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National Employment Law Project

Federal Pandemic Spending

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

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

Today, I will present testimony on the widespread benefits and extraordinary value of our public dollars invested in COVID relief programs, with a particular focus on unemployment insurance. I will also address the ways that decades of under-investment in unemployment insurance infrastructure made pandemic unemployment insurance a target for organized crime and how that can be remedied, as well as the vigorous steps that the Department of Labor and state agencies across the country are currently taking to prevent waste, fraud, and abuse.

We must never lose sight of the terrible hardship that the early days of the COVID-19 pandemic imposed on workers, families, and communities nationwide. We also cannot forget the reality that Black, Indigenous, and other communities of color suffered the most severe financial and health impacts because of the compounding effects of longstanding structural racism across healthcare, labor, housing, and education, and the opportunity to accumulate generational wealth.[1]

When the pandemic hit, Congress listened to the voices of workers and families and acted to expand unemployment insurance, enhance the child tax credit, improve food assistance, deliver survival checks, provide emergency rental assistance, and guarantee much needed paid sick leave and paid family and caregiving leave to millions of workers, among other relief measures.

Although disease and hardship persisted, relief policies substantially alleviated poverty and suffering, enabling millions of families to afford rent and food, to stay safe from the virus, to care for loved ones, and to seek new employment, accelerating overall economic recovery. In short, the COVID relief programs enacted by Congress and implemented by federal and state agencies saved lives and livelihoods and prevented what could have been a prolonged and devastating economic collapse.

While there are important lessons to be learned from the ways in which these rapidly-assembled emergency programs fell short, the overwhelming story is one of success—pointing the way toward a better and more resilient social infrastructure that can support workers and communities at all times, whether crisis strikes a single family or the entire nation.

In fact, building a strong permanent social infrastructure would reduce the need to hastily create emergency programs in the midst of a future catastrophe, enabling a more deliberate and thoughtful pace of construction and implementation with strong safeguards against fraudulent activity that do not impede people in need from receiving benefits. I will describe how real solutions are being implemented—and could be improved and accelerated—in the context of unemployment insurance.

Far from being a "waste," policies enacted during the pandemic that helped to produce the lowest U.S. poverty rate on record and reduced the number of poor children by nearly half[2] should be strengthened, improved, and made permanent.

COVID Relief Programs Were Vital for Workers, Communities, and the Economy

When the coronavirus pandemic hit the United States in early 2020, much of the economy was purposefully shut down. By April 2020, 23 million U.S. workers were unemployed—the greatest job loss since the Great Depression.[3] Black, Latino, Native American, and Asian workers, as well as women of all races, disproportionately worked in occupations and locations hit hardest by pandemic shutdowns and faced the highest rates of unemployment.[4]

Working people across the country demanded relief, and Congress stepped up to pass 5 relief bills in 2020 that delivered an estimated $3.3 trillion of support for workers, families, and the economy, as well as the American Rescue Plan Act (ARPA) in early 2021, which provided an additional $1.8 trillion.

This robust policy response helped make the COVID-19 recession the shortest on record[5] and contributed to an economic recovery that has brought the unemployment rate, which skyrocketed to 14.7 percent in April 2020, down to 3.5 percent today.[6] Despite the cataclysmic collapse of the economy in March 2020, U.S. employment exceeded pre-COVID levels by August 2022.[7] As Moody's Analytics observed, "the economy would have succumbed to a double-dip recession," if COVID relief measures had not been in place.[8]

Social insurance programs—including federal pandemic relief measures such as the economic impact stimulus payments, the refundable Child Tax Credit, and expanded unemployment insurance— had a profoundly positive impact on people's daily lives, driving poverty to the lowest level on record in 2021, cutting the number of poor children by nearly half, and keeping over 25 million people out of poverty. At the same time, the number of uninsured people in the U.S. fell by 5.2 million from 2020 to early 2022.[9]

A closer look at specific pandemic relief policies, including expansions of unemployment insurance, the Child Tax Credit and Earned Income Tax Credit, housing assistance, nutrition assistance, childcare funding, paid leave, and Medicaid, reveals their powerful benefits, as well as the ways that they should be strengthened and renewed as permanent programs.

Pandemic unemployment insurance benefits reduced hardship, promoted equity, bolstered communities, and promoted economic recovery.

In the wake of massive pandemic layoffs, Congress established temporary new unemployment insurance (UI) programs that significantly expanded UI eligibility (Pandemic Unemployment Assistance, (PUA)), increased benefit amounts (Federal Pandemic Unemployment Compensation (FPUC)), and extended benefit duration (Pandemic Emergency Unemployment Compensation (PEUC)).[10]

The temporary federal pandemic programs dramatically expanded the reach, duration, and adequacy of UI benefits. Because Black and Latino workers were among those hit hardest by pandemic layoffs,[11] have lower household wealth as a result of decades of exclusion from wealth-building opportunities,[12] and disproportionately live in states with the lowest regular UI benefits and the most exclusionary eligibility rules,[13] the federal expansion of UI had the greatest positive impact on Black and Latino families' financial security. [14]

Not only did unemployment benefits contribute to the historic reductions in poverty in 2020 and 2021, they also broadly improved the well-being of households, improving recipients' financial stability and mental health. The Bureau of Labor Statistics (BLS) compared households that received unemployment benefits at some point during the pandemic with households where a worker applied for benefits but did not receive them. The BLS found that those who successfully received unemployment benefits were significantly less likely to experience food insecurity, have difficulty with household expenses, fall behind on their mortgage or rent, or report symptoms of anxiety or depression.[15] These disparities remained significant even after controlling for pre-pandemic differences in household income, education, and demographics.

