud must be held accountable. Indeed, it was Ways and Means Democrats that put \$2 billion in the American Rescue Plan to fight fraud. Every House Republican voted against those investments to prevent fraud and hold criminals accountable.

With this funding, the Department of Labor has built important new tools to detect and prevent fraud, deployed crisis teams to help states investigate fraud, and is modernizing information technology systems that were at the heart of many of the pandemic challenges. Thanks to House Democrats' American Rescue Plan funding, the Department of Labor Inspector General has already quadrupled its investigations staff and prosecuted over a thousand criminals.

Democrats took action to hold organized crime rings defrauding the federal government to account. Republicans' first bill addressing unemployment insurance cuts these investments, leaving states in deeper disarray.

This legislation slashes the fraud fund from the American Rescue Plan. It favors contractors who enabled fraud during the pandemic over the hard-working state workers who were actually on the frontlines of getting benefits out during the pandemic. The bill completely ignores the recommendations from the Republicans' own hearing witnesses earlier this month to modernize state unemployment systems.

That's what this bill would do about fraud. Needless to say, more harm than good.

State UI systems have been underfunded for far too long, and Republicans' attempts to further weaken these systems only leave them more vulnerable to bad actors in the event of future recessions or crises. Instead of reinforcing these vital systems to prevent future errors, the Majority has laid their focus on surprise-billing American workers while cutting funding to agencies actively holding those who committed identity theft and fraud accountable.

Instead of punishing organized crime, this bill would punish America's workers. It would tell states to hire "investigators" and bill workers for state payment errors innocent workers did not know about and were not responsible for. And it would have states send those bills as long as 10 years after the mistake was made. These surprise bills would punish America's families all while stunting accountability for actual criminals.

I am proud of the work that this Committee did to help Americans when they needed it most. We stepped in when millions of workers found themselves jobless overnight through no fault of their own. Congress ensured they could feed their children and pay

their rent. The numbers speak for themselves. These benefits kept millions out of poverty in 2020 and 2021, making the difference for families in communities in every corner of our country. And it served as the trampoline to enable our incredible economic recovery, with record job creation in both years of President Biden's term so far.

This Committee should indeed remain committed to the work of preventing fraud, but this bill does the opposite: it cuts off ongoing federal efforts to prosecute criminals and hurts the very workers and families we are charged to protect in the first place.

With that, I yield back the balance of my time.

