

# Congress of the United States

Washington, DC 20515

December 21, 2022

The Honorable Thomas P. DiNapoli  
New York State Comptroller  
Office of the New York State Comptroller  
110 State Street  
Albany, NY 12236

Dear Comptroller DiNapoli,

Committee Republicans together with Republican Members of the New York congressional delegation are investigating the content and timing of the release of your office's audit of the New York State Unemployment Insurance system.<sup>1</sup> Described as “damning”<sup>2</sup> and a “wake-up call for Governor Hochul and legislators,”<sup>3</sup> your office did not issue the audit report until November 15, 2022,<sup>4</sup> exactly one week after the 2022 election. The timing raises concerns that your office may have delayed the report to limit damage to Governor Kathy Hochul's campaign. To assist us in this investigation, we request documents and communications related to the audit report 2021-S-3 titled, “Department of Labor: Controls and Management of the Unemployment Insurance System” (The Report).<sup>5</sup>

Your office's press release on The Report notes that the New York Department of Labor's (DOL) failure to replace its long-troubled UI system, along with *ad hoc* workarounds, ultimately contributed to billions of dollars in improper payments during the COVID-19 pandemic.<sup>6</sup> New York DOL implemented stop-gap measures to conceal its problems, which proved costly to the state, businesses, and the people of New York.<sup>7</sup> The state made more than 218 million traditional and temporary UI payments totaling over \$76 billion.<sup>8</sup> According to your press release, “[u]sing the U.S. DOL's estimated fraud rate for New York's traditional UI program for SFY 2020-21, this would equate to approximately \$11 billion lost to fraud in that fiscal year. This likely understates the actual amount, as New York DOL acknowledged that the temporary programs had a significantly higher risk of fraud.”<sup>9</sup>

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<sup>1</sup> Report 2021-S-3, *Department of Labor: Controls and Management of the Unemployment Insurance System*, Office of the New York State Comptroller (November 2022).

<sup>2</sup> *Statement from Upstate United Regarding Comptroller DiNapoli's Bombshell Report on the Department of Labor's Unemployment Insurance Failures*, Justin Wilcox, Executive Director, Upstate United (November 15, 2022).

<sup>3</sup> *Id.*

<sup>4</sup> *Problems Caused by Outdated System Left State's Unemployment Insurance Program Vulnerable to Fraud*, NY State Comptroller Thomas P. DiNapoli, Office of the New York State Comptroller (November 15, 2022).

<sup>5</sup> *Supra*, note 1.

<sup>6</sup> *Supra*, note 4.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

Your office also stated that NY DOL “could not explain to auditors why the estimated number of frauds for traditional UI claims more than tripled during SFY 2020-21, nor was it willing to provide data to auditors that would enable them to perform their own independent analysis to assess the amount of fraudulent claims.”<sup>10</sup> This is critical information because during the pandemic, New York had to borrow billions of dollars from the federal government to support UI claims. The state’s loan balance from the federal UI trust fund, which now stands at about \$8 billion, must be paid back with interest.<sup>11</sup>

Voters should have been informed of these damning allegations of waste, fraud, abuse, and mismanagement by Governor Hochul’s DOL prior to the election. Failing to release this report before the election raises serious concerns that your office may have intentionally sought to shield Governor Hochul as her polling lead declined from an 18 percent lead in August 2022 to losing to Lee Zeldin by almost 1 percent in October 2022.<sup>12</sup> To assist the Committee with its investigation, please provide the following documents and communications, covering the time period January 2022 to the present, no later than January 4, 2023:

1. All documents and communications between any employee of the Office of the New York State Comptroller and any employee of the Office of the New York State Governor related to The Report.
2. All documents and communications between any employee of the Office of the New York State Comptroller and any employee of the Office of the New York State Department of Labor related to The Report.
3. All documents and communications related to the timing of the public release of The Report.
4. A list of the data referenced in your press release which your office requested from the New York DOL to perform your “independent analysis to assess the amount of fraudulent claims.”<sup>13</sup>

To schedule the delivery of responsive documents or ask any follow-up or related questions, please contact Committee on Oversight and Reform Republican staff at (202) 225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

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<sup>10</sup> *Id.*

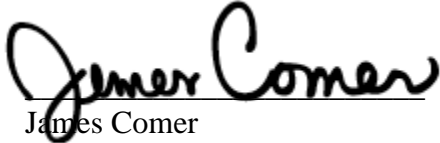
<sup>11</sup> *Id.*

<sup>12</sup> Michael Mashburn, *New Polls Show How Hochul-Zeldin Race Looks Days Before NY Gubernatorial Election*, Mount Vernon Daily Voice, (November 3, 2022).

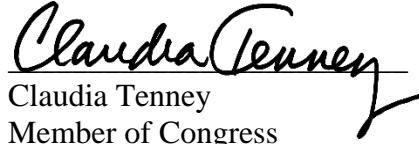
<sup>13</sup> *Supra*, note 4.

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Sincerely,



James Comer  
Ranking Member  
Committee on Oversight and Reform



Claudia Tenney  
Member of Congress



Elise Stefanik  
Member of Congress



Nicole Malliotakis  
Member of Congress

cc: The Honorable Carolyn B. Maloney, Chairwoman  
House Committee on Oversight and Reform