UI is particularly effective at getting money into the hands of consumers who need it and will spend it quickly, supporting businesses in their communities and stabilizing states' economies. To understand the magnitude of this support, consider the recent study of real-time anonymous banking data in states that prematurely cut off the federal pandemic unemployment programs in 2021: Researchers found that for every $1 of reduced benefits, household spending fell by 52 cents, depriving local businesses of needed revenue, not to mention depriving workers and their families of needed rent, food, and other essentials.[16]

Research also suggests that expanded unemployment benefits like those provided during the pandemic can enhance businesses' ability to find workers with the skills they need. By enabling workers to search for jobs that suit their skills and support their standard of living—rather than taking the first job offered—expanded UI improves the functioning of the labor market overall.[17]

As part of its recent oversight reporting on pandemic unemployment insurance, the Government Accountability Office (GAO) conducted an extensive literature review. After analyzing 30 recent empirical studies, GAO concluded that expanded UI programs during both the COVID-19 pandemic and other adverse economic times "created overall economic stability" and prevented harmful outcomes from worsening.[18] The GAO review of research also concluded that pandemic UI benefits had limited to no effect on workers' incentives to return to work.[19]

Despite their many strengths, the implementation of these pandemic unemployment insurance programs had many shortcomings: My previous testimony before a subcommittee of the House Committee on Education and Labor analyzes in detail how and why newly laid-off workers confronted jammed phone lines, crashing websites, and long delays to access benefits, contributing to financial hardship for unemployed workers and their families.[20]

The reality is that overwhelmed state unemployment agencies were working with antiquated technology systems, inadequate staffing and resources, and outdated administrative practices and struggled to handle not only the deluge of new claims but also the intricacies of standing up new federal unemployment programs with constantly evolving standards. The nation had not invested the resources needed to pay historically high levels of new claims in a timely manner: Between 2010 and 2019, annual funding available for state UI administration declined 21 percent, from approximately $3.2 billion to approximately $2.5 billion.[21] As I will discuss below, deficient and inadequately funded UI infrastructure also made the pandemic unemployment insurance programs a prime target for organized crime.

The National Employment Law Project and allied organizations have long called for a permanent overhaul of the unemployment insurance system to establish minimum federal standards for UI eligibility, benefit duration, and benefit adequacy that all unemployment systems must meet, ensure equitable access and sustainable administrative funding, and reform the Extended Benefits program so that Congress doesn't have to create new programs every time there is a recession or other crisis which causes unemployment to soar.[22] In pursuit of this goal, Congress must learn from experience and build on the success of pandemic unemployment benefits while also securing the system's failing infrastructure.

Expanded tax credits drove historic reductions in poverty.

The American Rescue Plan Act temporarily made the full Child Tax Credit available to all poor and low-income children, increased the size of the Child Tax Credit, and provided an expanded Earned Income Tax Credit (EITC) for far more low-paid adults without minor children at home—driving an historic reduction in child poverty and providing timely income support for millions of people. The Child Tax Credit expansion drove child poverty down to a record low of 5.2% in 2021, whereas it would have been 8.1% without the Child Tax Credit expansion.[23] Among the children that the Child Tax Credit expansion lifted above the poverty line, approximately 1.2 million were Black and 1.7 million were Latino.[24]

ARPA also raised the EITC for adults in low-paid jobs who are not raising children at home and now get only a tiny credit or no credit at all. This provided income support to over 17 million people who work for low pay, including the 5.8 million childless workers aged 19-65 (excluding full-time students aged 19-23) who are now the lone group that the federal tax code taxes into, or deeper into, poverty because their payroll taxes (and, for some, income taxes) exceed any EITC they receive. Enhanced EITC beneficiaries are disproportionately people of color: about 26 percent are Latino and 18 percent are Black, compared to 19 percent and 12 percent of the population, respectively.[25]

Studies find that 9 out of 10 low-income families used their monthly Child Tax Credit payments to pay for the most basic household necessities, such as food, clothing, housing, and utilities, or for education expenses such as school supplies, books, or after-school programs.[26]

The success of these tax credit expansions proves that high poverty rates for children and low-paid workers are not inevitable, but rather are the product of explicit policy choices. Both the Child Tax Credit and EITC expansions made in APRA should be made permanent by Congress.

Housing funding stabilized communities and enabled people to remain in their homes.

Congress provided $46.6 billion in emergency rental assistance, which helped approximately 4 to 6 million households avert eviction and housing instability.[27] ARPA also provided $5 billion for approximately 65,000 Housing Choice Vouchers to serve people experiencing or at risk of homelessness, and $5 billion in HOME Investment Partnerships Program funding to develop approximately 20,500 units of affordable or supportive housing for people experiencing homelessness or at risk of homelessness.

ARPA also included housing resources for other highly impacted communities, including $750 million in housing aid for tribal nations and Native Hawaiians; $139 million for rural housing assistance; $100 million for housing counseling services for renters and homeowners; and $20 million to support fair housing activities. It also provided $10 billion to help homeowners who were experiencing financial hardship due to COVID-19 maintain their mortgage, tax, and utility payments and avoid foreclosure and displacement.

Expanded nutrition assistance mitigated food insecurity.

During the worst of the pandemic, Congress provided a 15 percent increase in the USDA's Supplemental Nutrition Assistance Program (SNAP) and enacted a program which provided grocery benefits to replace meals that children were not able to receive at school or in childcare. A study published by the international medical journal *The Lancet* estimates that 850,000 instances of food insufficiency were prevented in the U.S. every week as a result of the pandemic increase in SNAP benefits.[28]

Given that food insecurity among children often rises in the summer when they cannot access school meals, the grocery benefits program should be made permanent, as should an increase in SNAP benefits to better reflect the true cost of food.

Pandemic paid leave guarantees offered substantial health and economic benefits.

As the deadly toll of COVID-19 began to mount in early 2020, it was clear that workers needed paid sick time and paid family and medical leave to survive the unprecedented public health crisis and prevent the spread of disease. Nearly half of low-paid workers—disproportionately women and workers of color—did not receive paid sick leave through their employers in 2019 and would face substantial difficulty following CDC guidance to isolate or quarantine when diagnosed with COVID or experiencing symptoms because they could not afford to miss a paycheck or risk losing their jobs.[29]

Recognizing the dire predicament, Congress enacted the Families First Coronavirus Response Act, extending up to 10 days of guaranteed paid sick leave to many workers affected by the virus or who needed to care for family members affected by the virus, and establishing a guaranteed paid family leave program for some workers impacted by pandemic-related school and childcare closures.[30] Guaranteed paid sick and family leave prevented illness, supported workers and businesses, reduced the costs associated with COVID-19, and by reducing exposure to people infected with COVID, saved lives.

These provisions covered an estimated 22 million to 60.5 million workers who were employed by businesses with fewer than 500 employees and were not among the exempted categories of workers.[31]

A study published in the journal *Health Affairs* found that the guaranteed paid sick leave provisions, which were in place from April to December 2020, decreased COVID-19 infections by 56 percent in the 38 states that previously had no paid sick leave guarantee.[32] In each of these states, new paid sick leave protections prevented approximately 400 cases every day, stopping more than 15,000 daily infections nationwide.

Considering the finding that a single symptomatic COVID-19 case in the U.S. incurs an estimated median direct medical cost of $3,045 during the course of the infection—not including the substantial costs of lost productivity, risk of long-term health complications, disability, or death—demonstrates that paid leave policies had a substantial economic as well as public health payoff.[33]

Guaranteeing paid sick and family leave enabled workers with caregiving responsibilities to remain attached to the workforce. Paid leave also offered covered workers a reprieve from having to make an impossible choice: Either missing a paycheck they rely on to pay rent or buy groceries or going to work sick and risking their own health or the health of co-workers, clients, and customers. Similarly, paid leave for parents of children whose schools or place of care was closed due to the pandemic prevented an already dire childcare crisis from becoming even more catastrophic. Both types of paid leave enabled workers to remain connected to their jobs, income, and health coverage instead of becoming unemployed. Since its expiration, far too many workers have now been pushed back into these untenable decisions of caring for themselves and their families or risking their economic security.

Support for childcare infrastructure enabled families to access care and bolstered childcare workers.

The nation's care infrastructure has long been inadequate to support working parents and other caregivers. Access to quality, affordable childcare was scarce before the pandemic hit, with Latino families, rural families, and families of workers with non-standard schedules facing the greatest barriers to accessing childcare.[34] The pandemic exacerbated these challenges, leading to the closure of tens of thousands of childcare facilities across the country and a loss of childcare jobs that have still not been fully regained. Investments to support childcare, caregiving for older adults and people with disabilities in the CARES Act, ARPA, and other bills provided critical emergency funding—but Congress must provide needed long-term investment.

ARPA provided $23.975 billion for childcare stabilization grants and $14.99 billion in supplemental Child Care and Development Block Grant discretionary funds. Thus far, over 200,000 childcare providers have received stabilization grants to help sustain their programs as they recover from the impacts of the pandemic.[35] States have used their ARPA discretionary childcare funds for innovative and important strategies and activities to increase families' access to affordable, high-quality care and to improve childcare workers' compensation and job conditions.[36] These reforms should be made permanent.

Enabling Medicaid beneficiaries to remain enrolled dramatically expanded health coverage.

Recognizing how catastrophic it would be for Medicaid beneficiaries to lose their health coverage during a global pandemic, Congress acted to promote continuous Medicaid enrollment during the nationwide Public Health Emergency caused by COVID-19. Congress authorized a 6.2 percentage point increase in federal Medicaid matching funds for states and prohibited states from terminating coverage in most cases.[37] Responding to increasing need during the pandemic, the Medicaid program grew from providing coverage to 64 million people in February 2020 to 83.9 million people in September 2022.[38] Overall the number of uninsured people in the U.S. fell by 5.2 million from 2020 to early 2022.[39]

In December, the Consolidated Appropriations Act, 2023 decoupled the Medicaid continuous coverage requirement from the public health emergency, and states may now begin terminating enrollees as soon as April 1, subject to new procedural requirements to help ensure that eligible people remain enrolled and that those who are no longer eligible transition to appropriate coverage. The Health and Human Services Assistant Secretary for Planning and Evaluation (ASPE) estimates that as states begin redetermining eligibility, 15 million people will lose Medicaid coverage, and an estimated 6.8 million of them will lose coverage despite remaining eligible, because of paperwork-driven terminations.[40] These losses will disproportionately affect people of color, who face greater barriers to maintaining coverage.

In Their Own Words: Workers' Stories on the Success of Pandemic Relief

Statistics on plunging poverty, reduced food insecurity, vital access to health coverage, housing resources, paid leave, childcare, and direct funding to households through refundable tax credits, economic impact stimulus payments, and expanded unemployment benefits all combine to paint a powerful picture of the enormous return on public dollars invested in COVID relief programs. Yet the personal stories of community members who benefitted from federal support go beyond mere numbers. Below, are personal experiences workers have shared with NELP and our partner organizations about the impact expanded unemployment insurance benefits have had on their lives.

Valeria Ford, Kentucky: "My name is Valeria Ford, and I am a member of United Steelworkers Local 1693. I've been employed at American Synthetic Rubber Company in Louisville, Kentucky, for 27 years. I'm a single mother who has relied on only one income to raise my son. After I was first laid off in 2009, I had no idea how I was going to support us. Unemployment insurance enabled me to keep a roof over our heads, the lights, water, and gas on for the duration of the layoff. I was laid off again during the COVID-19 pandemic in 2020 for four months, and again unemployment insurance benefits filled the gaps of my lost income and allowed me to continue taking care of both me and my son. The federal pandemic unemployment benefits I received were invaluable to me during such a period of uncertainty."

S.B, Maryland: S.B. lives in Dundalk, Baltimore County, Maryland, with his wife and infant daughter. Prior to the pandemic, S.B. worked as a cook for seven years at a local hotel. After being let go, S.B. began receiving PEUC and FPUC benefits. He and his family relied on these expenses for their basic needs, including mortgage, groceries, cell phone bills, and a specialized infant formula and diapers for their daughter. These benefits allowed him to keep his car, which he needed to travel to job interviews, and allowed them to keep their home and avoid homelessness.

Tiffany, Ohio: "I was laid off on March 13th. Even though it took a month to begin receiving my unemployment benefits, I am so thankful for them. Without them, my family of 4 wouldn't have had anything at all coming in. The extra federal money per week enabled me to pay my bills and helped me provide for my children in such a traumatic situation. The unemployment insurance system is definitely needed in this country, and the extra federal money is also needed!"

Underfunded, Under-Staffed, Unprepared State Unemployment Insurance Systems Created a Target for Organized Crime

As the COVID-19 pandemic spread across the country, the federal government and state governments worked rapidly to get billions of dollars in relief to families and communities in desperate need. As critical as that relief was, the experience of quickly standing up and administering pandemic unemployment insurance also reveals how the nation's social insurance infrastructure fell short—and why it must be strengthened to more efficiently and effectively deliver benefits while enhancing program integrity.

A decades-long failure to invest in the UI system made UI benefits an appealing target for organized crime during the pandemic. Chronically underfunded and under-staffed state UI systems operating with antiquated technology were tasked with carrying out a major new set of federal programs with little advance preparation, providing multiple points of vulnerability for criminal enterprises to exploit.

The spike in fraudulent UI claims during the pandemic was primarily the result of criminal enterprises engaging in identity fraud, not of individual workers making improper claims.[41] As Department of Labor officials have explained, sophisticated organized crime rings that had previously stolen the identities of workers during private sector failures such as the Equifax data breach of 2017 seized upon the pandemic as a time to use those stolen identities to obtain UI benefits.[42]

Generally, fraudulent claims in regular state UI programs are relatively uncommon.[43] State agencies have developed several checks in the regular UI benefit system to identify and stop payment on potentially fraudulent claims.[44] As the temporary federal pandemic programs had to be built virtually overnight, state agencies were not able to design the same type of systems to protect against identity fraud in these programs. By reforming the UI system and establishing permanent programs that automatically turn on during economic downturns, Congress can ensure these programs adequately protect against criminal enterprises attempting to use stolen identities to obtain benefits.

An additional challenge was the reality of 53 distinct state and jurisdictional UI systems which could be individually targeted by criminal enterprises in ways that made implementing a national solution more difficult. As I discuss below, DOL has had notable recent success in pioneering national fraud-prevention solutions and enlisting state participation. However, the de-centralized system remains a source of vulnerability: A clear set of federal standards, such as those envisioned by the Guaranteeing Unemployment Assistance and Reducing Deception Act (the GUARD Act), sponsored by Rep. Steven Horsford of Nevada last year, would facilitate efforts to combat fraud.[45]

It is important to put identity fraud claims within UI in context: Identity theft is a problem for the entire public and private sector and is far from unique to unemployment insurance. In 2021, the Federal Trade Commission received 395,948 reports of ID theft related to public benefits, including UI. This number is dwarfed by the more than one million cases of ID theft related to private business, such as credit card fraud or identity theft relating to bank loans.[46]

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

The UI system can be and is being made more secure. Criminal enterprises exploited a number of weaknesses in state UI systems. GAO notes that one major cause of increased identity fraud was the insufficient number of state UI staff and the fact that staff were severely undertrained.[47] When state agencies added staff to deal with the pandemic surge in claims, many cut short training programs, resulting not only in delayed or improperly denied claims for workers but also in a reduced ability to detect and respond to identity fraud.

For example, Louisiana officials informed GAO that the typical training period for UI staff is 6 months, but they had to condense it to one week.[48] In Arizona, training claims adjudicators had taken up to eight weeks, but during the pandemic only five weeks of training were provided.[49] Florida also shortened staff trainings and hired outside contractors to train other contractors.[50]

Another source of vulnerability arose because the CARES Act provided state agencies with emergency flexibility to hire outside contractors, temporarily waiving federal merit-based hiring requirements. Although intended to handle the historic increase in claims, the hiring of inexperienced and insufficiently trained contract staff likely contributed to increased fraudulent activity and created greater obstacles for workers seeking benefits.[51]

GAO further explains that increased identity fraud also resulted from criminal enterprises taking advantage of outdated IT systems with insufficient security.[52]

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

After decades of severe underfunding, Congress has also provided much-needed increases in federal funding for UI administration and worker-centered technology modernization. Over the past two years, increased funding for UI state administration has begun to provide the consistent, reliable funding necessary to address security and performance challenges.[53] Congress must continue making these investments: Sophisticated criminal enterprises will continue to seek new vulnerabilities in state systems, and state agencies will need the resources to keep pace.

The haste with which pandemic UI programs were set up is yet another risk factor: preparing in advance for a surge in unemployment during the next inevitable recession would enable states to set up programs at a more deliberate pace with improved security.

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

State UI agencies have an obligation to pay claims in a timely manner based on the best information available at the time, and to provide workers claiming benefits with due process when the state has questions about their eligibility or identity.[54] Efforts to prevent fraud must not be permitted to further impede workers' ability to access the UI benefits for which they are eligible. NELP's research finds that state agencies' focus on preventing eligibility fraud already contributes to improper denial of UI applications, delays in paying claims, and difficult and time-consuming processes to apply for and access benefits.[55] To be sure, program integrity is important. But there are two sides to program integrity: 1) rooting out fraud; and equally important, 2) making all efforts to pay benefits in a timely manner whenever they are due.

Congress must help ensure that states appropriately balance equitable access to benefits for eligible workers with preventing and detecting improper payments and fraud. As DOL recently reminded states "[p]rogram integrity involves both ensuring that entitled workers are not underpaid nor overpaid, and preventing payments to those who are not entitled to benefits."[56] Over the past decade, state program integrity measures have focused almost exclusively on detecting and preventing eligibility fraud—which DOL distinguishes from cases of stolen identity ("identity fraud") and defines as "occurring when benefits or services are acquired as a result of false information with the intent to receive benefits for which an individual or individuals would not otherwise be qualified."[57]

This singular focus led many state agencies to put substantial resources into scrutinizing workers' eligibility, many times at the cost of ensuring entitled workers received timely payment, leaving states unprepared for the spike in identity fraud during the pandemic and exacerbating access issues for workers when there was the influx of claims.[58] Congress must support ongoing efforts at DOL to rebalance the focus state agencies put on equity and program integrity, including identifying and focusing on the true and emerging integrity issues in the program as opposed to overreliance on an outdated focus on eligibility fraud alone. This includes passing the Guaranteeing Unemployment Assistance and Reducing Deception Act (The GUARD Act), introduced by Congressman Horsford in the 117th Congress, which would mandate that DOL set new performance standards for states on equity, benefit delivery, access, and other key areas.

While identity verification has an important role to play, it is critical that state UI agencies not use identity verification technology that creates unreasonable barriers for workers legitimately trying to claim benefits. We are particularly concerned that ID verification systems that rely on facial recognition, which may routinely misidentify people of color—particularly Black and Native American people—far more frequently than white people.[59]

It is welcome news that the Internal Revenue Service announced their own transition away from the requirement that taxpayers use third-party facial recognition services for the purposes of identity verification.[60] State unemployment insurance systems must do the same.

Overzealous efforts by state agencies to recover UI benefits that were overpaid to workers through no fault of their own also threaten to become a barrier to access for UI in the future. As state agencies rushed to administer new and unfamiliar programs with inadequate staffing and technology, and workers unfamiliar with UI rushed to apply for benefits, mistakes inevitably occurred. Yet forcing workers to pay back benefits that were paid out through no fault of their own is now causing hardship for workers and their families.[61] NELP and other advocates are concerned that the negative experience could strongly discourage workers from seeking UI benefits in the future even if their families badly need the support.

The Department of Labor and State Agencies are Vigorously Pursuing Criminal Fraud Rings and Working to Strengthen the UI System

Unemployment insurance program integrity is one of the top agency priorities for the DOL. In a recent report, GAO detailed some of the robust measures that DOL and state agencies are taking to prevent, detect, and respond to fraud, as well as to improve the UI system overall so that it no longer has significant vulnerability to organized crime.[62] Through investigations and prosecutions, grants to state agencies, resources for victims of identity fraud, technical assistance, shared best practices, and access to new databases to cross-check data, DOL is ensuring that states can stop fraudsters and increase the security of the UI system without impeding access for eligible workers.

DOL is working with state governments, federal law enforcement, and major banks to facilitate the recovery of fraudulently acquired and overpaid UI funds. As of November 2022, UI investigations by the DOL Office of Inspector General (OIG) alone have resulted in over $865 million in investigative monetary results, with more than 600 search warrants executed and 1,000 people charged with UI fraud-related crimes.[63] DOL OIG has also referred over 19,000 fraud matters that do not meet federal prosecution guidelines back to state workforce agencies for further action.[64]

In addition, DOL is working to protect the most direct victims of UI fraud: Workers whose identities were stolen by criminal organizations and wrongfully used to apply for UI benefits. In March 2021, DOL launched www.dol.gov/fraud, a new website created for people to better understand UI identity fraud and how to report it, and to provide resources to help victims. DOL has regularly updated the website content and issued guidelines for states to align their public messaging and reporting instructions so that fraud victims across the country understand how to report fraud and be certain their reports will be handled safely and appropriately.[65]

DOL provides substantial resources to states to pursue and prevent UI fraud.

Since the pandemic began, DOL has used CARES Act and ARPA funds provided by Congress to offer multiple rounds of grants—totaling $665 million—to support state efforts to prevent, detect, and investigate fraud and to recover fraudulent overpayments in pandemic and regular UI programs. [66]

In addition to providing funding, DOL offers a wide range of technical and systems support for state fraud prevention, detection, and recovery. DOL's UI Integrity Center, operated in partnership with the National Association of State Workforce Agencies (NASWA), provides resources including trainings, state-specific technical assistance, and a growing library of solutions and best practices for combatting fraud.

The UI Integrity Center also houses the Integrity Data Hub, described by GAO as "a secure, robust, centralized, multistate data system where participating state UI agencies can regularly submit claims for multi-state cross-matching… [and where] states have access to a suspicious actor repository, foreign internet protocol address detection tool, and fraud alerts to facilitate information sharing about fraud schemes between states and the DOL OIG."[67]

State participation in the Integrity Data Hub and the use of its cross-match systems have increased significantly since the pandemic, with more states using functions such as the DOL's identity verification service, incarceration data exchange, and the recently launched Bank Account Verification (BAV) service that enables states to thwart ID fraud by verifying that a bank account actually belongs to the worker claiming UI benefits.[68]

Conclusion

The pandemic relief policies that Congress enacted, including the expansion and enhancement of unemployment insurance, increased nutrition assistance, and expansion of the child tax credit, among other temporary benefits and supports, combined to provide a critical lifeline to workers, families, communities, and the nation's economy. These public dollars produced tremendous benefits nationwide.

Instead of mischaracterizing pandemic relief programs, vilifying workers, and denigrating the state and federal agencies working to support them, this committee must recognize the tremendous value of COVID relief programs and work to find meaningful solutions to the ever-evolving problem of identity fraud that has undermined their effectiveness.

By temporarily addressing severe gaps in the nation's social infrastructure, pandemic programs powerfully demonstrated a path toward building a more equitable economy that better supports workers and communities. Rather than waiting for the next crisis to hastily construct relief programs that will again be vulnerable to fraud and abuse because of their rapid rollout, Congress must act now to build and fund strong, resilient, and permanent social infrastructure that can support all workers and community members at all times.

Endnotes

[1] Latoya Hill and Samantha Artiga, "COVID-19 Cases and Deaths by Race/Ethnicity: Current Data and Changes Over Time," Kaiser Family Foundation, August 22, 2022, https://www.kff.org/coronavirus-covid-19/issue-brief/covid-19-cases-and-deaths-by-race-ethnicity-current-data-and-changes-over-time; Steven Brown, "The COVID-19 Crisis Continues to Have Uneven Economic Impact by Race and Ethnicity," Urban Institute, July 1, 2020 https://www.urban.org/urban-wire/covid-19-crisis-continues-have-uneven-economic-impact-race-and-ethnicity.

[2] John Creamer, Emily A. Shrider, Kalee Burns, and Frances Chen, "Poverty in the United States: 2021," U.S. Census Bureau, September 2022, https://www.census.gov/library/publications/2022/demo/p60-277.html.

[3] Elizabeth Weber Handwerker, et. al. "Employment Recovery in the Wake of the COVID-19 Pandemic," *Monthly Labor Review*, U.S. Bureau of Labor Statistics, December 2020, https://doi.org/10.21916/mlr.2020.27.

[4] U.S. Bureau of Labor Statistics; D.L. Feir and Charles Golding, "Native Employment During COVID-19," Federal Reserve Bank of Minneapolis, August 5, 2020, https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound.
[5] Howard Schneider, "U.S. Recession Ended in April 2020, Making It Shortest on Record," Reuters, July 19, 2021, https://www.reuters.com/business/recession-ended-april-2020-making-it-shortest-record-2021-07-19/.
[6] Labor Force Statistics from the Current Population Survey, US Bureau of Labor Statistics, https://data.bls.gov/timeseries/LNS14000000.

[7] https://www.bls.gov/news.release/archives/empsit_09022022.htm
[8] Bernard Yaros et al., "Global Fiscal Policy in the Pandemic," Moody's Analytics, February 24, 2022, https://www.moodysanalytics.com/-/media/article/2022/global-fiscal-policy-in-the-pandemic.pdf.
[9] Aiden Lee, et.al., "National Uninsured Rate Reaches All-Time Low in Early 2022," U.S. Department Of Health And Human Services Office of the Assistant Secretary for Planning and Evaluation, August 2022, https://aspe.hhs.gov/reports/2022-uninsurance-at-all-time-low.
[10] The American Rescue Plan Act also created Mixed Earner Unemployment Compensation (MEUC) which provided an additional UI supplement for workers with self-employment income.
[11] U.S. Bureau of Labor Statistics.
[12] Angela Hanks, Danyelle Solomon, and Christian E. Weller, "Systemic Inequality," Center for American Progress, 2018, https://www.americanprogress.org/article/systematic-inequality/.
[13] Amy Traub and Kim Diehl, "Reforming Unemployment Insurance
is a Racial Justice Imperative," National Employment Law Project, 2022, https://www.nelp.org/publication/reforming-unemployment-insurance-is-a-racial-justice-imperative/.
[14] Neil Bhutta, Jacqueline Blair, Lisa Dettling, and Kevin Moore, "COVID-19, The CARES Act, and Families' Financial Security," *National Tax Journal* 73, no. 3, 2020 https://www.journals.uchicago.edu/doi/10.17310/ntj.2020.3.02
[15] Patrick Carey, et. al., "Applying for and Receiving Unemployment Insurance Benefits During the Coronavirus Pandemic," Monthly Labor Review, U.S. Bureau of Labor Statistics, September 2021, https://doi.org/10.21916/mlr.2021.19.
[16] Kyle Coombs, et.al., "Early Withdrawal of Pandemic Unemployment Insurance: Effects on Earnings, Employment and Consumption," Harvard Business School, August 20, 2021 https://www.hbs.edu/ris/Publication%20Files/22-046_ce11d30f-72bc-4dd6-8367-e1dce9e75154.pdf
[17] Ammar Farooq, Adriana Kugler, and Umberto Muratori, "Do Unemployment Insurance Benefits Improve Match Quality? Evidence from Recent U.S. Recessions," NBER Working Paper Series Working Paper 27574 July 2020, https://www.nber.org/system/files/working_papers/w27574/revisions/w27574.rev0.pdf.
[18] Thomas Costa et. al., "Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning," US Government Accountability Office, June 2022, https://www.gao.gov/assets/gao-22-104251.pdf.
[19] Among the studies reviewed by GAO: Lucas Finamor and Dana Scott, "Labor Market Trends and Unemployment Insurance Generosity during the Pandemic," Economic Letters 199, 2021; Dana Scott and Lucas Finamor, "Employment Effects of Unemployment Insurance Generosity During the Pandemic," Munich Personal RePEc Archive no. 102390, 2020, https://mpra.ub.unimuenchen.de/id/eprint/102390; Arin Dube, "Aggregate Employment Effects of Unemployment Benefits During Deep Downturns: Evidence From the Expiration of the Federal Pandemic Unemployment Compensation," NBER Working Paper Series Working Paper 28470, National Bureau of Economic Research, Feb. 2021; Kyle Coombs, et. al., "Early Withdrawal of Pandemic Unemployment Insurance: Effects on Earnings, Employment and Consumption," Harvard Business School Working Paper, No. 22-046, Aug. 2021; Peter Ganong, et. al., "Spending and Job Search Impacts of Expanded Unemployment Benefits: Evidence from Administrative Micro Data," Becker Friedman Institute, Feb. 2021.
[20] Rebecca Dixon, "Examining The Administration Of The Unemployment Insurance System," National Employment Law Project, September 21, 2022, https://www.nelp.org/publication/testimony-of-rebecca-dixon-examining-the-administration-of-the-unemployment-insurance-system/.
[21] Thomas Costa, et. Al., "Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning," US Government Accountability Office, June 2022, https://www.gao.gov/products/gao-22-104251
[22] Josh Bivens, et. Al., Reforming Unemployment Insurance: Stabilizing a System in Crisis and Laying the Foundation for Equity, Economic Policy Institute, National Employment Law Project, Center for American Progress, Center for Popular Democracy, Groundwork Collaborative, National Women's Law Center and Washington Center for Equitable Growth, 2021, p 50, https://www.nelp.org/publication/reforming-unemployment-insurance-stabilizing-a-system-in-crisis-and-laying-the-foundation-for-equity/.
[23] Chuck Marr, et.al., "Year-End Tax Policy Priority: Expand the Child Tax Credit for the 19 Million Children Who Receive Less Than the Full Credit," Center on Budget and Policy Priorities, December 2022, https://www.cbpp.org/sites/default/files/11-15-22tax.pdf.
[24] Sharon Parrott, "American Rescue Plan: Shots in Arms and Money in Pockets," Center on Budget and Policy Priorities, March 25, 2021, https://www.cbpp.org/sites/default/files/3-25-21pov-testimony.pdf.
[25] Sharon Parrott, "American Rescue Plan: Shots in Arms and Money in Pockets," Center on Budget and Policy Priorities, March 25, 2021, https://www.cbpp.org/sites/default/files/3-25-21pov-testimony.pdf.
[26] Claire Zippel, "9 in 10 Families With Low Incomes Are Using Child Tax Credits to Pay for Necessities, Education," Center on Budget and Policy Priorities, October 21, 2021, https://www.cbpp.org/blog/9-in-10-families-with-low-incomes-are-using-child-tax-credits-to-pay-for-necessities-education.
[27] Sharon Parrott, "American Rescue Plan: Shots in Arms and Money in Pockets," Center on Budget and Policy Priorities, March 25, 2021, https://www.cbpp.org/sites/default/files/3-25-21pov-testimony.pdf.
[28] Andrew Bryant and Lendie Follett, "Hunger Relief: A natural experiment from additional SNAP benefits during the COVID-19 pandemic," *The Lancet Regional Health – Americas* Volume 10, 100224, June 2022, https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(22)00041-2/fulltext.
[29] "Employee Benefits in the United States – March 2019," Bureau of Labor Statistics, 2019, https://www.bls.gov/news.release/archives/ebs2_09192019.pdf.
[30] Families First Coronavirus Response Act, Public Law 116–12, March 18, 2020. https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.pdf
[31] Vicki Shabo, "America's Workers Need Paid Sick Time Now," New America, January 12, 2022, https://www.newamerica.org/better-life-lab/blog/americans-need-paid-sick-time-now-congress-must-reinstate-and-expand-emergency-paid-sick-leave-guarantees-for-workers-reimbursement-for-employers/.
[32] Stefan Pichler, Katherine Wen, and Nicolas R. Ziebarth, "COVID-19 Emergency Sick Leave Has Helped Flatten The Curve In The United States," Health Affairs, October 2020, https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2020.00863.
[33] Sarah M. Bartsch, et. al., "The Potential Health Care Costs And Resource Use Associated With COVID-19 In The United States," Health Affairs, June 2020, https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2020.00426.
[34] Angela Rachidi, et.al., "The New Economy and Child Care: Nonstandard-Hour Work, Child Care, and Child Health and Well-Being," Mathematica and American Public Human Services Association, May 15, 2019, https://www.mathematica.org/download-media?MediaItemId=%7B13EC7AC4-660B-4094-8CC9-F57FFB4BE1DC%7D; Rasheed Malik, et.al., "America's Child Care Deserts in

2018," Center for American Progress, December 6, 2018, https://www.americanprogress.org/article/americas-child-care-deserts-2018/.
[35] Karen Schulman, "At The Crossroads: State Child Care Assistance Policies 2021," National Women's Law Center, 2022, https://nwlc.org/wp-content/uploads/2022/06/State-of-Child-Care-2022-WIP-accessibility.pdf.
[36] Karen Schulman, "Child Care Rescue: How States Are Using Their American Rescue Plan Act Child Care Funds," National Women's Law Center, October 2022, https://nwlcv2.wpengine.com/wp-content/uploads/2022/11/Child-Care-Rescue-State-Uses-of-ARPA-Funds-NWLC-Report.pdf.
[37] MaryBeth Musumeci, "Key Questions About the New Increase in Federal Medicaid Matching Funds for COVID-19," Kaiser Family Foundation, May 2020, https://www.kff.org/coronavirus-covid-19/issue-brief/key-questions-about-the-new-increase-in-federal-medicaid-matching-funds-for-covid-19/.
[38] "August 2022 Medicaid and CHIP Enrollment Trends Snapshot," Center for Medicare and Medicaid Services, https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/august-2022-medicaid-chip-enrollment-trend-snapshot.pdf.
[39] Aiden Lee, et.al., "National Uninsured Rate Reaches All-Time Low in Early 2022," U.S. Department Of Health And Human Services Office of the Assistant Secretary for Planning and Evaluation, August 2022, https://aspe.hhs.gov/reports/2022-uninsurance-at-all-time-low.
[40] "Unwinding the Medicaid Continuous Enrollment Provision: Projected Enrollment Effects and Policy Approaches," U.S. Department Of Health And Human Services Office of the Assistant Secretary for Planning and Evaluation, August 2022, https://aspe.hhs.gov/sites/default/files/documents/60f0ac74ee06eb578d30b0f39ac94323/aspe-end-mcaid-continuous-coverage.pdf.
[41] Ibid.
[42] Greg Iacurci, "Is a Scammer Getting Unemployment Benefits in Your Name?" February 2, 2022, CNBC, https://www.cnbc.com/2022/02/02/victims-of-unemployment-fraud-may-find-out-this-tax-season.html; Mike Baker, "Feds Suspect Vast Fraud Network Is Targeting U.S. Unemployment Systems," *The New York Times*, May 22, 2020, https://www.nytimes.com/2020/05/16/us/coronavirus-unemployment-fraud-secret-service-washington.html.
[43] "Unemployment Insurance Improper Payment Rates," US Department of Labor Employment and Training Administration,https://oui.doleta.gov/unemploy/pdf/UI_Improper_PaymentRates.pdf
[44] Emily Badger and Alicia Parlapiano, "States Made It Harder to Get Jobless Benefits. Now That's Hard to Undo," *The New York Times*, April 30, 2020, https://www.nytimes.com/2020/04/30/upshot/unemployment-state-restrictions-pandemic.html.
[45] https://www.congress.gov/bill/117th-congress/house-bill/8661
[46] "Consumer Sentinel Network Data Book 2021," Federal Trade Commission, February 2022, https://www.ftc.gov/reports/consumer-sentinel-network-data-book-2021.
[47] Thomas Costa, et. al., "Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks," US Government Accountability Office, June 2022, p 10, https://www.gao.gov/assets/gao-22-105162.pdf.
[48] Thomas Costa, et. al., "Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt," US Government Accountability Office, June 2022, p 20 https://www.gao.gov/assets/gao-22-104438.pdf
[49] Thomas Costa et. al., "Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning," US Government Accountability Office, June 2022, p 14-15, https://www.gao.gov/assets/gao-22-104251.pdf
[50] Ibid.
[51] Thomas Costa, et. al., "Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks," US Government Accountability Office, June 2022, p 10, https://www.gao.gov/assets/gao-22-105162.pdf.
[52] Thomas Costa, et. al., "Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks," US Government Accountability Office, June 2022, p 10, https://www.gao.gov/assets/gao-22-105162.pdf.
[53] Michele Evermore, "Ensuring State Unemployment Insurance Readiness for the Next Downturn," The Century Foundation, December 20, 2022, https://tcf.org/content/commentary/ensuring-state-unemployment-insurance-readiness-for-the-next-downturn/.
[54] Thomas Costa, et. al., "Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks," US Government Accountability Office, June 2022, p 10, https://www.gao.gov/assets/gao-22-105162.pdf.
[55] George Wentworth, "Closing Doors on The Unemployed: Why Most Jobless Workers Are Not Receiving Unemployment Insurance and What States Can Do About It," National Employment Law Project, December 19, 2017, https://www.nelp.org/publication/closing-doors-on-the-unemployed/.
[56] Department of Labor, Employment and Training Administration, Unemployment Insurance Program Letter No. 20-21, Change 1, https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2022/UIPL_20-21_Change_1_acc.pdf.
[57] Ibid.
[58] Gabriel Petek, "Improving California's Unemployment Insurance Program," California Legislative Analyst's Office, August 2022, https://lao.ca.gov/Publications/Report/4615.
[59] Rachel Metz, "Want Your Unemployment Benefits? You May Have to Submit to Facial Recognition First," CNN Business, July 23, 2021, https://www.cnn.com/2021/07/23/tech/idme-unemployment-facial-recognition/index.html.
[60] "IRS Statement: New features put in place for IRS Online Account registration; process strengthened to ensure privacy and security," Internal Revenue Service, February 21, 2022, https://www.irs.gov/newsroom/irs-statement-new-features-put-in-place-for-irs-online-account-registration-process-strengthened-to-ensure-privacy-and-security.
[61] "Understanding and Improving Overpayment Waivers for Federal and State Unemployment Insurance Benefits," National Employment Law Project, 2022, https://www.nelp.org/publication/understanding-and-improving-overpayment-waivers-for-federal-and-state-unemployment-insurance-benefits/.
[62] Seto J. Bagdoyan, "Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy," US Government Accountability Office, December 2022, https://www.gao.gov/assets/gao-23-105523.pdf.
[63] "OIG Oversight of the Unemployment Insurance Program," US Department of Labor Office of the Inspector General, November 30, 2022, https://www.oig.dol.gov/doloiguioversightwork.htm.
[64] Ibid.
[65] Brent Parton, "Updated Unemployment Insurance (UI) Identity (ID) Fraud Reporting Website Content," US Department of Labor, Employment and Training Administration Notice 14-22, January 4, 2023, https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2022/TEN%2014-22/TEN%2014-22.pdf.
[66] Seto J. Bagdoyan, "Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy," US Government Accountability Office, December 2022, https://www.gao.gov/assets/gao-23-105523.pdf.
[67] Ibid.
[68] Ibid.